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Wednesday
September 25, 1985

Selected Subjects

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 362, Amdt. 1; Valencia Orange Reg. 363]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Amendment 1 of Regulation 362 increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 20–26, 1985. Regulation 363 establishes the quantity of such fruit that may be shipped to market during the period September 26–October 3. The amendment and regulation are needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATE: Regulation 362, Amendment 1 (§ 908.662) is effective for the period September 20–26, 1985. Regulation 363 (§ 908.663) is effective for the period September 27–October 3, 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: These rules have been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and have been designated "non-major" rules. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

The amendment and the regulation are issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The actions are based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

The amendment and the regulations are consistent with the marketing policy for 1984–85. The committee met publicly on September 17, 1985, to consider the current and prospective conditions of supply and demand and recommended the quantities of Valencia oranges that it deemed advisable to be handled during the specified weeks. The committee reports that demand for Valencia oranges has improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective dates until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because there is insufficient time between the date when information upon which these regulations are based became available and the effective dates necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the amendment and the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the amendment and regulation and the effective dates.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. The authority citation for Part 7 CFR Part 908 continues to read as follows:

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

2. Section 908.662 is added to read as follows:

§ 908.662 Valencia Orange Regulation 362.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period September 20, 1985, through September 26, 1985, are established as follows:

(a) District 1: 370,000 cartons;
(b) District 2: 630,000 cartons;
(c) District 3: Unlimited cartons.

3. Section 908.663 is added to read as follows:

§ 908.663 Valencia Orange Regulation 363.

The quantites of Valencia oranges grown in California and Arizona which may be handled during the period September 27, 1985, through October 3, 1985, are established as follows:

(a) District 1: 370,000 cartons;
(b) District 2: 630,000 cartons;
(c) District 3: Unlimited cartons.

Dated: September 20, 1985.

Thomas R. Clark,

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

[FR Doc. 85–22912 Filed 9–24–85; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 85–AWA–21]

Alteration to Restricted Area R–2401 Fort Chaffee, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action relocates the northern boundary of R–2401 to the south so as to safely enable military activity in the restricted area simultaneously with aircraft conducting instrument landing system (ILS) approaches to Fort Smith Municipal Airport.

EFFECTIVE DATE: 0901 GMT, October 24, 1985.

FOR FURTHER INFORMATION CONTACT: Ronald C. Montague, Airspace and Aeronautical Information Requirements Branch (ATO–240); Airspace-Rules and Aeronautical Information Division, Air

Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION:

History

On June 10, 1985, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to relocate the northern boundary of R-2401, located near Fort Smith, AR, approximately ½ nautical mile south of its present position (50 FR 24199). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.24 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations relocates the northern boundary of R-2401 located near Fort Smith, AR, approximately ½ nautical mile to the south. This action will provide the required separation between activities being conducted within R-2401 (Fort Chaffee, AR) and aircraft conducting the Runway 25 ILS approach at the Fort Smith Municipal Airport.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.24 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending § 73.24 as follows:

R-2401 Fort Chaffee, AR [Amended]

By removing the words "Beginning at lat. 35°18'35"N., long. 94°11'48"W.; to lat. 35°18'10"N., long. 94°16'30"W.;" and substituting the words "Beginning at lat. 35°18'17"N., long. 94°12'00"W.; to lat. 35°17'37"N., long. 94°17'23"W.;"

Issued in Washington, DC, on September 17, 1985.

Daniel J. Peterson,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85-22830 Filed 9-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 85-ASO-15]

Revocation of Restricted Area R-3003, Fort Gordon, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the existing Restricted Area R-3003 in the state of Georgia. This action is necessary since the Department of the Army no longer has an operational requirement for the airspace and has no plans for anticipated future use.

EFFECTIVE DATE: 0901 GMT, November 21, 1985.

FOR FURTHER INFORMATION CONTACT: Ronald C. Montague, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-3128.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations revokes the restricted area at Fort Gordon, GA. The Department of the Army, which is the using agency, has informed the FAA that the site is inactive and that there is no longer a requirement for the area. The Department of the Army has, therefore, requested that Restricted Area R-3003 be eliminated. Because the purpose of the area no longer exists, and because this action would simply restore the airspace to public use, I find that notice or public procedure under 5 U.S.C. 533(b) is unnecessary because the action is a minor amendment in which the public would not be particularly interested. Section 73.30 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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

List of Subjects in 14 CFR Part 73

Restricted areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as amended (50 FR 4202), is further amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 73.30 is amended as follows:

R-3003 Fort Gordon, GA [Revoked]

Issued in Washington, DC, on September 17, 1985.

Daniel J. Peterson,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85-22831 Filed 9-24-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-14]

Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: October 1, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE, Washington, DC 20426, (202) 357-8500.

Order of the Director, OPPR

Publication of Prescribed Incremental Pricing Acquisition Cost Threshold of the NGPA of 1978; Docket No. RM79-14.

Issued: September 23, 1985.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of October 1985 is issued by the publication of a price table for the applicable month. The incremental pricing acquisition cost threshold prices for months prior to October 1985 are found in the tables in § 282.304

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

[Calender year 1984]

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental pricing threshold	$2.283	$2.291	$2.299	$2.307	$2.315	$2.323	$2.331	$2.338	$2.345	$2.352	$2.359	$2.366
NGPA section 102 threshold	3.585	3.609	3.632	3.656	3.680	3.705	3.730	3.752	3.774	3.797	3.821	3.845
NGPA section 109 threshold	2.359	2.367	2.375	2.383	2.391	2.399	2.407	2.414	2.421	2.428	2.436	2.444
130 pct of No. 2 fuel oil in New York City threshold	7.730	7.570	7.570	8.550	8.590	7.670	7.930	7.740	7.650	7.230	7.040	7.290

[Calender year 1985]

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental pricing	$2.373	$2.378	$2.383	$2.388	$2.399	$2.410	$2.421	$2.427	$2.433	$2.439		
NGPA section 102 threshold	3.869	3.890	3.911	3.932	3.962	3.992	4.022	4.045	4.068	4.091		
NGPA section 109 threshold	2.452	2.457	2.462	2.467	2.478	2.489	2.500	2.506	2.512	2.518		
130 pct of No. 2 fuel oil in New York City threshold	7.170	7.310	7.090	6.920	7.210	7.120	7.400	7.000	6.520	6.630		

[FR Doc. 85-22973 Filed 9-24-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 82N-0393]

Gras Status of Sodium Metasilicate and Sodium Zinc Metasilicate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that the use of sodium metasilicate as a direct human food ingredient is generally recognized as safe (GRAS). In addition, FDA is not affirming that the use of sodium zinc metasilicate as a food ingredient is GRAS because of the absence of safety information. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: October 25, 1985.

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

SUPPLEMENTARY INFORMATION: In the Federal Register of April 26, 1983 (48 FR 18831), FDA published a proposal to affirm that sodium metasilicate is GRAS for use as a direct human food ingredient and not to affirm sodium zinc metasilicate as GRAS. FDA published this proposal in accordance with its announced review of GRAS and prior-sanctioned food ingredients.

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

In addition to proposing to affirm the GRAS status of sodium metasilicate, FDA gave public notice that it was unaware of any prior-sanctioned food uses for these ingredients other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined.

That notice was also an opportunity to have prior-sanctioned uses of sodium metasilicate or sodium zinc metasilicate recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for sodium metasilicate or sodium zinc metasilicate were submitted in response to the proposal. However, a comment on the proposal asserted that FDA does not have the authority to waive proof sanctions.

As discussed in the **Federal Register** documents published July 26, 1973 (38 FR 20041, 20042) and December 7, 1976 (41 FR 53600, 53603), FDA does not have a comprehensive list of all prior sanctions. The agency has found it necessary for the proper functioning of its safety review of GRAS and prior-sanctioned substances to require that persons who hold a prior sanction for a particular ingredient inform FDA of that prior sanction at the time the agency proposes a regulation that might be inconsisent with the prior-sanctioned use (41 FR 53603). Thus, the only occasion on which a person must come forward to make known the existence of a prior sanction is when FDA is proposing to limit the use of the ingredient, and the limitations, if imposed, would foreclose the prior-sanctioned use (41 FR 53603). FDA believes that, in this circumstance, it is appropriate to place the burden of coming forward on the person who intends to rely on the prior sanction (41 FR 53603).

The comment also contended that the requirement that anyone who holds a prior sanction must submit proof of that sanction to FDA or face waiving that sanction is unfair to small businesses that rely upon agency opinion letters and that are unfamiliar with FDA's regulations.

The agency disagrees with the comment that this practice is unfair to small businesses. All food manufacturers, to assure that their products are safe for the consuming public and to avoid legal sanctions for noncompliance, must be aware of any limits that FDA has imposed on the use of food ingredients. Congress has determined that the filing of documents with the Office of the Federal Register and the publication of those documents in the **Federal Register** provides adequate notice to the public, including both large and small businesses, of the actions of a Federal agency. See 5 U.S.C. 553 and 44 U.S.C. 1507.

FDA also believes that it would be unfair to both small and large firms not to have the regulations reflect all authorized food uses for each ingredient. If a prior-sanctioned use is safe, the agency believes all businesses should be able to rely upon it.

FDA, therefore, disagrees with the assertions made by this comment and finds that the procedure adopted for waiver of prior sanctions is lawful and is not unfair to small or large food manufacturers.

Thus, because no reports of prior sanctions were submitted in response to the proposal, any right to assert a prior sanction for use of these ingredients under conditions different from those set forth in this final rule has been waived.

FDA received one comment in response to the proposal. The comment was from a manufacturer of sodium metasilicate, who raised several issues. One issue, discussed above, was that FDA does not have the authority to waive prior sanctions. Summaries of the other issues raised by this comment and the agency's responses follow:

1. The comment requested that the final rule be amended to affirm the GRAS status of sodium metasilicate for use in the washing and lye peeling of fruits, vegetables, and nuts; for treating bottled or canned water; and for use as a boiler water additive.

The agency has reviewed this request to affirm as GRAS these additional food uses of sodium metasilicate. FDA finds that the safety data evaluated by the Select Committee and the agency are adequate to permit affirmation of the GRAS status of sodium metasilicate for use in the washing and lye peeling of fruits, vegetables, and nuts, when used in accordance with 21 CFR 173.315; and for use in canned and bottled water, when its use is not inconsistent with the bottled water standard of quality in 21 CFR 103.35. The agency is therefore affirming these uses as GRAS. However, the use of sodium metasilicate as a boiler water additive is already authorized under an existing food additive regualtion (21 CFR 173.310). The agency concludes that it is unnecessary and would be redundant to affirm this use as GRAS.

2. The comment also requested that sodium metasilicate be affirmed as GRAS for use in animal feed and pet food.

The agency is not affirming the GRAS status of the use of sodium metasilicate in animal feed and pet food. As indicated in the proposal, this action does not affect the current regulatory status of sodium metasilicate for these uses. FDA has ommitted pet and animal food uses from its GRAS review program because the agency does not have adequate information on the current use of GRAS and prior-sanctioned ingredients in pet and animal foods to evaluate the safety of these uses. Furthermore, this comment did not provide any information on the use of sodium metasilicate in pet and animal foods. Therefore, as stated in the proposal, FDA is not taking any action on the use of sodium metasilicate for pet and animal food uses.

No comment or new information was submitted in response to the proposed action on sodium zinc metasilicate. In accordance with the proposal, the agency is not affirming that the use of this ingredient is GRAS.

In the proposal, FDA stated that it would work with the Committee on Food Chemicals Codex of the National Academy of Sciences to develop acceptable food-grade specifications for sodium metasilicate used as a direct food ingredient and would incorporate those specifications into the regulation when they were developed. To date, however, work on the specifications is still incomplete. Until the specifications are developed, sodium metasilicate for direct food use must comply with the description in 21 CFR 184.1769a and be of food-grade purty (21 CFR 182.1(b)(3) and 170.30(h)(1)).

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

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

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

comments that would alter its previous determination.

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

List of Subjects in 21 CFR Part 184

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

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

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

1. The authority citation for 21 CFR Part 184 is revised to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10, 5.61.

2. By adding new § 184.1769a, to read as follows:

§ 184.1769a Sodium metasilicate.

(a) Sodium metasilicate (CAS Reg. No. 6834-92-0) is a strongly alkaline white powder. It does not occur naturally but rather is synthesized by melting sand with sodium carbonate at 1400 °C. The commercially available forms of sodium metasilicate are the anhydrous form (Na_2SiO_3), the pentahydrate ($Na_2SiO_3 \cdot 5H_2O$), and the nonahydrate ($Na_2SiO_3 \cdot 9H_2O$).

(b) FDA is developing food-grade specifications for sodium metasilicate in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 181.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used to treat the following foods at levels not to exceed current good manufacturing practice: for use in washing and lye peeling of fruits, vegetables, and nuts when used in accordance with § 173.315 of this chapter; for use as a denuding agent in tripe; for use as a hog scald agent in removing hair; and for use as a corrosion preventative in canned and bottled water when used in accordance with § 103.35 of this chapter.

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

Dated: August 20, 1985.

James W. Swanson,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-22837 Filed 9-24-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the current mailing address of Biomed Laboratories.

EFFECTIVE DATE: September 25, 1985.

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

SUPPLEMENTARY INFORMATION: Biomed Laboratories, 438 West Arrow Highway, Unit 30, San Dimas, CA 91773, has advised FDA of its current mailing address. The agency is amending the animal drug regulations to reflect this address.

List of Subjects in 21 CFR Part 510

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

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 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

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

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) in the entry for "Biomed Laboratories" and in paragraph (c)(2) in the entry "051259" by revising the sponsor's address to read "438 West Arrow Highway, Unit 30, San Dimas, CA 91773."

Dated: September 18, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-22840 Filed 9-24-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Name

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name for a new animal drug application (NADA) from Ohio Medical Anesthetics, A Division of BOC, Inc., to Anaquest, A Division of BOC, Inc.

EFFECTIVE DATE: September 25, 1985.

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

SUPPLEMENTARY INFORMATION: Anaquest, A Division of BOC, Inc., Madison, WI 53713, has informed FDA of a change in sponsor name for NADA 121-291 from Ohio Medical Anesthetics, A Division of BOC, Inc. The NADA covers use of enflurane as inhalation anesthetic for horses.

This is an administrative change that does not otherwise affect approval of the firm's NADA. The agency is amending the regulations in Part 510 to reflect the change.

List of Subjects in 21 CFR PART 510

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

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 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

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

2. Section 510.600 is amended by removing the entry for "Ohio Medical Anesthetics" and by adding a new entry alphabetically to paragraph (c)(1) and by revising the entry for "010019" in paragraph (c)(2) to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
Anaquest, a division of BOC, Inc., Madison, WI 53713	010019

(2) * * *

Drug labeler code	Firm name and address
010019	Anaquest, a division of BOC, Inc., Madison, WI 53713

Dated: September 18, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–22839 Filed 9–24–85; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor of several new animal drug applications from Ralston Purina Co. to Purina Mills, Inc.

EFFECTIVE DATE: September 25, 1985.

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

SUPPLEMENTARY INFORMATION: The Ralston Purina Co., St. Louis, MO 63164, advised FDA that its agricultural products division has become a wholly owned incorporated subsidiary, Purina Mills, Inc. The change is an administrative action which does not otherwise affect current manufacturing procedures, controls, or personnel. FDA is amending the regulations in 21 CFR 510.600 to reflect the new sponsor.

List of Subjects in 21 CFR Part 510

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

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 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

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

2. Section 510.600 is amended in paragraph (c)(1) by deleting the entry "Ralston Purina Co." and by adding a new entry alphabetically, and in paragraph (c)(2) by revising the entry "017800" to read as follows:

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

* * * * *

(c) * * *

Firm name and address	Drug labeler code
Purina Mills, Inc., 835 South Eighth St., St. Louis, MO 63102	017800

(2) * * *

Drug labeler code	Firm name and address
017800	Purina Mills, Inc., 835 South Eighth St., St. Louis, MO 63102

Dated: September 18, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–22838 Filed 9–24–85; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Parts 510 and 558

New Animal Drugs for Use in Animal Feeds; Pyrantel Tartrate, Tylosin, Tylosin-Sulfamethazine

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 supplemental new animal drug applications (NADA's) providing for use of additional tylosin premix concentrations and for a change of sponsor from Central Soya Co., Inc., to Good-Life Division of Central Soya Co., Inc.

EFFECTIVE DATE: September 25, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Central Soya Co., Inc., 1300 Fort Wayne Bank Bldg., Fort Wayne, IN 46802, has filed three supplemental NADA's, one providing for use of 5- and 20-gram-per-pound tylosin premixes in addition to its currently approved 10- and 40-gram-per-pound tylosin premixes, and all three for a change of sponsor name from the parent firm to a subsidiary. Affected are NADA 110–045, tylosin; NADA 128–411, tylosin/sulfamethazine; and NADA 134–286, pyrantel tartrate. The supplements are approved. Parts 510 and 558 are amended to include the added tylosin premixes and the sponsor change.

This action concerns a change of sponsor name and does not involve any other changes in the approval, including no changes in manufacturing facilities, equipment, procedures, or production personnel.

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

21 CFR Part 510

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

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

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

2. In § 510.600 by adding a new entry alphabetically in paragraph (c)(1) and numerically in paragraph (c)(2) to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Good-Life Division of Central Soya Co., Inc., Good-Life Dr., P.O. Box 687, Effingham, IL 62401	021810
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
021810	Good-Life Division of Central Soya Co., Inc., Good-Life Dr., P.O. Box 687, Effingham, IL 62401
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR Part 558 continues to read as follows:

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

4. In § 558.485 by revising paragraph (a)(14) to read as follows:

§ 558.485 Pyrantel tartrate.

(a) * * *

(14) To 021810: 9.6 grams per pound, paragraph (e) (1) through (3) of this section.

* * * * *

5. In § 558.625 by adding paragraph (b)(52) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(52) To 021810: 5, 10, 20, and 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

6. In § 558.630 by revising paragraph (b)(9) to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(b) * * *

(9) To 021810 and 022422: 5 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * *

Dated: September 18, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–22834 Filed 9–24–85; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

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 supplemental new animal drug application (NADA) filed for the Ohio Farmers Grain & Supply Association, providing for the manufacture of 5- and 20-gram-per-pound tylosin premixes, in addition to its currently approved 10- and 40-gram-per-pound tylosin premixes, used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: September 25, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: The Ohio Farmers Grain & Supply Association, P.O. Box M, Fostoria, OH 44830, is the sponsor of a supplement to NADA 137–051 submitted on its behalf by Elanco Products Co. The supplement provides for the manufacture of 5- and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). The firm currently holds approval for manufacturing 10- and 40-gram-per-pound tylosin premixes. The supplement is approved and the regulations are amended to reflect the approval.

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 558

Animal drugs; Animal feeds.

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 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

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

2. Section 558.625 is amended by revising paragraph (b)(82) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(82) To 026439: 5, 10, 20, and 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Dated: September 16, 1985.

Marvin A Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–22835 Filed 9–24–85; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

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 supplemental new animal

drug application (NADA) filed for Southern Micro-Blenders, Inc., providing for the manufacture of 5- and 20-gram-per-pound tylosin premixes, used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: September 25, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Southern Micro-Blenders, Inc., 3801 North Hawthorne St., Chattanooga, TN 37406, is the sponsor of a supplement to NADA 133–833 submitted on its behalf by Elanco Products Co. The supplement provides for the manufacture of a new 5- and 20-gram-per-pound tylosin premix used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). The supplement is approved and the regulations are amended to reflect the approval.

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 558

Animal drugs; Animal feeds.

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 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

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

2. In § 558.625 by revising paragraph (b)(80) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(80) To 049685: 5, 10, 20, and 40 grams per pound, paragraphs (f)(1) (i) through (vi) of this section.

* * * * *

Dated: September 18, 1985.

Marvin A Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–22836 Filed 9–24–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207, 232, 234, 242 and 244

[Docket No. R–85–0725; FR–2040]

Partial Payment of Claim; Multifamily Housing Mortgage Insurance

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

ACTION: Final rule.

SUMMARY: This rule implements the provisions of section 203(e) of the Housing and Community Development Amendments of 1978, as amended by section 213(e) of the Housing and Community Development Act of 1980. The rule authorizes the Secretary, with the concurrence of the mortgagee, to make partial payment of an insurance claim on a defaulted mortgage covering a multifamily housing project. The mortgagee would agree to accept partial payment in lieu of assignment and to recast the remaining mortgage balance. The mortgagor would give the Secretary a second mortgage on the property for the amount of the partial payment. This partial payment of claim option could be exercised only where the Secretary finds that such relief would be less costly to the Federal Government than other reasonable alternatives for maintaining the low- and moderate-income character of the project. This rule is applicable to all of HUD's multifamily insurance programs, except where coinsurance is involved.

EFFECTIVE DATE: October 30, 1985.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Office of Multifamily Housing Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 426–3970. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 203(e) of the Housing and Community Development Amendments of 1978 authorizes the Secretary of HUD, in lieu of assignment of a multifamily mortgage and full payment of the insurance claim, to request that the mortgagee agree to accept partial payment of the claim under the mortgage insurance contract and to recast the remaining balance under the insured mortgage. The mortgagee would hold the reduced insured mortgage and the mortgagor would be required to give the Secretary a second mortgage on the property for the amount of the partial payment, under such terms and conditions as the Secretary may determine. As originally enacted, section 203(e) applied only to subsidized FHA-insured multifamily projects. The legislative history of this provision makes it clear that a mortgagee's participation in a partial payment arrangement is to be purely voluntary and based on its determination that such an arrangement would be in the mortgagee's own best interests (H.R. Rep. No. 95–1792 95th Congress, 2d Sess., 70).

On November 9, 1979, the Department published a proposed rule (44 FR 65081) designed to implement this provision of the 1978 Act. After publication of the proposed rule, the Congress enacted section 213(e) of the Housing and Community Development Act of 1980. One effect of section 213(e) was to expand the coverage of section 203(e) of the 1978 Act to include any multifamily rental housing project insured under the National Housing Act. This final rule implements the provisions of the 1979 proposed rule and incorporates the expanded coverage authorized by section 213(e) of the 1980 Act.

The final rule also contains revisions that respond to the comments of the Mortgage Bankers Association of America (MBA). The MBA was the only entity that provided public comments on the proposed rule. MBA expressed four primary concerns regarding the proposed rule:

(1) The preamble of the final rule should parallel the language in the Conference Report on the Housing and Community Development Amendments of 1978, by stating not only that a mortgagee's participation is voluntary, but also that it should be based on the mortgagee's determination that such an arrangement would be in its own best interest (See H.R. Rep. No. 95–1792, 95th Congress, 2d Sess., 70).

The Department agrees that there is clear legislative history to this effect.

Language added to the rule text at § 270.258(b) further clarifies the voluntary nature of this procedure and the mortgagee's right summarily to reject a partial payment offer by the Commissioner. We also note that the same Report urged the Secretary, at least during the period of initial use of its partial payment authority, to report to the appropriate committees of both the Senate and the House of Representatives on those specific instances in which the authority is being utilized (*Id.* at 70). The Department intends to administer its partial payment authority in a manner that complies with both of these provisions.

(2) It would be helpful if the final rule stated specifically which element within HUD—Central Office or Field Office—will make the determination of whether or not to request the mortgagee to accept partial payment.

The Department does not find it either necessary or desirable to incorporate into its regulation such administrative specifics. We believe it is sufficient to say that an official request from the Department will be sent to the mortgagee in appropriate cases.

(3) There is a very real possibility that investors will be discouraged from participating in FHA-insured multifamily programs if HUD uses its authority to request partial payments on other than a very limited basis, because the Federal commitment to pay an insurance claim upon default will be placed in doubt.

The Department does not find any grounds for this concern. In our view, the rights of insurance claimants are made abundantly clear both in this rule and in other HUD regulations concerned with processing claims. In any event, as noted earlier, the only authority being implemented here is the authority to *request*—to make the mortgagee an offer that can be freely accepted or rejected.

The Department also wishes to call special attention to the effect of a partial payment of claim in the context of the GNMA Mortgage-Backed Securities program. Where the mortgage that is a candidate for the partial payment procedure is backing a GNMA-guaranteed mortgage-backed security, the mortgagee should understand clearly that, while GNMA does not object to a partial payment arrangement, GNMA procedures require (1) that the full amount of the partial claim payment be passed through to security holders and (2) that the monthly payment to security holders must continue as if the partial payment arrangement had never been made. Mortgagees who agree to a recasting of the mortgage which reduces the mortgagor's monthly payment must, therefore, make up, from the mortgagees' own funds, the difference between the amount paid by the mortgagor and the amount due to the security holders, until the security holders have received all principal and interest due under the terms of the security.

(4) Another concern of the MBA was that, in its view, the proposed rule did not provide any inducements for a mortgagee to accept a partial payment in lieu of assignment. The MBA asked HUD to consider the following incentives: (a) waiver of the one percent assignment fee; (b) payment of the mortgagee's out-of-pocket expenses: *e.g.*, hazard insurance and taxes; (c) recasting the mortgage at the market rate; (d) payment of interest at the debenture rate for the 30-day grace period between the time of the last monthly payment and the time that HUD considers the mortgage to be in default.

With reference to item (a), above, the Department agrees with the comment and the final rule provides for such a waiver (see new § 207.258b(d)). With respect to item (b), the Department believes that its current policy of payment of specific out-of-pocket items under § 207.259(b)(1)—*i.e.*, taxes, MIP, reasonable payments for completion and preservation of the property—is preferable to a nonspecific reimbursement policy and provides adequate and equitable compensation to mortgagees. Recasting the mortgage at the market interest rate, as recommended in item (c), would, we believe, often defeat the basic purpose of reviving a troubled multifamily project serving low- and moderate-income tenants and would, in any case, provide an incentive only in a climate of rising interest rates. As to item (d), the Department believes the waiver of the one percent assignment fee and provision for the payment of the partial claim in cash (rather than debentures) will provide sufficient inducement to mortgagees where the terms offered by the Commissioner in a specific partial payment case are otherwise suitable to a mortgagee.

In summary, this final rule is substantially similar to the proposed rule published on November 9, 1979. Significant substantive revisions are (1) extension of program coverage to all FHA-insured multifamily rental projects—not just those that are subsidized and (2) a blanket waiver of the one percent assignment fee as an incentive to mortgagee participation in a partial payment arrangement.

As a technical matter, the final rule incorporates the provisions of the proposed rule in a new § 207.258b and in a revision to existing § 207.258(b), rather than promulgating an entirely new Part 208, as originally proposed. As indicated in both the legislative history and in the comments of the MBA, it is unlikely that this special authority will be extensively used. Because of the limited nature of the program, creation of an entire new part in the CFR does not appear to be necessary. The final rule has been extensively rewritten, although its substance remains consistent with the proposed rule. Among the additions and clarifications is a procedural provision in amended § 207.258(b) outlining the means to be used by HUD in communicating its intention to consider a partial payment of claim, and a time period during which the Commissioner would make the request to the mortgagee.

This rule is applicable to all HUD multifamily insurance programs since the regulations for these programs incorporate §§ 207.258 and 207.258(b) by reference. The rule does not apply to Department's multifamily coinsurance programs (24 CFR Parts 251 and 255), since assignment of the mortgage, which is a precondition to a partial claim payment, does not occur in the coinsurance programs. Also, exceptions are made for the Department's programs of mortgagee insurance for Nursing Homes, Intermediate Care Facilities, (24 CFR Part 232), Condominium Ownership Mortgage Insurance (24 CFR Part 234), Hospitals (24 CFR Part 242), and Group Practice Facilities (24 CFR Part 244).

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not: (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and

Urban Development, 451 Seventh Street, SW. 20410.

This rule was listed as item H–88–84 (Sequence Number 80) under the Office of Housing in the Department's Semiannual Agenda of Regulations published on April 29, 1985 (50 FR 17286, 17309), under Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic Assistance program numbers are 14.103, 14.112, 14.115, 14.116, 14.123, 14.124, 14.125, 14.126, 14.127, 14.128, 14.129, 14.134, 14.135, 14.137, 14.138, 14.139, 14.151, 14.154 and 14.155.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and have been assigned OMB control number 2535–0061.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. Acceptance of partial payment of claim would be entirely voluntary and would be based upon the mortgagee's own assessment of its relative costs and benefits. The assessment of costs and benefits should be the same for both large and small entities.

List of Subjects

24 CFR Part 207

Mortgage insurance, Rental housing.

24 CFR Parts 232, 234, 242 and 244

Mortgage insurance.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Accordingly, 24 CFR Part 207 is amended as follows:

1. The authority citation for Part 207 is revised to read as follows:

Authority: Secs. 207 and 211, National Housing Act (12 U.S.C. 1713, 1715b), and section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Sections 207.258 and 207.258b are also issued under section 203(e), Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(e)).

2. Section 207.258 is amended by revising the introductory paragraph of paragraph (b), and by adding the OMB control number to the end of the section, to read as follows:

§ 207.258 Insurance claim requirements.

* * * * *

(b) *Assignment of mortgage to Commissioner.* If the mortgagee elects to assign the mortgage to the Commissioner, it shall, at any time within 30 days after the date of the notice of the election, file its application for insurance benefits and assign to the Commissioner, in such manner as the Commissioner may require, the credit instrument(s) and the realty and chattel security instruments. The Commissioner may extend this 30-day period by written notice that a partial payment of insurance claim under § 207.258b is being considered. The extension shall be for such term, not to exceed 60 days, as the Commissioner prescribes; however, the Commissioner's consideration of a partial payment of claim, or the Commissioner's request that a mortgagee accept partial payment of a claim in accordance with § 207.258b, shall in no way prejudice the morgagee's right to file its application for full insurance benefits within either the 30-day period or any extension prescribed by the Commissioner. The following requirements shall also be met by the morgagee:

* * * * *

(The information collection requirements contained in paragraph (b) of this section were approved by the Office of Management and Budget under control number 2535–0061.)

3. 24 CFR Part 207 is amended by adding immediately after § 207.258a a new § 207.258b, to read as follows:

§ 207.258b Partial payment of claim.

(a) Whenever the Commissioner receives notice under § 207.258 of a mortgagee's intention to file an insurance claim and to assign the mortgage to the Commissioner, the Commissioner may request the mortgagee, in lieu of assignment, to accept partial payment of the claim under the mortgage insurance contract and to recast the mortgage, under such terms and conditions as the Commissioner may determine.

(b) The Commissioner may request the mortgagee to participate in a partial payment of claim in lieu of assignment only after a determination that partial payment would be less costy to the Federal government than other reasonable alternatives for maintaining the low- and moderate-income character of the project. This determination shall be based upon the findings listed below and such other findings as the Commissioner deems appropriate:

(1) The mortgagee is entitled, under § 207.255, to assign the mortgage in exchange for the payment of insurance benefits;

(2) The relief resulting from partial payment, when considered with other resources available to the project, would be sufficient to restore the financial viability of the project;

(3) The project is, or can at reasonable cost be made, structurally sound;

(4) The management of the project is satisfactory to the Commissioner; and

(5) The default under the insured mortgage was beyond the control of the mortgagor.

(c) Partial payment of a claim under this section shall be made only when:

(1) The project is, or potentially could serve as, a low- and moderate-income housing resource;

(2) The property covered by the mortgage is free and clear of all liens other than the insured first mortgage and such other liens as the Commissioner may have approved;

(3) The mortgagee has voluntarily agreed to accept partial payment of the insurance claim under the mortgage insurance contract and to recast the remaining mortgage amount under terms and conditions prescribed by the Commissioner; and

(4) The mortgagor has agreed to repay to the Commissioner an amount equal to the partial payment, with the obligation secured by a second mortgage on the project containing terms and conditions prescribed by the Commissioner. The terms of the second mortgage will be determined on a case-by-case basis to assure that the estimated project income will be sufficient to cover estimated operating expenses and debt service on the recast insured mortgage. The Commissioner may provide for postponed amortization of the second mortgage.

(d) Payment of insurance benefits under this section shall be in cash. The Commissioner shall waive the deduction of one percent of the mortgage funds advanced to the mortgagor, provided for in § 207.259(b)(2)(iv), with respect to a partial payment of a claim under this section. The items referred to in § 207.258(b)(4) shall either be retained by the mortgagee or delivered to the Commissioner in accordance with instructions to be issued by the Commissioner with respect to a partial payment of claim under this section.

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

4. The authority citation for 24 CFR Part 232 is revised to read as set forth below, and any authority citation following any section in Part 232 is removed:

Authority: Secs. 211 and 232, National Housing Act (12 U.S.C. 1715b and 1715w); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

5. Paragraph (a) of § 232.251 is revised to read as follows:

§ 232.251 Cross-reference.

(a) All of the provisions, except § 207.258b, of Part 207, Subpart B of this chapter relating to mortgages insured under section 207 of the National Housing Act, apply to mortgages insured under section 232 of the Act.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

6. The authority citation for 24 CFR Part 234 is revised to read as set forth below, and any authority citation following any section in Part 234 is removed:

Authority: Secs. 211 and 234, National Housing Act (12 U.S.C. 1715b and 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

7. Section 234.751(a) is revised to read as follows:

§ 234.751 Cross-reference.

(a) All of the provisions, except § 207.258(b), of Part 207, Subpart B of this Chapter covering mortgages insured under section 207 of the National Housing Act shall apply to mortgages insured under section 234(d) of such Act.

* * * * *

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

8. The authority citation for 24 CFR Part 242 is revised to read as set forth below, and any authority citation following any section is Part 242 is removed:

Authority: Secs. 211 and 242, National Housing Act (12 U.S.C. 1715b and 1715z-7); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

9. Section 242.251 is revised to read as follows:

§ 242.251 Cross-reference.

All of the provisions of Subpart B, Part 207 of this chapter relating to mortgages insured under section 207 of the National Housing Act, apply to mortgages on hospitals insured under section 242 of the National Housing Act, except the following:

Section 207.258b—Partial payment of claims
Section 207.259—Insurance benefits

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES [TITLE XI]

10. The authority citation for 24 CFR Part 244 is revised to read as set forth below, and any authority citation following any section of Part 244 is removed:

Authority: Secs. 211 and 1104, National Housing Act (12 U.S.C. 1715b and 1749aaa-5); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

11. Paragraph (a) of 244.251 is revised to read as follows:

§ 244.251 Cross-reference.

(a) All of the provisions, except § 207.258b, of Part 207, Subpart B of this chapter relating to mortgages insured under section 207 of the National Housing Act apply to a mortgage covering a group practice facility insured under Title XI of the National Housing Act.

* * * * *

Dated: September 18, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-22904 Filed 9-24-85; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Part 247

[Docket No. R-85-1076; FR-1661]

Evictions From Certain Subsidized and HUD-Owned Projects

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

ACTION: Final rule.

SUMMARY: This rule makes final the interim rule which clarified the Department's intent that evictions of tenants from certain subsidized and HUD-owned projects be effected solely by judicial action. This rule requires the landlord to advise the tenant, in a termination notice, that the tenant is entitled to a court proceeding under State or local law at which he or she may present a defense to the eviction. The landlord is prohibited from resorting to "self-help" evictions or any non-judicial process, even where these actions are authorized by State or local law. This rule is procedural only, and does not alter in any way the grounds for which the landlord may terminate a tenancy.

EFFECTIVE DATE: October 30, 1985.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 426-3970. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department issued an interim rule on May 23, 1983 (48 FR 22913) in compliance with a court order in *Love* v. *HUD*, Civ. No. 80-1041 B (W.D. Pa.). The interim rule amended 24 CFR Part 450 (since redesignated as Part 247), which sets forth procedures for the termination of occupancy of tenants residing in multifamily housing projects subsidized under section 221(d)(3) (BMIR) or section 236 of the National Housing Act, the Rent Supplement Program under section 101 of the Housing and Urban Development Act of 1965, or the Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages under Subpart A of 24 CFR Part 886. These procedures also apply to the direct loan program providing Housing for the Elderly or Handicapped under section 202 of the Housing Act of 1959, and to all multifamily projects currently owned by HUD, regardless of whether they were subsidized before HUD acquisition. The procedures do not apply where the termination of occupancy is a result of the proposed substantial rehabilitation or demolition of a project.

Background

On November 4, 1981, the U.S. District Court for the Western District of Pennsylvania (*Love* v. *HUD*, *supra*) directed the Secretary to promulgate interim or final regulations assuring that unreasonable provisions are not contained in leases with tenants included in the class represented by plaintiffs. An interim rule in conformity with this order was published on September 23, 1983 (48 FR 43310), corrected November 10, 1983 (48 FR 51619).

The District Court entered a second order on December 22, 1981, directing the Secretary to amend 24 CFR 450.4(a)(3) to require that the landlord's notice of termination advise the tenant that the landlord may seek to enforce the termination and evict the tenant only through a judicial proceeding at which the tenant may present a defense. In compliance with the District Court's second order and to further clarify the Department's policy, the Department promulgated an interim rule on May 23, 1983 (48 FR 22913), effective July 12, 1983 (48 FR 32006). In addition to amending 24 CFR 450.4 (*Termination notice*) to satisfy the order discussed above, the interim rule also amended § 450.1 (*Applicability*) and §450.6 (*Eviction*).

Changes made by the interim rule are explained below in the discussion of the public comments received on the interim

rule and the Department's response to those comments.

Public Comments

The Department received eight comments on the published interim rule. Five of these were from real estate management firms, including a national association; and three were from legal services corporations.

In general, the management firms were concerned with the financial impact of the rule in terms of legal expenses associated with judicial proceedings and the negative effect that the usual backlog of court proceedings will have on the operation of projects. The legal services corporations were concerned with clarifications and technical application of the rule.

Prohibition Against Self-Help Evictions

Because of the order of the Federal District Court directing the Secretary to amend the regulations to require that the landlord's notice of termination advise the tenant that the landlord may seek to enforce the termination and evict the tenant only through a judicial proceeding, the Department must amend the regulations in the manner ordered by the Court. Concerns raised by the public comments regarding operational problems are outweighed by the necessity to inform tenants of the opportunity to be heard in court.

One commenter suggested that clarification be provided to the effect that the rule applies to *all* evictions, and that self-help is prohibited, because the State of Rhode Island has two types of eviction actions. (Arkansas, New York, and possibly others have a similar choice of remedies.) Section 247.1 of the interim rule states (subject to certain exceptions not related to the commenter's concern) that the provisions apply to "*all* decisions by a landlord to terminate the occupancy of a tenant" (emphasis added), and § 247.4(a) states that "the landlord's determination to terminate the tenancy shall be in writing and shall . . . advise the tenant that if he or she remains in the leased unit on the date specified for termination, the landlord may seek to enforce the termination only by bringing a judicial action, at which time the tenant may present a defense . . . ." Section 247.6 prohibits eviction "except by judicial action . . . ."

The Department believes it is amply clear that the landlord may evict only by judicial action in which the tenant has an opportunity to present a defense. The landlord may not, therefore, use any remedies or procedures, otherwise available under State law, which would result in eviction before a judicial action that provides the tenant a chance to be heard.

One commenter suggested that tenants be advised that they should seek legal counsel and that the notice should state that the burden of proof is on the landlord. The Department believes that tenants should not be led to believe that representation by counsel is mandatory. Tenants *may* seek legal counsel to represent them. In addition, the local and state laws, not HUD, set the project owner's burden of proof.

Contents of Termination Notice

Under the language of the rule, the grounds for termination must be adequately set forth in the notice so that the notice frames the issues for trial at the eviction hearing. The interim rule clarifies that the landlord must rely on grounds that were set forth in the termination notice and may not rely on any other grounds, unless he or she had no knowledge of them when the notice was sent (§ 247.6(b), previously § 450.4(g)), and also clarifies that the tenant may rely on State or local law where that State or local law provides procedural rights which are in addition to those provided by the regulations (§ 247.6(c)).

A commenter stated that the rule should require that the landlord serve additional termination notices stating any additional grounds for termination of tenancy occurring after the original notice is served. This comment has not been accepted. The Department does not believe that it is necessary to regulate on this matter. Beyond the controls on additional grounds set out in § 247.6(b), HUD believes the issue regarding additional notices should be governed by State law. Landlords participating in the programs covered by this rule should not be held to a more demanding Federally issued regulation, but should follow the State law.

On a closely related issue, another comment stated that the second sentence in § 247.6(b) that "the landlord shall not . . . be precluded from relying on grounds about which he or she had no knowledge at the time the termination notice was sent" encourages fraudulent claims by landlords. The commenter envisions that a landlord may seek termination for one reason, then, at trial, seek eviction for a reason not stated in the notice and claim that he or she had no knowledge at the time the notice was issued. The Department has not acted on this comment. The extent of an owner's knowledge at the time of the notice is a factual question to be determined, like other factual questions, by the State court in the eviction proceeding.

Service of Termination Notice

Section 450.4 required originally that the landlord send a tenant notice of termination by first class mail and serve a copy of the notice on any adult answering the door of the leased unit, or if no adult responds, place the notice under or through the door. However, building codes in some localities require that doors be effectively sealed, making service as prescribed above impossible. Therefore, § 450.4(b) was amended by the interim rule to permit affixing the notice to the door of the leased unit in the event the notice cannot be placed under or through the door.

The interim rule required the landlord to serve the termination notice on the tenant at the tenant's address at the project, as well as by mail (§ 450.4(b)). One commenter states that it is redundant and unnecessary to mail a copy of the notice if the tenant has been served personnally, while another commenter states that delivery of notice should be by certified or registered mail, because tenants do not always receive their mail, and such service would provide a record of attempts and a signed receipt upon delivery. In answer to the latter comment, if a tenant is aware of what is contained in the certified or registered letter, he or she might prefer to not accept it or pick it up at the post office. It is not clear to the Department that service by registered or certified mail would be superior in this instance. With respect to the former comment, the cost to the landlord of mailing the notice by regular mail to the tenant is minimal, but it does offer a little more assurance that the tenant will be notified.

In this connection, a commenter states that the rule should provide that the notice be placed under, through, or *on* the door, because certain State laws require that the notice be placed *on* the door. The interim rule requires the landlord to place the termination notice under or through the door, if possible, or else to affix the notice to the door. Service under or through the door is preferable, if possible. In addition, the landlord will have to satisfy any State law requirements governing notice to a tenant, including requirements concerning service of the State-required notice.

Miscellaneous

The interim rule made a number of technical changes to Part 450. Section 450.1 was amended to delete outdated and superfluous language and to cross-reference (for the reader's convenience) 24 CFR 882.215—the termination of

tenancy procedures for tenants assisted under the Section 8 Existing Housing Program. The final rule further clarifies this cross-reference by stating that termination of tenancy of a tenant asssisted under the Section 8 Existing Housing Certificate Program is not subject to the Part 247 requirements. On March 29, 1984, HUD issued a final rule that added a new § 882.215(f), making Part 247 inapplicable in this instance (see 49 FR 12236). This is so even if the tenant is living in a project otherwise covered by Part 247.

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as the term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President of February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was listed as item number 102 at 50 FR 17313 in the Department's Semiannual Agenda of Regulations published on April 29, 1985, under Executive Order 12291 and the Regulatory Flexibility Act.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. It is intended only as clarification of existing departmental policy regarding tenant evictions, and thus should have no significant economic impact.

The Catalogue of Federal Domestic Assistance Programs numbers and titles are 14.137, Mortgage Insurance-Rental and Cooperative Housing for Low and Moderate Income Families, Market Interest Rate; 14.103, Interest Reduction Payments-Rental and Cooperative Housing for Lower Income Families; 14.149, Rent Supplements-Rental Housing for Lower Income Families; 14.157, Housing for the Elderly or Handicapped; and 14.146, Low Income Housing-Assistance Program.

List of Subjects in 24 CFR Part 247

Low and moderate income housing, Tenant eviction.

Accordingly the interim rule published on May 23, 1983, at 48 FR 22913, is adopted as final with the following changes:

PART 247—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

* * * * *

1. The authority citation for Part 247 continues to read as follows:

Authority: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

2. Section 247.1 is revised to read as follows:

§ 247.1 Applicability.

Except as provided in §§ 247.5 and 247.6(c), the provisions of this subpart shall apply to all decisions by a landlord to terminate the occupancy of a tenant in a subsidized project as defined in § 247.2(e). (Termination of tenancy of a family assisted under the Section 8 Existing Housing Certificate Program is not subject to this part—See 24 CFR 882.215.)

Dated: September 18, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-22902 Filed 9-24-85; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Part 510

[Docket No. R-85-1190; FR-1977]

Section 312 Rehabilitation Loan Program; Risk Premiums, and Application Fees

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: The regulation establishes the Department's policies and procedures governing premiums to be charged to offset loan default risks and fees charged for applications approved under the Department's Section 312 Rehabilitation Loan Program. This action gives effect, by regulation, to significant components of Section 312 of the Housing Act of 1964. The Department's decision to assess risk premiums and application fees will help to offset losses and administrative costs related to the implementation of the program.

EFFECTIVE DATE: October 30, 1985.

FOR FURTHER INFORMATION CONTACT: Michael Ehrmann, Deputy Director, Office of Urban Rehabilitation, Room 7170, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5685. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

1. HUD's Proposal

On February 20, 1985, HUD published a notice of proposed rule making related to the establishment of a loan risk premium and application fee for Section 312 rehabilitation loans. See 50 FR 7069. The Department's statutory authority to make such loans is found at 42 U.S.C. 1452b (section 312 of the Housing Act of 1964), and its authority to impose related risk premiums and application fees is found at 42 U.S.C. 1452b(c)(3).

HUD proposed to establish a loan risk premium of one percent to offset losses from loan defaults. This premium would be added to the borrower's loan interest rate. The rule would also require borrowers to pay an application fee for approved applications to offset administrative costs incurred by HUD under the program. The fee would be $200 for a single-family loan and $300 for any other kind of loan, in view of the generally more staff intensive processing associated with other kinds of applications. A borrower would have the option of paying the application fee in full at loan settlement, or having the fee added to the loan amount and amortized over the term of the loan.

2. Comments and Discussion

Seventeen comments were received by the Department in response to its notice of proposed rule making. Generally, the commenters consisted of municipal housing or community development agencies, a majority of which opposed adoption of the rule. Opponents argued that the rule would discourage participation in the Section 312 program, particularly by lower income borrowers. This, in turn, would result in the loss of the program's benefits to neighborhoods that are in the greatest need of upgrading. Syracuse, NY and Allegheny County, PA asserted that Section 312 loans are becoming less attractive than loans available from more conventional sources. Minneapolis, MN alleged that HUD is responsible for monetary losses sustained under this program because it

has not employed adequate underwriting and collection procedures, and that it is unfair to now penalize future borrowers by imposing the proposed fees. Pinellas County, FL asserted that inadequate information is available to establish an appropriate risk fee, and until valid data become available, a risk fee should not be imposed.

Tacoma, WA indicated support for the proposed rule, as did Oxnard, CA. Oxnard views fees related to loan processing as "an idea whose time has come."

A few commenters indicated limited support for the proposed rule, suggesting, for example, that the fees be imposed only on borrowers with family incomes that exceed 80 percent of median family income for the area, or that fees collected be retained by local public bodies rather than HUD.

Risk fee—The principal argument against imposition of a risk fee is that it would create an undue burden upon lower income borrowers. Adding a one-percent risk premium to a three percent interest rate would result in a substantial increase in the borrower's payment. For example, Minneapolis states that, for a $27,000 loan, a lower income borrower would pay an additional $3,329 to HUD over a 20-year loan term (a 37.24 percent increase in the borrower's expense). Pinellas County suggested that HUD distinguish between single- and multifamily loan applicants in examining the need for and size of any risk premium.

HUD recognizes that the charges imposed will constitute an added expense for borrowers, including lower income borrowers. However, HUD does not agree that the added expense will constitute an "undue" financial burden, since the loan rate for lower income borrowers, including the premium add-on, will still be substantially below market rates. The additional expense for all borrowers is warranted in light of the Department's losses sustained in the past under this program. Moreover, a substantial portion of the Department's past losses have been sustained as a consequence of loan defaults by lower income borrowers. Insofar as the risk premiums will offset future losses, it will strengthen the future viability of the loan program.

The Department recently conducted an analysis of losses sustained under the program, and, in the preamble to its February 20, 1985 proposal, published loss data sufficient to demonstrate the need for the immediate establishment of the loan risk premium. The overwhelming majority of loans processed are single-family loans (about 97 percent) and distinctions between single- and multi-family loans related to losses are not sufficiently large to warrant disparate treatment under the rule.

The data included (a) losses on loans that have been written off over the life of the program, (b) anticipated losses on loans that are now in litigation (including pending charge-offs, bankruptcies, judgments, foreclosures, and properties held in decedent estates), (c) losses from sales of acquired properties, and (d) loans that are more than 30 days delinquent. HUD concluded that the rate of loss actually exceeded two percent of loan obligations under the program. HUD compared total losses to total loan amounts obligated to October 1983, and also considered more recent loans that were more than 30 days delinquent. Total losses exceeded $20 million, compared to more than $1.1 billion obligated. Of the more recent loans approximately 10 percent of $62 million were more than 30 days delinquent. Adding the two categories together produces a loss rate greater than two percent ($26.5 million of losses compared to about $1.2 billion obligated).

HUD's past experience under the program and estimation of future losses is sufficient to warrant imposing the one percent risk premium. The Department has already indicated that it will monitor the future loss rate under the program and adjust this premium if warranted.

Application fee—The principal argument against the proposed application fee is that it will create an undue burden on lower income borrowers. Henderson, NV and Portland, OR each assert that, based on economies of scale, lower income borrowers would be subjected to a disproportionate hardship. Duluth, MN opposes any requirement that an application fee be paid in full at settlement. (This, however, is optional to the borrower under the proposed rule). On the other hand, Tacoma, which favors the proposed rule, argues, that allowing borrowers to amortize the application fee over the loan term defeats the purpose of an application fee and should not be permitted.

Minneapolis, Portland, and NAHRO each indicate that insofar as an application fee is appropriate to offset administrative costs, local public bodies should collect and retain these fees. Minneapolis requests that the regulations state that a local public agency can change processing fees. Conversely, Ogden City argues that, consistent with the objectives of the section 312 program, HUD should continue to absorb administrative costs, just as do local public agencies.

The Department does not believe that the $200 application fee will create an undue burden on single-family borrowers. Again, this fee, which will strengthen the program by helping to offset administrative costs, is not likely to change the fundamental nature of a loan (*i.e.*, from one that contains generally more desirable terms than those offered in the private sector). Moreover, the fee is charged only on approved applications, and the rule permits a borrower to elect to have the fee added onto the loan principal amount and amortized over the loan term. These aspects of the rule are specifically designed to minimize any potential adverse impact based on an upfront fee assessment.

The application fee will produce revenues that should approximate, if not meet completely, HUD's administrative costs under the program. The Department does not intend to permit local public bodies to either collect or share in the proceeds derived from these fees. It is not clear that section 312 of the Act, which specifically authorizes HUD to collect fees, would permit local authorities to receive any fee proceeds to offset administrative costs that they incur under the program. Additionally, the Department is not inclined to create an employer-employee or agency type of relationship with local bodies that function as independent contractors under the program.

The risk premium and application fee shall be imposed on all loans approved by HUD on or after the effective date of this regulation.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a major rule as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3)

have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterpises in domestic or export markets.

Under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), HUD certifies that this rule does not have a significant economic impact on a substantial number of small entities, because the rule, while increasing costs to borrowers in the Section 312 program, will not affect a significant number of small entities as defined by the Act.

This rule was listed as item number 170 in the Department's Semiannual Agenda of Regulations published on April 29, 1985, (50 FR 17286, 17325) under Executive Order 12291 and the Regulatory Flexibility Act.

The Section 312 Rehabilitation Loan Program is listed in the Catalog of Federal Domestic Assistance as program number 14.220.

List of Subjects in 24 CFR Part 510

Loan programs—housing and community development, Relocation assistance, Urban renewal.

PART 510—SECTION 312 REHABILITATION LOAN PROGRAM

Accordingly, the Department amends 24 CFR Part 510 as follows:

1. The authority citation for 24 CFR Part 510 is revised to read as set forth below and any authority citation following any section in Part 510 is removed.

Authority: Sec. 312, United States Housing Act of 1964 (42 U.S.C. 1452b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. By adding a new § 510.34, to read as follows:

§ 510.34 Loan risk premiums.

For any loan issued under this part, a risk premium of one percent shall be added to the loan contract interest rate. The premium will constitute a part of each of the borrower's monthly payments over the loan term.

2. By adding a new § 510.36, to read as follows:

§ 510.36 Application fee.

(a) Each approved application filed for a loan under this part shall be subject to an application fee. The fee for a property containing four or fewer dwelling units shall be $200. The fee for all other applications shall be $300.

(b) A borrower may, at his or her option, either (1) submit the application fee in full at the time of loan settlement, or (2) have the amount of the application fee added to the loan amount and amortized over the term of the loan.

Dated: September 18, 1985.

Alfred C. Moran,

Assistant Secretary for Community Planning and Development.

[FR Doc. 85-22903 Filed 9-24-85; 8:45 am]

BILLING CODE 4210-29-M

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24 CFR Parts 880, 881, 882, 883, 884, 886 and 888

[Docket No. R-85-1248; FR-2005]

Section 8 Housing Assistance Payments Program: Procedure for Issuing Fair Market Rents; Single Room Occupancy Housing for the Existing Housing Program

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

ACTION: Final rule.

SUMMARY: This rule codifies the methodology for establishing Fair Market Rents and announces a new procedure for promulgating Fair Market Rent Schedules for use in the various section 8 Housing Assistance Payments Programs. The methodology employed by HUD in the past in establishing Fair Market Rents is not changed by this rule. However, the new publication procedure will allow the Department to publish proposed and final Fair Market Rent Schedules by notice in the **Federal Register**, as is done in the case of contract rent annual adjustment factors. This change in procedure will assist the Department in meeting its statutory obligation to publish Fair Market Rents at least annually, while preserving the opportunity for public comment before Fair Market Rents are published in final form. In addition, this rule adopts a standard for determining Fair Market Rents for single room occupancy units for the section 8 Existing Housing Certificate Program..

EFFECTIVE DATE: October 30, 1985. FMRs for Single Room Occupancy Units in the section 8 Existing Housing Program will be effective upon the effective date of the next schedule of Fair Market Rents.

FOR FURTHER INFORMATION CONTACT: Cecelia D. Livingston, Existing Housing Division, Office of Elderly and Assisted Housing, (202) 755-5720; James Tahash, Program Planning Division, Office of Multifamily Housing Management, (202) 426-3970; for technical information regarding the development of the schedules for specific areas for existing housing FMRs, contact Ellis V. St. Clair, Economic and Market Analysis Division, Office of Policy Development and Research, (202) 755-5590; for technical information regarding the development of the schedules for specific areas for new construction and substantial rehabilitation FMRs, contact Edward M. Winiarski, Technical Support Division, Office of Multifamily Housing Development, (202) 426-7625. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (the Act) authorizes a system of housing assistance payments to aid lower income families in renting decent, safe and sanitary housing. These programs, known as the Section 8 Housing Assistance Payments Programs, provide assistance payments for lower income families for a variety of housing options, including new construction, substantial rehabilitation and moderate rehabilitation of units and existing housing certificates and housing vouchers.

Under these programs, HUD or Public Housing Agencies (PHAs) make rental assistance payments on behalf of eligible families to owners. For all Section 8 program components except the Housing Voucher program, the assistance payments are equal to the difference between the contract rent (rent payable to the owner) and the gross family contribution (the amount paid by the tenant to the owner). Initial contract rents plus any allowances for utilities generally may not exceed area-wide Fair Market Rents (FMRs) established at least annually by the Department. Under the Housing Voucher Program, initial payments on behalf of assisted Families are generally equal to the difference between the applicable payment standard and 30 percent of the Family's monthly adjusted income. The payment standard is based on the published existing housing FMR for each size unit (number of bedrooms).

In the past, the Department has issued FMRs in rulemaking documents. The Department has determined that publication by rulemaking is not necessary and has delayed timely annual publication of the FMRs. All rules issued by the Department are subject to Congressional review as provided for in section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C., 3535(o)).

Under section 7(o), any rule published for comment that is not on the Department's Semiannual Agenda of Regulations, or that is on the Agenda but requested by either of HUD's authorizing committees to be submitted for review, must be submitted both to the House Committee on Banking, Finance, and Urban Affairs and the Senate Committee on Banking, Housing, and Urban Affairs for at least 15 calendar days of continuous session of Congress before the rule may be published for comment. In addition, no rule may become effective until a period of 30 calendar days of continuous session of Congress has elapsed after publication of the rule for effect.

This Rule

Publication of FMRs by **Federal Register** *Notice.* Today's document changes the current procedure for adopting FMRs by amending applicable regulations in Part 888, Subpart A, to provide that FMRs will be issued by notice. The Department believes that publishing FMRs on a more timely basis will benefit participants in the section 8 program as well as the Department.

Such a change benefits the Department by enabling it to comply in a more timely manner with the requirements of the Act. Section 8(c)(1) of the Act states that the Secretary shall periodically, but not less than annually, establish fair market rents. Section 8(c)(1) further states that the Department shall publish FMRs in the **Federal Register,** with reasonable time for public comment, and that the FMRs shall become effective upon publication in final form in the **Federal Register.** Under this rule, FMRs will be published initially in proposed form with a minimum of 30 days for comment, and then will be published in final form by Notice for immediate effect. This procedure will increase the flexibility of the Department in responding to changed circumstances in particular market areas. In addition, when the rents are published in final form by Notice in the **Federal Register** they can be made effective the same day.

FMRs for the various Section 8 Housing Assistance Payments Programs will be published as Notices, but carried in the Proposed Rules or Rules and Regulations section of the **Federal Register.** This procedure is used when a document is related to the Department's rules, but is not a rule and is not codified in the Code of Federal Regulations. Documents published in the Proposed Rules or Rules and Regulations section are carried in all of the **Federal Register** indices, which should make it easier for the public to have quick access to the information on an ongoing basis.

Methodology Used to Develop FMRs. Today's rule also amends Part 888, Subpart A, by adding an explanation of how FMRs are developed. This rule does not make any substantive change in the methodology previously used to develop FMRs, but the rule incorporates in the Department's regulations for the first time a complete description of these procedures. Any future change in the methodology used to develop FMRs would be the subject of new rulemaking.

FMRs for New Construction and Substantial Rehabilitation. The FMRs for new construction and substantial rehabilitation are based primarily on the level of rentals paid for recently constructed dwelling units of modest design within each market area. Generally, recently constructed units include units constructed within six years of the market survey. In market areas with insufficient projects built within six years, alternative procedures will be used to develop appropriate rent levels. The FMRs are estimates of rents that prospective tenants who are not receiving Federal rent subsidies would be willing to pay for recently constructed dwelling units of modest design.

FMRs for Existing Housing. The FMRs established for Existing Housing also are used to determine FMRs for the Moderate Rehabilitation Program and the Payment Standard for the Housing Voucher Program. The Department has adopted criteria (HUD's measure of modest housing) to be used in developing the existing housing FMRs. They are: (1) The 45th percentile rent of standard quality rental housing unit (that is, the rent below which 45 percent of the standard quality rental housing units are distributed); (2) rents based on units occupied by recent movers (households who moved in the two years preceding the date of the survey data used in the calculations); and (3) exclusion from the data base of all public housing units and recently completed housing (units built in the two years preceding the survey dates.) The criterion used to calculate the FMRs for manufactured home spaces is based on the 45th percentile rent for manufactured home spaces.

HUD uses the most recent Census and American Housing Survey (AHS) data to develop base rents that correspond to the designated 45th percentile, standard quality, recent-mover FMR standard for each market area. These base rents are updated to the most recent possible date through the use of available Consumer Price Index (CPI) data for rents, and for fuel and utilities. The updated rent estimates then are trended forward to a designated "as of" date by using rent inflation factors based on the CPI data for the most recent available twelve-month period. Base rents for manufactured home spaces are developed by using HUD Field Office surveys and updating them with the rent component data of the CPI.

This rule also contains technical amendments to several of the Section 8 program regulations to include a cross-reference to Part 888 for information on the determination of Fair Market's Rents.

Single Room Occupancy FMRs for Existing Housing. In addition to Fair Market Rent amendments, this rule makes several miscellaneous amendments to Parts 882 and 888, to implement section 210 of the Housing and Urban-Rural Recovery Act of 1983 (the 1983 Act) (Pub. L. 98–181, November 30, 1983). Section 210 authorizes the use, under certain conditions, of Single Room Occupancy (SRO) units in the Section 8 Existing Housing Program. (Single Room Occupancy housing means a unit which contains no sanitary facilities or food preparation facilities, or which contains one, but not both, types of facilities, and which is suitable for occupancy by a single eligible individual capable of independent living.) It is not intended that SRO housing substitute for efficiency and one-bedroom units or compensate for tight markets. Rather, local demand for this type of housing must be demonstrated for SRO units to qualify.

These authorizing amendments for SROs are consistent with SRO provisions already in place for the Section 8 Moderate Rehabilitation program, except for the few differences cited below. Two statutory provisions that apply to the Moderate Rehabilitation program also apply to the Existing Housing program. These include:

(1) The use of SROs will be approved only when the Department determines that there is a significant demand among individuals in the locality for SRO-type housing, rather than traditional housing units; and

(2) The unit of general local government in which the property is located and the local PHA approve of the units being used as single room occupancy housing.

A third statutory requirement (applicable only to the Existing Housing program) was added by the 1983 Act. This requires that the unit of local government and local PHA certify to

HUD that the property meets applicable local health and safety standards.

This rule also incorporates into the Existing Housing regulations the current Moderate Rehabilitation housing quality standards for single room occupancy (see § 882.109). This includes a requirement that local codes on sanitary facilities, space and security be met. The regulation contains a reference to the American Public Health Association's Recommended Housing Maintenance and Occupancy ordinance for use in the absence of local code standards.

The definition for Single Room Occupancy housing differs slightly from the Moderate Rehabilitation definition by not stating the minimum number of units that must be in a building as a prerequisite for any unit to qualify as SRO housing. The definitions differ to reflect the different nature implicit in the two programs. (*i.e.*, project-based assistance in the case of the Moderate Rehabilitation Program versus use of individual, eligible units wherever they are located for the Existing Program).

To permit use of SROs in both Programs, the Secretary may waive, in appropriate cases, the statutory limitation on the number of Section 8 units in a particular community occupied by single individuals who are not elderly, displaced or handicapped, and may waive the requirement that elderly, displaced or handicapped single persons be given priority over all other types of single persons for admission to Section 8 housing. Field Office Directors may direct requests for waivers of 24 CFR Part 812 concerning limitations and preferences regarding occupancy by single persons to the Assistant Secretary for Housing.

If it is determined that SROs will be used in a jurisdiction, the PHA must amend its administrative plan to include the criteria for selecting families for single room occupancy units.

The Department has determined that, since SRO units will lack private bathroom or kitchen facilities (or both), the regulations should specify that the maximum gross rents for units under the Section 8 Existing Housing Program shall not exceed 75 percent of the Section 8 Existing Housing Fair Market Rent for 0-bedroom units, unless an exception rent has been approved by HUD for a designated municipality, county or similar locality under 24 CFR 882.106(a)(3). If an exception rent is approved by HUD for 0-bedroom units, the FMR for SROs will be 75 percent of the 0-bedroom unit exception rent. A PHA may request and receive an exception rent for the single room occupancy unit size itself. However, in no case may the maximum gross rent for a single room occupancy unit exceed 120 percent of the originally determined FMR for single room occupancy units (that is, 75 percent of the published 0-bedroom Fair Market Rent and not the HUD approved exception rent for a 0-bedroom unit). Note that any comments submitted on 0-bedroom units during the Fair Market Rent development process, as described elsewhere in this rulemaking, will directly affect the FMR levels for SRO units.

Other Matters

Part 10 of the Department's regulations sets out the policies and procedures that HUD generally follows in the development of its rules. As a general policy, the Department provides for prior opportunity for comment for most classes of rules. However, Part 10 indicates that the Department may omit notice and public procedures when the rulemaking is (among other things) a rule of agency procedure, or if prior opportunity for comment is unnecessary, impracticable or contrary to the public interest. This final rule codifies a change in the way Fair Market Rents are published; it makes no substantive change in the way the FMRs are developed. Accordingly, the Department has determined that this rule is one of agency procedure, and that it is unnecessary to provide for prior opportunity for comment. As a practical matter, we also note that the manner in which FMRs are developed is not changing and the methodology used has been subject to public comment in previous years' rulemakings. Accordingly, the Department finds that prior opportunity for comment is unnecessary with reference to the methodology.

With regard to the SRO amendments, the Department has determined that the changes will benefit persons who may not otherwise be able to participate in the program, because the rule authorizes an additional housing source. While these amendments have not been the subject of public comment, the Department does have the benefit of the public comments received on its SRO implementation rule published in 1982 in connection with the Section 8 Moderate Rehabilitation Program (47 FR 34376). That interim rule also sets FMRs for SRO units at 75 percent of the 0-bedroom Fair Market Rent, and, like this rule, implemented statutorily based requirements associated with determination of demand for SRO units and the securing of PHA and local government approval of particular properties being used for SRO purposes.

The Department received limited comments on the SRO provisions of the 1982 rule. While comments were generally favorable, two commenters, (both from New York City) objected to FMRs for SROs being set at 75 percent of 0-bedroom rents. These commenters were concerned that repair and replacement costs, maintenance, and financing costs for moderate rehabilitation projects containing SROs would all be high, and urged that FMRs be set at the same level as the 0-bedroom rent for an area.

Thus, while there has been some concern expressed about the established FMR level for SRO units, it appears to be limited in scope and connected, in part, to characteristics of the moderate rehabilitation program that are not shared in the Section 8 existing program—for example, financing costs associated with moderate rehabilitation should not similarly be a factor driving up rents in existing housing.

The Department has examined the public comments received on the interim rule pertaining to SROs for moderate rehabilitation units, and will publish soon a final rule treating that subject matter in greater detail. One of the judgments that has been made in response to those comments, however, is that FMR levels for SROs should not be raised beyond the level set out in the interim rule. Accordingly, this rule also adopts 75 percent of 0-bedroom FMRs as the appropriate level for Section 8 Existing SRO rents.

A Finding of No Significant Impact with respect to the environment, required by section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332), has been made in accordance with HUD regulations in 24 CFR Part 50. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-

based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because it merely changes the procedure used to issue FMRs. It makes no change in the methodology used to arrive at the FMR levels.

This rule was listed as item 124 in the Department's Semiannual Agenda of Regulations published on April 29, 1985 (50 FR 17286, 17317) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Programs number is 14.156, Lower-Income Housing Assistance Programs (Section 8).

List of Subjects

24 CFR Parts 880 and 881

Grant programs: housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 882

Grant programs: housing and community development, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 883

Grant programs: housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 884

Grant programs: housing and community development, Rent subsidies, Rural areas.

24 CFR Parts 886 and 888

Grant programs: housing and community development, Rent subsidies.

Accordingly, 24 CFR is amended as follows:

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

1. The authority citations following the sections in Part 880 are removed and the authority citation for Part 880 is revised to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

2. In § 880.203, paragraph (d) is revised to read as follows:

§ 880.203 Fair market rents.

* * * * *

(d) Fair Market Rents will be established by HUD and will be published in the **Federal Register** in accordance with Part 888 of this chapter. Revisions for one or more market areas may be initiated by HUD at any time and may be published as market conditions dictate.

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

3. The authority citations following the sections in Part 881 are removed and the authority citation for Part 881 is revised to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

4. In § 881.203, paragraph (d) is revised to read as follows:

§ 881.203 Fair market rents.

* * * * *

(d) Fair Market Rents will be established by HUD and will be published in the **Federal Register** in accordance with Part 888 of this chapter. Revisions for one or more market areas may be initiated by HUD at any time and may be published as market conditions dictate.

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

5. The authority citations following the sections in Part 882 are removed and the authority citation for Part 882 is revised to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

6. In § 882.102, the definitions of "Fair Market Rent" and "Unit" are revised and a definition of "Single Room Occupancy" is added in alphabetical order, as set forth below:

§ 882.102 Definitions.

* * * * *

Fair Market Rent. The rent, including utilities (except telephone), ranges and refrigerators, and all maintenance, management, and other services, which would be required to be paid in order to obtain privately owned, existing, Decent, Safe, and Sanitary rental housing of modest (non-luxury) nature with suitable amenities. Separate Fair Market Rents will be established by HUD for dwelling units of varying sizes (number of bedrooms) and will be published in the **Federal Register** in accordance with Part 888 of this chapter.

* * * * *

Single Room Occupancy (SRO) Housing. A unit which contains no sanitary facilities or food preparation facilities, or which contains one but not both types of facilities (as those facilities are defined in §§ 882.109 (a) and (b)), and which is suitable for occupancy by a single eligible individual capable of independent living.

Unit. Residential space for the private use of a Family (including individuals who comprise a Family in accordance with 24 CFR Part 812), such as an apartment, house, or Independent Group Residence, which contains a living room, kitchen area, bathroom(s) and bedroom(s). However, a congregate housing unit need not contain a kitchen area since central dining facilities are available with the building or housing complex, a Single Room Occupancy unit need not contain sanitary and kitchen facilities, and a 0-bedroom unit may have a combined living/bedroom area. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from 0-bedroom to 6-bedrooms.

* * * * *

7. In § 882.106, a new paragraph (d) is added, to read as follows:

§ 882.106 Contract rents.

* * * * *

(d) *Single Room Occupancy Units.* (1) The Fair Market Rent for each SRO unit shall be equal to 75 percent of the 0-bedroom Fair Market Rent.

(2) In areas where HUD has approved the use of exception rents for 0-bedroom units under paragraph (a)(3) or (a)(4) of this section, the SRO exception rent will be 75 percent of the exception rent which applies to the Existing Housing 0-bedroom unit. Further, a SRO unit may be granted an exception rent for its own specified unit size. In no case may the authorized rent for the SRO unit exceed 75 percent of 120 percent of the 0-bedroom unit FMR.

(3) In determining the reasonableness of the rents, consideration will be given to the presence or absence of sanitary or kitchen facilities.

8. In § 882.109, a new paragraph (p) is added, to read as follows:

§ 882.109 Housing quality standards.

* * * * *

(p) *Single Room Occupancy (SRO) Unit—Performance Requirements.* (1) The foregoing standards shall apply except for paragraphs (a), (b), (c), (m), (n), and (o).

(2) Each SRO unit shall be occupied by no more than one person.

(3) Exterior doors and windows accessible from outside the SRO unit must be able to be locked.

(4) Sanitary facilities, space and security shall meet local code standards for single room occupancy housing. In the absence of applicable local code standards, the requirements for habitable rooms used for living and sleeping purposes contained in the American Public Health Association's Recommended Housing Maintenance and Occupancy Ordinance shall be used.

9. In § 882.110, paragraphs (c), (d), and (e) are redesignated as paragraphs (d), (e), and (f), respectively, and a new paragraph (c) is added, to read as follows:

§ 882.110 Types of housing.

* * * * *

(c) SRO Housing may be utilized if:

(1) The property is located in an area in which there is a significant demand for SRO units, as determined by the HUD Field Office;

(2) The PHA and the unit of general local government in which the property is located approve the use of SRO units for such purpose; and

(3) The unit of general local government and local PHA certify to HUD that the property meets applicable local health and safety standards.

* * * * *

§ 882.116 [Amended]

10. In § 882.116(j), the reference to "§ 882.110(c)" is removed and a reference to "§ 882.110(d)" is added in its place.

§ 882.204 [Amended]

11. Section 882.204(b)(3)(ii) is amended by removing the clause "(including any selection preferences)" and adding in its place "(including any selection preferences or use of single room occupancy units)".

§ 882.404 [Amended]

12. In § 882.404, paragraph (c) is removed.

13. In § 882.602, the definition of "Fair Market Rent" is revised to read as follows:

§ 882.602 Definitions for this subpart.

* * * * *

Fair Market Rent. The rent which would be required to be paid in order to obtain a privately owned, decent, safe and sanitary Manufactured Home Space of a modest nature. This rent includes maintenance and management services described in the definition of Manufactured Home Space for single-wide and double-wide Manufactured Home Spaces. Rents for double-wide spaces will be permitted for Assisted Families of five or more persons so long as the Manufactured Home meets the minimum occupancy standards for families in accordance with § 882.209(b)(2). Fair Market Rents will be established by HUD and will be published in the **Federal Register** in accordance with Part 888 of this chapter.

* * * * *

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

14. The authority citations following the sections in Part 883 are removed and the authority citation for Part 883 is revised as set forth below:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

15. In § 883.304, paragraph (d) is revised to read as follows:

§ 883.304 Fair market rents.

* * * * *

(d) Fair Market Rents will be established by HUD and will be published in the **Federal Register** in accordance with Part 888 of this chapter. Revisions for one or more market areas will be initiated by HUD at any time and may be published as market conditions dictate.

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

16. The authority citations following the sections in Part 884 are removed and the authority citation for Part 884 is revised to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

17. In § 884.102, paragraphs (a) and (c) of the definition of "Fair Market Rent" are revised to read as follows:

§ 884.102 Definitions.

* * * * *

Fair Market Rent. (a) HUD's determination of the rents, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other essential housing services, which would be required to obtain, in a particular market area, privately developed and owned, recently constructed rental housing of modest (non-luxury) design with suitable amenities.

* * * * *

(c) The Fair Market Rents will be established by HUD and will be published in the **Federal Register** in accordance with Part 888 of this chapter. To allow for the period of construction, computation of the Fair Market Rents will include HUD's estimate of anticipated rent increases during an appropriate future period as stated in the publication. Accordingly, for any given project for which the scheduled construction time will be less than such future period, an appropriate reduction will be made in determining the approvable Contract Rent.

* * * * *

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

18. The authority citations following the sections in Part 886 are removed and the authority citation for Part 886 is revised to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

19. In § 886.102, paragraph (a) of the definition of "Fair Market Rent" is revised to read as follows:

§ 886.102 Definitions.

* * * * *

Fair Market Rent. (a) The rent which is determined by HUD as the Fair Market Rent for Existing Housing under Section 8. This Fair Market Rent is the rent, including utilities (except telephone), ranges and refrigerators, and all maintenance, management and other services, which would be required to be paid in order to obtain privately owned, existing, Decent, Safe and Sanitary rental housing of modest (non-luxury) nature with suitable amenities. Separate Fair Market Rents will be established by HUD for dwelling units of varying sizes (number of bedrooms) and types and will be published in the **Federal Register** in accordance with Part 888 of this chapter.

* * * * *

20. In § 886.302, the introductory language in the definition of "Fair market rent" is revised to read as follows:

§ 886.302 Definitions.

* * * * *

Fair market rent. The rent, including utilities (except telephone), ranges and refrigerators, and all maintenance,

management, and other services required to be paid to lease a unit in the appropriate Section 8 program. Specific types of projects are described in the following paragraphs. All Fair Market Rents will be established by HUD and published in the **Federal Register** in accordance with Part 888 of this chapter.

* * * * *

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

In Part 888 the authority citations for Subparts A and B are removed; a new authority citation to Part 888 is added, and

21. The Table of Contents for Part 888 is revised to read as follows:

Subpart A—Fair Market Rents

Sec.

888.101 Fair market rents for new construction and substantial rehabilitation: Applicability.

888.103 Fair market rents for new construction and substantial rehabilitation: Methodology.

888.105 Fair market rents for new construction and substantial rehabilitation: Manner of publication.

888.111 Fair market rents for existing housing and moderate rehabilitation: Applicability.

888.113 Fair market rents for existing housing and moderate rehabilitation: Methodology.

888.115 Fair market rents for existing housing and moderate rehabilitation: Manner of publication.

Subpart B—Contract Rent Automatic Annual Adjustment Factors

888.201 Purpose.

888.202 Manner of publication.

888.203 Use of contract rent automatic annual adjustment factors.

888.204 Revision to the automatic annual adjustment factors.

Authority: Secs. 5 and 8, United States Housing Act of 1937 (42 U.S.C. 1437c and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

22. Part 888, Subpart A is revised to read as follows:

Subpart A—Fair Market Rents

§ 888.101 Fair market rents for new construction and substantial rehabilitation; Applicability.

The Fair Market Rents (FMRs) for New Construction (see definition in § 880.201 of this chapter) and Substantial Rehabilitation (see definition in § 881.201 of this chapter) are determined by the Department of Housing and Urban Development (HUD) and apply to section 8 New Construction and Substantial Rehabilitation under Part 880 (New Construction), Part 881 (Substantial Rehabilitation), Part 883 (Housing Finance and Development Agencies), Part 884 (New Construction Set-Aside for section 515 Rural Rental Housing Projects), and Part 885 (Loans for Housing for the Elderly or Handicapped) and for Substantial Rehabilitation under Part 886, Subpart C (Section 8 Housing Assistance Program for the Disposition of HUD-owned Projects).

§ 888.103 Fair market rents for new construction and substantial rehabilitation: Methodology.

(a) *General.* Fair Market Rents (FMRs) for New Construction and Substantial Rehabilitation are based on the levels of rent paid, as determined by HUD, for recently constructed dwelling units of modest design within each market area. FMRs include a trend adjustment to allow time for processing and construction. FMRs are estimates of the rents that prospective tenants who do not receive Federal rent subsidies would be willing and able to pay for recently constructed living units of modest design, with suitable amenities. They do not necessarily represent rents needed to support construction and operating costs.

(b) *Geographic area.* The Fair Market Rents for New Construction and Substantial Rehabilitation are established for different market areas throughout the country. These market areas are the same as those used for the public housing prototype costs issued under Part 941 of this title. The market areas for the FMRs for New Construction/Substantial Rehabilitation are the same as the prototype cost areas that are in effect at the time the FMRs are published in final form.

(c) *Basic categories.* (1) FMRs are developed for five unit sizes (0, 1, 2, 3, and 4 or more bedrooms), as well a for five structural categories (detached, semi-detached/row homes, walk-up, 2–4 story elevator, and 5-plus story elevator buildings).

(2) FMRs may be established by financing type (for example, conventional loans, loans from the proceeds of tax-exempt obligations, loans secured by mortgages purchased under the Government National Mortgage Association Tandem Program for Section 8 projects, and direct loans under section 202 of the Housing Act of 1959 or section 515 of the Housing Act of 1949). If FMRs are being established by financing type, special note will be made in the annual publication of the FMRs.

(d) *Data Base.* (1) Estimates of FMRs by unit size, structural type, and market area are prepared by the HUD Field Office. Market surveys are conducted by appraisers within each market area to obtain representative samples of rents paid for comparable unsubsidized recently constructed or substantially rehabilitated dwelling units of modest design with suitable amentities. Adjustments are made for differences between the rental comparables and a hypothetical unit, such as adjustments for unit area, number of baths, utilities, services, and age of structure.

(2) Adjusted FMRs are trended ahead two years to allow time for anticipated changes in rent levels during the processing and construction phases of project development. The list of adjusted, trended unit rent is arrayed in ascending order. The FMRs for each combination of structural type and bedroom count are selected based upon the 75th percentile level of the array of sample rental comparables for that type of unit surveyed for each market area. Schedules of FMRs are then prepared that reflect a progression from bedroom size to bedroom size, and from one structural type to another that is both logical and reasonably consistent. Alternatively, in those instances where a sufficient number of market rental comparables are not available, FMRs may be developed by an interpolation procedure, which is more fully discussed in the Department's handbooks on the New Construction and Substantial Rehabilitation programs.

(e) *Special categories—computations.* In addition to the basic categories described in paragraph (c) of this section, FMRs for certain specialized housing types are computed as described in the following paragraphs. All rents computed in accordance with this paragraph (e) shall be rounded down to the nearest whole dollar.

(1) FMRs for dwelling units designed for the elderly or handicapped are those for appropriate size units, not to exceed 2 bedrooms for the elderly, multiplied by 1.05;

(2) Congregate housing dwelling unit FMRs are the same as for non-congregate units;

(3) Single room occupancy dwelling unit FMRs (applicable only for Substantial Rehabilitation projects) are 75 percent of those for zero-bedroom units of the same structural type;

(4) FMRs for living units in a group home developed with a direct loan under section 202 of the Housing Act of 1959 are those for zero-bedroom or one one-bedroom units of the walk-up structural type (or, if the group home

contains an elevator, of the elevator 2–4 story structural type). Each living unit in a group home is composed of a bedroom plus a proportionate part of common living space ordinarily included in a living unit. One-bedroom FMRs may be applied only when the bedroom space plus the proportionate part of the common space totals at least 450 square feet;

(5) Manufactured home (unit and space) FMRs shall be 95 percent of the rents for detached units of the appropriate bedroom size (except that where a manufactured home FMR is specified on the schedule for an area, the amount on the schedule shall be the FMR);

(6) FMRs for manufactured home spaces in newly constructed or substantially rehabilitated manufactured home parks shall be determined by multiplying the FMR for spaces published for the Existing Housing Program by 1.25.

§ 888.105 Fair market rents for new construction and substantial rehabilitation: Manner of publication.

Fair market rents will be developed in two steps and will be published at least annually in the **Federal Register**. The Department will propose FMRs and provide a comment period of at least 30 days. Once the comments are considered, the Department will publish a final notice announcing FMRs. These FMRs will be effective on publication.

§ 888.111 Fair market rents for existing housing and moderate rehabilitation: Applicability.

The Fair Market Rents (FMRs) for Existing Housing (see definition in § 882.102 of this chapter) are determined by the Department of Housing and Urban Development (HUD) and apply to the Section 8 Existing program under Part 882, Subparts A, B, and F, the Moderate Rehabilitation program under Part 882, Subparts D and E, the Assistance Program for Projects with HUD-insured or HUD-held Mortgages under Part 886, Subpart A, as well as for existing housing under the Section 8 Housing Assistance Program for the Disposition without substantial rehabilitation of HUD-owned projects under Part 886, Subpart C.

§ 888.113 Fair market rents for existing housing and moderate rehabilitation: Methodology.

(a) *General.* The criteria used to determine the Existing Housing FMRs are as follows: (1) The 45th percentile rent of standard quality rental housing units (*i.e.*, the rent below which 45 percent of the standard quality rental housing units within each market area is distributed); (2) rents for units occupied by recent movers (households who moved in the two years preceding the date of the survey data used in the calculations); and (3) exclusion from the data base of all public housing units and recently completed housing (units built in the two years preceding the survey date). The criterion used to calculate FMRs for manufactured home spaces is based on the 45th percentile rent for manufactured home spaces.

(b) *Geographic area.* (1) The Fair Market Rents for existing housing are established for all Metropolitan Statistical Areas (MSAs) Primary Metropolitan Statistical Areas (PMSAs), nonmetropolitan counties, and county equivalents in the United States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam. FMRs also are established for nonmetropolitan parts of counties in the New England States.

(2) FMRs for manufactured home spaces are established for all MSAs, PMSAs, selected nonmetropolitan counties, and the residual nonmetropolitan portion of each State.

(c) *Categories.* Existing housing FMRs are established by unit size (*i.e.*, number of bedrooms). Base rents are established for two-bedroom units, and percentage relationships developed from Census or American Housing Survey (AHS) data are used to establish 45th percentile rents for efficiencies and one-bedroom units. Higher percentage relationships are provided for units that contain three or more bedrooms. Manufactured home space FMRs are established for single-wide and double-wide spaces.

(d) *Data base.* HUD uses the most recent Census and American Housing Survey (AHS) data to develop base rents that correspond to the designated 45th percentile, standard quality, recent-mover FMR standard for each market area. These base rents are updated to the most recent possible date through use of available Consumer Price Index (CPI) data for rents, and for fuel and utilities. The updated rent estimates then are trended forward to a designated "as of" date by using rent inflation factors based on the CPI data for the most recent available 12-month period. In establishing FMRs each year, HUD will use the most accurate data available, which may include such things as new census data or additional data developed in response to sudden changes in market conditions. Any additional data used will be described in the **Federal Register** publication of the proposed FMRs for comment.

(e) *Specific categories—computation.* (1) The FMRs for the Moderate Rehabilitation Program are 120 percent of the FMRs published for the regular Existing Housing Program.

(2) Fair Market Rents for manufactured home spaces are derived from the use of a single rent inflation factor developed from the CPI in a manner similar to that used for the regular Existing Housing Program, but excluding data pertaining to fuel and utilities.

(3) The Fair Market Rent for each Single Room Occupancy unit is 75 percent of the zero-bedroom Fair Market Rent.

(4) The Fair Market Rent for each Congregate Housing unit is the same as for zero-bedroom units, except that if the unit consists of two or more private rooms, the Fair Market Rent is the same as for a one-bedroom unit.

(5) The Fair Market Rent for an Independent Group Residence is the Fair Market Rent applicable to the unit size being leased, for example, a four-bedroom unit if the residence contains four bedrooms.

§ 888.115 Fair market rents for existing housing and moderate rehabilitation: Manner of publication.

Fair market rents will be published at least annually in the **Federal Register**. The Department will propose FMRs and provide a comment period of at least 30 days. Once the comments are considered, the Department will publish a final notice announcing FMRs. These FMRs will be effective on publication in the **Federal Register**.

Dated: September 18, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 85-22900 Filed 9-24-85; 8:45 am]

BILLING CODE 4210-27-M

Office of Assistant Secretary For Housing—Federal Housing Commissioner

24 CFR Part 885

[Docket No. R-85-1014; FR-1543]

Loans for Housing for the Elderly or Handicapped; Eligibility of Acquired Existing Housing for the Nonelderly Handicapped

AGENCY: Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule permits HUD to make loans to nonprofit organizations to acquire existing housing and related facilities, including those requiring

moderate rehabilitation, for the purpose of providing group homes for the nonelderly handicapped.

EFFECTIVE DATES: October 30, 1985.

FOR FURTHER INFORMATION CONTACT: Robert W. Wilden, Office of Elderly and Assisted Housing, Room 6116, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–5000. Telephone (202) 426–8730. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 16, 1982, at 47 FR 51565, the Department published an interim rule to implement changes made by section 319 of the Housing and Community Development Act of 1980 (1980 Act). The interim rule expanded the definition of "development cost" contained in 24 CFR 885.5 to include the cost of acquiring existing housing and related facilities, and the cost of its rehabilitation alteration, conversion, or improvement (including moderate rehabilitation). The interim rule also amended other provisions of Part 885 to conform to the new definition of "development cost". Public comments on the interim rule were invited for a 45-day period.

I. Background

Section 202(d)(1) of the Housing Act of 1959 defines "housing" to mean "structures suitable for dwelling use by elderly or handicapped families which are (A) new structures, or (B) provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for proposed dwelling use by such families." Before the 1980 amendments, the Section 202 program was limited to new construction and substantial rehabilitation projects.

Section 319 of the 1980 Act amended section 202(d)(3) of the Housing Act of 1959 to expand the definition of "development cost" to include, in the case of housing to meet the needs of handicapped (primarily nonelderly) persons, the cost of acquiring existing housing and related facilities (including the cost of the land) and the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation, thereof.

Before the 1980 amendments to section 202, many nonprofit organizations developing housing for the handicapped (including the developmentally disabled) encountered considerable difficulty in finding or obtaining suitable sites for new construction, or existing housing in need of substantial rehabilitation, in acceptable residential neighborhoods. The Department believes that, by authorizing the purchase of existing housing requiring little or no rehabilitation, the supply of eligible properties should be increased and community acceptance enhanced, since moderate rehabilitation seldom involves major changes in the exterior appearance of an acquired structure.

II. The Interim Rule

The interim rule (47 FR 51565) amended various sections of 24 CFR Part 885, Loans for Housing for the Elderly and Handicapped, to incorporate the changes made by section 319 of the 1980 Act.

Section 885.1(b), *General Policy*, was amended to authorize loans to finance the acquisition of existing housing and related facilities, and, if necessary, the cost of rehabilitation, alteration, conversion, or improvement, including moderate rehabilitation. Because of the statute's emphasis on the nonelderly handicapped and HUD's policy that units for the elderly should be designed to encourage and provide maximum opportunities for independent living, the new provision was limited to group homes for the nonelderly handicapped. The needs of elderly handicapped persons are met through the section 202 new construction and substantial rehabilitation program.

Section 885.5, Definitions, was amended by (1) adding a new definition of "acquisition with or without moderate rehabilitation"; and (2) amending the definitions of "construction", "development cost" and "housing and related facilities" to include provisions relating to acquisitions with or without moderate rehabilitation.

"Acquisition with or without moderate rehabilitation" was defined to include only the acquisition of existing housing and related facilities for use as group homes for the nonelderly handicapped, and development costs attributable to moderate rehabilitation were limited to the greater of $3,000 per unit or 15 per cent of the loan amount.

The definition of "construction" was expanded to include the acquisition of existing housing with moderate rehabilitation.

"Development costs" was amended to include, in the case of group homes for the nonelderly handicapped, the cost of acquisition of existing housing and related facilities and the cost of rehabilitation, alteration, conversion, or improvement, including moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located.

"Housing and related facilities" was amended to include acquisition with or without moderate rehabilitation, if at least 3 years had elapsed from the later of the date of completion of the project or beginning of occupancy to the date of application for a section 202 fund reservation. This provision was intended to assure that the Borrower did not develop the project without Federal assistance but with the intent to obtain section 202 refinancing upon completion of the project.

Section 885.415(p) was amended to clarify that acquisitions without rehabilitation are not subject to Davis-Bacon wage requirements, since construction is not involved. Section 885.210(a)(13) was amended to require that the Borrower have authority to finance, acquire (with or without moderate rehabilitation), construct or substantially rehabilitate, and maintain properties. Section 885.210(a)(23) was amended to require that the Borrower provide, in the case of property acquired for group homes for the nonelderly handicapped, (1) evidence that the proposed acquisition, construction, or substantial rehabilitation is, or will be, permissible under applicable zoning or regulations as soon as the site is specified, and (2) a statement that gross rents (contract rent plus any utility allowance) will not exceed 75 percent of the applicable fair market rents (FMRs) for new construction and substantial rehabilitation projects.

Section 885.220(d)(4) was revised to expand the environmental review requirements and to assure compliance with the financial assistance requirements in areas identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards.

Conforming amendments of a general nature were also made to §§ 885.215, 885.230, 885.415(n), 885.420 and 885.425.

III. Discussion of Public Comments

The Department received four public comments. They were from the Association of Retarded Citizens of the United States, the United Cerebral Palsy Association, Inc., the Santa Fe Association of Retarded Citizens, and the Mental Health Association of Westchester County (NY), Inc. The four comments were generally supportive of the interim rule.

Three of the organizations commented, however, that the FMR and the moderate rehabilitation cost limitations would adversely affect the prospects for establishing group homes for nonelderly handicapped persons. Following is a summary of suggested changes to the rule and HUD's response.

A. Fair Market Rent (FMR) Limitations

Two commenters, the Association for Retarded Citizens of the U.S. (ARC) and the United Cerebral Palsy Association, Inc., questioned the adequacy of the FMRs set by the interim rule. The commenters asserted that limiting the FMRs to 75 percent of FMRs for walk-up structures would render the program infeasible, since such FMRs would be unrealistically low. The commenters noted that at the time of the 1980 amendments, HUD was allowing sponsors of group homes to use FMRs established for semi-detached structures. The ARC commenter suggested that the FMRs for existing housing and related facilities used as group homes for the nonelderly handicapped should be set at a minimum of 90 percent of the published FMRs for new construction and substantial rehabilitation projects.

After evaluation of these comments, the Department has determined that it would be inappropriate to raise the FMR limitations above 75 percent of the FMRs for walk-up structures. Group homes ordinarily are not as expensive to develop as fully independent units, and the Department has not found that participants in the program have had major problems because of the FMR limitations. HUB believes that raising the FMRs would contravene both the legislative objective of section 319 of the 1980 Act to provide a less costly alternative to the high cost of new construction and substantial rehabilitation, and the Department's cost-containment policy. Additionally, current regulations for substantial rehabilitation projects (24 CFR 881.204(b)(1)(i)) provide that, if the rehabilitation cost is less than 25 percent of the estimated value after rehabilitation, the contract rent, plus any utility allowance, shall not exceed 75 percent of the FMR. Thus, HUD believes that the FMR limitation for moderate rehabilitation projects is correct.

B. Moderate Rehabilitation Cost Limitations

A commenter suggested that the development cost limitation for rehabilitation should be increased from 15 percent to 25 percent of the loan amount. The commenter argued that the increase was necessary, since most moderate rehabilitation projects, in order to comply with fire, safety, and accessibility standards, will have rehabilitation costs that exceed the 15 percent limitation.

The Department believes that the proposed 25 percent cost limitation would be incompatible with the purpose of the moderate rehabilitation component of the Section 202 Program. Funding of moderate rehabilitation was authorized to provide a less costly alternative to new construction and substantial rehabilitation. Limiting the development cost for moderate rehabilitation to the greater of $3,000 or 15 percent of the loan amount should assure that the program is, in fact, limited to *moderate* rehabilitation projects. However, in cases where the development cost of a Section 202 project funded under the moderate rehabilitation program increases, for reasons beyond the borrower's control, between the time of fund reservation and initial or final closing to a level higher than the moderate rehabilitation limits, HUD would consider funding the project as a substantial rehabilitation project.

C. One-Step Processing

A commenter suggested that the Department should establish a one-step process (combining the initial approval and the firm commitment stages of the Section 202 funding process) for the nonelderly handicapped program. The commenter argued that the one-step process would save time and money for sponsors. The Department has not accepted this suggestion, because it believes that one-step processing would work to the detriment of those applicants who have limited resources and experience with the program.

Currently, applicants for loans under the nonelderly handicapped program are not required to submit, at the time of the initial application, many of the extensive and costly documents required of applicants for the Section 202 elderly housing program. Applicants for the nonelderly handicapped program may delay submitting information relating to specific project sites, detailed architectural exhibits, and evidence of site control and zoning until after the Department has approved their applications and has selected them for Section 202 fund reservations. Under one-step processing, applicants would be required to submit all documents with the initial application and would face greater expenditures of time and money, not only by themselves, but also by other concerned parties, including sponsors, consultants, architects, attorneys, builders, and HUD. If one-step processing were adopted, sponsors would be forced to absorb the costs even if the applications were not approved. The Department believes that the advantages of one-step processing do not justify such additional risks to sponsors.

In order to accelerate the processing of applications for small projects (mortgages of $500,000 or less), HUD has adopted simplified cost certification procedures. See 48 FR 11431, March 18, 1983. This simplified procedure should be applicable to many of the applications involving acquisition of existing housing with or without rehabilitation, and should result in cost savings since it facilitates final closing procedures.

IV. Changes from the Interim Rule and Other Matters

The definition of "construction" in § 885.5 has been revised to clarify that, in the case of group homes for the nonelderly handicapped, it also means the acquisition of existing housing with moderate rehabilitation.

The interim rule added an amendment to § 885.415(n) to include a requirement that the Borrower on a Section 202 moderate rehabilitation project provide performance and payment bonds, each in the amount of 50 percent of the total cost of construction or moderate rehabilitation, or a cash escrow in the amount of 25 percent of the cost of construction or moderate rehabilitation. However, a final rule, published on May 15, 1984 at 49 FR 20466, amended § 885.415(n) to increase the amount of the payment and performance bond coverage from 50 percent to 100 for each bond; therefore, the amendment contained in the interim rule is not included in this final rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, DC 20410–5000.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-

based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The interim rule now being made final has little impact on small cities, since only 350 units (and not more than 35 units in any HUD Region) will be funded annually. Therefore, in HUD's judgment the impact is not substantial within the meaning of the Regulatory Flexibility Act.

This rule was listed as sequence number 114 in the Department's Semiannual Agenda of Regulations, published on April 29, 1985 at 49 FR 17286 under Executive Order 12291 and the Regulatory Flexibility Act.

The information collection requirements contained in this rule were submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. All requirements have been approved and have been assigned OMB control numbers. The OMB control numbers are 2502–0267 and 2502–0039.

The Catalog of Federal Domestic Assistance program number is 14.157.

List of Subjects in 24 CFR Part 885

Aged, Grant programs: housing and community development, Handicapped, Loan programs: housing and community development Low- and moderate-income housing.

PART 885—[AMENDED]

Accordingly, the Department amends 24 CFR Part 885 as follows:

1. The authority citation for Part 885 is revised to read as follows:

Authority: Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. By revising § 885.1(b) to read as follows:

§ 885.1 Purpose and policy.

* * * * *

(b) *General policy:* A loan made under this part shall be used to finance the construction or the substantial rehabilitation of residential projects for the elderly or the handicapped, or for the acquisition of existing housing and related facilities, including the moderate rehabilitation thereof, for group homes for the nonelderly handicapped. Consistent with Congressional directives stated in the Housing and Community Development Act of 1977, these regulations have been developed to consolidate the application requirements of both Section 202 and section 8. Accordingly, projects that meet the requirements of the Section 202 program shall be considered as having met the requirements for housing assistance payments under the Section 8 Housing Assistance Payments Program as provided in the U.S. Housing Act of 1937.

3. Section 885.5 is amended by adding a definition of "Acquisition With or Without Moderate Rehabilitation" and by revising the definitions of "Construction," "Development Cost," and "Housing and Related Facilities" to read as follows:

§ 885.5 Definitions.

As used in this part—

Acquisition With or Without Moderate Rehabilitation means acquisition of existing housing and related facilities to be used as group homes for the nonelderly handicapped, which may include in the development cost not more than $3,000 per unit, or not more than 15 percent of the loan amount, whichever is greater, for moderate rehabilitation, including expenditures for the rehabilitation, alteration, conversion, or improvement of the housing and related facilities.

* * * * *

Construction means the erection or substantial rehabilitation of structures for Housing and Related Facilities. In the case of group homes for the nonelderly handicapped, this term also means acquisition of existing housing with moderate rehabilitation.

* * * * *

Development Cost means the cost of construction or substantial rehabilitation of Housing and Related Facilities, and of the land on which they are located, including necessary site improvements and such other expenses as may be determined by the Assistant Secretary properly to be attributable to the capital cost of the construction, substantial rehabilitation or development of the Housing and Related Facilities. In the case of group homes for the nonelderly handicapped, Development Cost also means the cost of acquiring existing housing and related facilities and the cost of rehabilitation, alteration, conversion or improvement, including moderate rehabilitation, and the cost of the land on which the housing and related facilities are located.

* * * * *

Housing and Related Facilities means rental or cooperative housing structures constructed or substantially rehabilitated as permanent residences for use by elderly or handicapped families, or acquired, with or without moderate rehabilitation, for use by nonelderly families as group homes, and includes structures suitable for use by families residing in the project or in the area, such as cafeterias or dining halls, community rooms or buildings, or other essential service facilities. In the case of Acquisition With or Without Moderate Rehabilitation, at least three years must have elapsed from the later of the date of completion of the project or beginning of occupancy to the date of the application for a Section 202 fund reservation. "Housing and Related Facilities" does not include nursing homes, hospitals or intermediate and transitional care facilities.

* * * * *

4. By revising § 885.210(a)(13), the introductory text of § 885.210(a)(23), and § 885.210(a)(23)(iv) and (vii), and by adding the OMB control number to the end of the section to read as follows:

§ 885.210 Contents of applications.

(a) * * *

(13) Satisfactory evidence that the Borrower has the necessary legal authority to finance, acquire (with or without moderate rehabilitation), construct or substantially rehabilitate and maintain the project, and to apply for and receive the proposed loan, that it meets any requirements as to corporate organization, and that it has authority to enter into such contract obligations and execute such security documents as may be required by HUD.

* * * * *

(23) In the case of projects to be developed for the elderly, the following specific information with respect to the proposed project (such information also is to be provided for projects proposed for the handicapped as soon as the site is specified):

* * * * *

(iv) Evidence that the proposed acquisition, construction or rehabilitation is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action to make the acquisition, construction or rehabilitation permissible and the basis for belief that the proposed action will be completed successfully before the receipt of the conditional commitment for direct loan financing (e.g., a summary of the results of any recent requests for rezoning on land in similar zoning classifications and the time required for such rezoning, preliminary indications of acceptability from zoning bodies, etc.).

* * * * *

(vii) A statement that gross rents (contract rents plus any utility allowance) will not exceed the applicable fair market rents by more than the amount allowed under § 880.204(b)(1) or § 881.204(b)(1). For new construction and substantial rehabilitation projects, the applicable fair market rents are those published in accordance with the procedures in § 888.105. For projects that are acquired with or without moderate rehabilitation for group homes for the nonelderly handicapped, the applicable fair market rents are 75 percent of the Schedule A fair market rents.

* * * * *

(Information collection requirements approved by the Office of Management and Budget under control Nos. 2502-0267 and 2502-0039.

5. By revising the introductory text of § 885.215 to read as follows:

§ 885.215 Limitation on numbers of units.

No organization shall participate as Sponsor, Co-Sponsor, or Borrower in the filing of an application or applications for a reservation of Section 202 funds in a single Region in a single fiscal year in excess of that necessary to finance the construction, substantial rehabilitation, or Acquisition With or Without Moderate Rehabilitation, of 300 units of housing and related facilities.

* * * * *

6. By revising § 885.220(d)(4) to read as follows:

§ 885.220 Review of application for fund reservation.

* * * * *

(d) * * *

(4)(i) Before project selection, the Field Office shall complete an environmental review in compliance with the National Environmental Policy Act of 1969 and the related authorities in 24 CFR Part 50, and shall determine whether the proposed site is in compliance with Executive Order 11988, Floodplain Management, and Executive Order 11990, Wetlands Protection.

(ii) No financial assistance shall be approved for acquisition, construction, reconstruction, repair, or improvement of a building located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless (A) the community in which the area is situated is participating in the National Flood Insurance Program in accordance with the regulations thereunder (44 CFR Parts 59-79), or (B) less than a year has passed since FEMA notification regarding such hazards, and flood insurance on the structure is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 42 U.S.C. 4001).

* * * * *

7. By revising § 885.230 to read as follows:

§ 885.230 Duration of Section 202 fund reservations.

The Field Office Manager, subject to the approval of the Assistant Secretary, may cancel a fund reservation at any time if it can be established that the Borrower is not making satisfactory progress toward the start of construction, rehabilitation, or acquisition, and shall cancel any reservations of Section 202 loan funds for projects for which the construction, substantial rehabilitation, or Acquisition With or Without Moderate Rehabilitation is not begun within 18 months after the Notice of Section 202 Fund Reservation is issued, unless an extension of time, not to exceed six months, is requested of and granted by the Field Office Manager.

* * * * *

8. By revising § 885.415(p) and by adding the OMB Control Numbers to the end of the section to read as follows:

§ 885.415 Requirements prior to initial loan closing.

* * * * *

(p) Contractor's and Subcontractor's Certifications Concerning Labor Standards and Prevailing Wage Requirements, except for loans involving acquisition without moderate rehabilitation.

(Information collection requirements approved by the Office of Management and Budget under Control Nos. 2502-0267 and 2502-0039.)

9. By revising § 885.420(b) to read as follows:

§ 885.420 Loan disbursement procedures.

* * * * *

(b) All disbursements to the Borrower shall be made on a periodic basis in an amount not to exceed the HUD-approved cost of portions of construction or rehabilitation work completed and in place (except as modified in paragraph (d) of this section), minus the appropriate holdback, as determined by the Field Office.

* * * * *

10. By revising the title of § 885.425 and amending § 885.425(a) to read as follows:

§ 885.425 Completion of acquisition with or without moderate rehabilitation, construction or substantial rehabilitation, execution of HAP Contract, and cost certification and approvals by HUD.

(a) The Borrower must satisfy the requirements for completion of Acquisition With or Without Moderate Rehabilitation, construction or substantial rehabilitation and approvals by HUD before submission of a final requisition for disbursement of loan proceeds.

Dated: September 18, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-22901 Filed 9-24-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

34 CFR Parts 400, 401, 407, 408, 409, 410, 411, 412, 414, 415, 416 and 417

State Vocational Education Program and Secretary's Discretionary Programs of Vocational Education

Correction

In FR Doc. 85-19531 beginning on page 33226 in the issue of Friday, August 16, 1985, make the following corrections:

1. On page 33226, in the second column, third line, "program" should read "programs". On the same page, in the third column, in the thirty-seventh line, insert "all" between "to" and "the".

2. On page 33228, in the first column, in the seventh line of the first paragraph, "it" should read "if", and in the last line, "project" should read "projects". In the same column, in the sixth line of the last paragraph, the first word should read "this". In the third column, under item (3), in the second paragraph, fourth line, a comma should follow "Act".

3. On page 33229, in the second column, first paragraph, in the fifth line, remove the comma following "tools".

4. On page 33230, in the first column, in the second paragraph under item (8), in the fifth line, "Educational" should read "Education". In the second column, the last sentence of the first paragraph is corrected to read as follows: "Also, allocations for disinterested eligible recipients would then have to be reallocated to those eligible recipients which did wish to participate, thus creating an additional administrative burden on States."

5. On page 33236, in the third column, in § 401.12(b)(1), in the twelfth line, the last word should be "and". And in paragraph (b)(2)(i), in the first line, "Employees" should read "Employers".

6. On page 33239, in the first column, the authority citation following § 401.19 (a)(3) is corrected to read as follows: "(Sec. 113(b)(1)(C); 20 U.S.C. 2323(b)(1)(C))".

7. On page 33243, in the first column, in § 401.54(b)(5), the fourth line is corrected to read: "credit is given toward an associate or ". On the same page, the headings for §§ 401.55 and 401.56 are corrected by removing the word "shall".

8. On page 33244, in the second column, the last line of § 401.60(a)(13) is corrected to read "if these institutions or employers—".

9. On page 33247, in the third column, in § 401.79(c), in the third line, "the" should read "that".

10. On page 33248, in the first column, in § 401.91(a), in the third line, "program" should read "paragraph". On the same page and on page 33249, the phrase "if fifty percent" should read "is fifty percent" in § 401.94(b) (1)(ii), (iii), (v) and (2)(ii).

11. On page 33253, in the first column, in § 407.31(d), the second of the two paragraphs designated as "(3)" is correctly designated as "(e)"; also, in the correctly designated § 407.31 (e), paragraph (c) is correctly designated as "(2)". On the same page, in the second column, in § 407.32(a), in the third line, the section citation should read "§ 407.31".

12. On page 33255, in the first column, in § 408.32, the authority citation is corrected to read: "(Sec. 441(d)(5); 20 U.S.C. 2441(d)(5))".

13. On page 33256, in the first column, in § 409.31, in the first line of the introductory text, "used" should read "uses"; also in § 409.31(b), first line, "or" should read "of".

14. On page 33259, in the second column, in § 411.31(e)(2)(ii), first line, "relating" should read "relation".

15. On page 33262, in the second column, in § 414.30(a), second line, "applicant" should read "application".

16. On page 33265, in the third column, in § 416.10(c), in the first line, "working" should read "worker".

17. On page 33267, in the first column, in § 417.1, the authority citation is corrected to read: "(Sec. 404; 20 U.S.C. 2404)".

18. On page 33271, in the first column, in the fifth line from the bottom, "school" should read "schools".

19. On page 33272, in the third column, in the first *comment* paragraph, in the fifth line, "other" should read "others".

20. On page 33275 in the third column, in the last paragraph, the ninth line, "program" should read "programs".

21. On page 33279, in the third column, in the first paragraph, between "be" and "as" in the fifth line, insert "defined".

22. On page 33285, in the third column, the third *Comment* paragraph is corrected to read as follows:

Comment. One commenter pointed out that § 401.76(c)(2)(ix) referred to "State and local administration" while section 332(b)(2) of the Act refers to "State and local . . . supervision." The commenter asked why the statutory language was not used in the regulation.

23. On page 33286, in the third column, in the last paragraph, the second line is corrected to read as follows: "The Secretary does not believe that Congress".

24. On page 33287, in the first column, in the second *Comment* paragraph under *Section 401.94,* in the seventh line, "an" should read "and".

25. On page 33293, in the third column, in the first *Response* paragraph, in the second line, the section should read "417(b)".

26. On page 33294, in the third column, in the first *Response* paragraph, in the seventh line, "required" should read "requires".

27. On page 33297, in the first column, in the third *Question* paragraph, in the third line, "the" should read "and".

28. On page 33300, in the first column, in the first *Question* paragraph under *Section 401.91,* in the third line, "service" should read "reserve".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Waiver of Overpayments

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration amends 38 CFR 1.962 by clarifying that the term "overpayment" excludes payments received by third parties who are neither payees nor beneficiaries. This situation usually arises when erroneous benefit payments are made shortly after a payee's or beneficiary's death and these payments are received by, or credited to the account of, a non-entitled third party. Title 38, United States Code, section 3102(a) prohibits recovery of an overpayment where recovery would be against equity and good conscience. Currently, 38 CFR 1.963(c) permits waiver consideration of Veterans Administration payments that have come into the possession of a person other than the person entitled. By clarifying that such payments to third parties who are neither payees nor beneficiaries are excluded from the definition of an overpayment, and by deleting § 1.963(c), we will properly limit waiver consideration to deserving veterans and beneficiaries.

EFFECTIVE DATE: September 3, 1985.

FOR FURTHER INFORMATION CONTACT: Peter T. Mulhern (202) 389-3405.

SUPPLEMENTARY INFORMATION: On page 45870 of the **Federal Register** of November 21, 1984 there was published a notice of proposed rulemaking to amend our regulations so that waiver will be properly limited to deserving veterans and beneficiaries. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed amendments. We received no comments during this time. The amendments will be applicable nationwide. However, for debts which are within the jurisdiction of the Hartford, Connecticut, Regional Office, the Hartford Committee on Waivers and Compromises will continue to consider waiver request made by non-payees within the Regional Office's jurisdiction who have received compensation or pension benefit payments to which they have no claim of entitlement. This deviation is necessary for the Hartford Regional Office because of a decision rendered on April 11, 1983, by the U.S. District Court for the District of Connecticut. The court order requires that notice and waiver rights be extended to individuals within the jurisdiction of the Hartford Regional Office who are indebted to the U.S. because compensation or pension benefit payments were transferred, subsequent to the death of a beneficiary, into an account which these individuals held jointly with the deceased beneficiary. The U.S. District Court has not rescinded this order. However, in the event modification or rescission of the order is obtained by the Department of Justice, these regulations will be given effect within the jurisdiction of the Hartford Regional Office.

The Administrator hereby certifies that these rules will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these rules will affect only a small

number of individuals indebted to the U.S. Government. Small entities are not directly regulated or significantly affected. These rules have also been reviewed under E.O. 12291. They have been determined to be nonmajor because they will only affect certain individuals requesting waiver of collection of an indebtedness to the U.S. Government. They will not have an $100 million annual impact on the economy. These rules will not have any adverse economic impact on, or increase costs or prices to consumers, individual industries, Federal, State, and local government agencies or geographic regions.

There is no Catalog of Federal Domestic Assistance Number.

List of Subjects in 38 CFR Part 1

Claims, Administrative practices and procedures, Veterans.

The proposed amendments to the regulations are hereby adopted as final and are set forth below.

Approved: September 3, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.

Deputy Administrator.

PART 1—[AMENDED]

38 CFR Part 1, General, is amended as follows:

§ 1.957 [Amended]

1. In § 1.957, paragraph (a)(2)(ii)(B) and the title and introductory text of paragraph (b) are amended by changing the title "Chief, Centralized Accounts Receivable Division" to "Chief, Finance and Centralized Accounts Receivable Division."

2. The introductory paragraph and paragraph (a) to § 1.962 are revised to read as follows:

§ 1.962 Waiver of overpayment.

There shall be no collection of an overpayment, or any interest thereon, which results from participation in a benefit program administered under any law by the VA when it is determined by a regional office Committee on Waivers and Compromises that collection would be against equity and good conscience. For the purpose of this regulation, the term "overpayment" refers only to those benefit payments made to a designated living payee or beneficiary in excess of the amount due or to which such payee or beneficiary is entitled. The death of an indebted payee, either prior to a request for waiver of the indebtedness or during Committee consideration of the waiver request, shall not preclude waiver consideration. There shall be no waiver consideration of an indebtedness that results from the receipt of a benefit payment by a non-payee who has no claim or entitlement to such payment.

(a) Waiver consideration is applicable in an indebtedness resulting from work study and education loan default, as well as indebtedness of a veteran-borrower, veteran transferee, or indebted spouse of either, arising out of participation in the loan program administered under 38 U.S.C. ch. 37. Also subject to waiver consideration is an indebtedness which is the result of VA hospitalization, domiciliary care, or treatment of a veteran, either furnished in error or on the basis of tentative eligibility.

(38 U.S.C. 3102(a))

* * * * *

§ 1.963 [Amended].

3. Section 1.963 is amended by removing paragraph (c).

(38 U.S.C. 210(c))

[FR Doc. 85-22863 Filed 9-24-85; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2893-8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: The USEPA announces final rulemaking to approve, in part and disapprove in part, revisions to the Illinois State Implementation Plan (SIP). This rulemaking pertains to rules for issuance of construction permits to new or modified air pollution sources affecting nonattainment areas in Illinois. It also pertains to rules governing public participation in the air permit programs for major sources in nonattainment areas. USEPA's action is based upon revisions which were submitted by the State to satisfy the requirements of part D of the Clean Air Act (CAA).

EFFECTIVE DATE: This final rulemaking becomes effective on September 25, 1985.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at:

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408,

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

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano, at (312) 886-6035, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604,

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randolph Cano at (312) 886-6035.

SUPPLEMENTARY INFORMATION: On April 9, 1984 (49 FR 13894), USEPA proposed rulemaking and solicited public comment on Illinois Pollution Control Board (IPCB) Rule 203 entitled "Major Stationary Source Construction and Modification" (NSR rule) which was submitted to USEPA on August 23, 1983, in the form of a July 14, 1983, Opinion and Order of the Board (R81-16-Docket B). In the same rulemaking, USEPA proposed action and solicited public comment on draft Illinois Environmental Protection Agency (IEPA) Rule 252 entitled "Rules Governing Public Participation in the Air Pollution Permit Program for Major Sources in Nonattainment Areas". The public participation rules were submitted in draft form by the State which requested that they be parallel processed. On June 19, 1984, the State submitted these public participation rules in final form. Several public comments were received in response to USEPA's notice of proposed rulemaking.

USEPA has determined that these public comments are no longer pertinent to this rulemaking because of a Seventh Circuit Court of Appeals decision subsequent to USEPA's proposed rulemaking. Today's **Federal Register** notice discusses this decision and announces USEPA's final rulemaking action.

1. NSR Rule

Although in its proposed rulemaking, USEPA proposed to approve, in part and disapprove in part, and take no action on other portions of the Illinois NSR rule, this action was precluded by a Seventh Circuit decision reached subsequent to USEPA's proposed rulemaking. In *Bethlehem Steel Corporation* v. *Gorsuch* 742 F.2d 1028 (7th Cir., 1984), the Court held that

USEPA may not approve parts of a SIP and disapprove other parts if the effect of the action is to make the SIP stricter than the State ever intended. Specifically, the Court said "Congress did not mean on the one hand to create a procedure for the USEPA's revising State regulations to make them stricter, and on the other to allow the USEPA to skip the procedures [the section 110 disapproval/promulgation process] merely by naming what it was doing partial approval".

In addition, the State expressed its intent that the regulation be treated as a totality when it declared in § 203.155 of the Illinois NSR rule:

> Notwithstanding Rule 113 of this Chapter, if any provision of Part 203 is stayed or declared invalid by a final order, no longer subject to appeal, of any court of competent jurisdiction, then the entirety of Part 203 shall be deemed stayed or invalidated until the stay is lifted or the Pollution Control Board acts to revalidate the Part.

The *Bethlehem* decision governs this rulemaking because the effect of USEPA's proposed rulemaking (approving part of the NSR rule and disapproving the other parts) would have been to make new source review in nonattainment areas stricter than ever intended by the State of Illinois. The decision by the 7th Circuit in *Bethlehem* prohibits USEPA from taking such rule making action. Therefore, for the above cited reasons, USEPA disapproves the incorporation of the entire Illinois NSR rule in the SIP.

2. Public Participation

Proposed Action: USEPA proposed to approve draft IEPA Rule 252 entitled "Rules Governing Public Participation in the Air Pollution Permit Programs for Major Sources in Nonattainment Areas" (35 Illinois Administrative Code 252) as a SIP revision based on a September 16, 1983, request from the State of Illinois. This rule was submitted in final form on June 19, 1984.

USEPA Final Action: USEPA has reviewed the State's finally-adopted rule and found no significant changes from the draft regulations originally submitted by the State. No public comments concerning this rule were received. USEPA, therefore, approves the incorporation of this rule into the Illinois SIP. Neither the disapproval of the State's NSR rule nor the decision reached by the appellate court cited above affects USEPA's approval of this rule.

3. Contemplated Future Actions

In a **Federal Register** notice to be published shortly, USEPA will propose promulgation of a NSR rule for the State of Illinois which meets the minimum Federal requirements as provided in § 51.18 of Title 40 of the Code of Federal Regulations. This course of action has been determined by representatives of the State of Illinois and USEPA to be the most expeditious means of providing Illinois with New Source Review rules.

If the State adopts and submits acceptable NSR rules to USEPA, USEPA will begin rulemaking on the State's rules. If finally approved by USEPA, the State's NSR rule would replace any federally promulgated NSR rule.

Under the Regulatory Flexibility Act 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. Under 5 U.S.C. 605(b), this requirement may be waived if USEPA certifies that the rule will not have a significant economic effect on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over a population of less than 50,000.

This rule will not have a significant economic effect on a substantial number of small entities. It only approves or disapproves requirements imposed by the State of Illinois. No new requirements are imposed.

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

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

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

Dated: September 6, 1985.

Lee M. Thomas,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart O—Illinois

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

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

> Authority: 42 U.S.C. 7401–7442.

§ 52.720 [Amended]

2. Section 52.720 Identification of Plan is amended by adding paragraph (c)(56) to read as follows:

* * * * *

(c) * * *

(56) On June 19, 1984, the State submitted Illinois Environmental Protection Agency Rule 252 entitled, "Rules for Governing Public Participation in the Air Pollution Permit Program for Major Source in Nonattainment Areas."

(i) Incorporation by Reference

(A) Illinois Environmental Protection Agency Rule 252 entitled, "Rule for Governing Public Participation in the Air Pollution Permit Program for Major Sources in Nonattainment Areas," published on June 8, 1984.

* * * * *

3. Section 52.736 Review of New Sources and Modifications is revised to read as follows:

§ 52.736 Review of new sources and modifications.

(a) Part D Disapproval. USEPA disapproves Illinois Pollution Control Board Rule 203 as adopted on July 14, 1983, and submitted to USEPA on August 23, 1983. The moratorium on construction and modification of new sources in nonattainment areas as provided in section 110(2)(I) of the Clean Air Act remains in effect for sources subject to the State's rule.

[FR Doc. 85-22290 Filed 9-24-85; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-1-FRL-2901-9]

Approval and Promulgation of Implementation Plans; Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the State Implementation Plan revisions submitted by the Commonwealth of Massachusetts. These revisions will reduce emissions of volatile organic compounds from gasoline tank trucks. The intended effect of this action is to reduce emissions of volatile organic compounds as required under section 110 of the Clean Air Act.

Additionally, EPA is codifying the certification that no large petroleum dry cleaning sources are located in the Commonwealth of Massachusetts. The intended effect of this action is to provide this information in 40 CFR Part 52.

EFFECTIVE DATE: The action on the gasoline tank trucks will be effective October 25, 1985. The certification as to large petroleum dry cleaning sources will be effective November 25, 1985 unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW, Washington, DC 20460; Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, DC 20408; and the Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene (617) 223-5133 or (FTS) 223-5133.

This Final Rulemaking Notice involves two rulemakings, (I) Gasoline Tank Trucks, a Final Rulemaking Notice (FRN) previously published in a Notice of Proposed Rulemaking (NPR) (40 CFR 4927173); and (II) Large Petroleum Dry Cleaners, an immediate final rulemaking that has not been previously published as a NPR.

I. Gasoline Tank Trucks (A Final Rulemaking Notice)

On July 2, 1984 (49 FR 27173), EPA published a Notice of Proposed Rulemaking (NPR) proposing approval for the draft Massachusetts State Implementation Plan (SIP) revisions for the Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks. These revisions were submitted in draft so that they could be parallel processed, our comment period paralleling the State's. The draft SIP revisions were proposed for approval with the understanding that the final adopted submittal would include: (1) A description of the training program and equipment needed for self-certification, and (2) the test methods and monitoring procedures to be used to determine compliance.

On February 14, 1985, S. Russell Sylva, Commissioner of the Department of Environmental Quality Engineering (DEQE), submitted Massachusetts' final regulations to control volatile organic compound leaks from gasoline tank trucks and bulk terminal vapor recovery systems which stated the training program and equipment needed to conduct self-certifications for gasoline tank trucks. Additionally, on May 22, 1985, the DEQE submitted the enforcement manual that includes the equipment, test methods and monitoring procedures it uses to determine compliance. With these two submittals, the draft regulation is complete.

The revisions and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

This action will be effective October 25, 1985.

II. Large Petroleum Dry Cleaners (An Immediate Final Rulemaking)

EPA requires states with areas which could not attain the National Ambient Air Quality Standards for ozone by 1982 to adopt reasonably available control technology (RACT) on sources of volatile organic compounds (VOCs).

In the 1982 SIP, Massachusetts committed to propose RACT regulations for Group III Control Technique Guideline (CTG) category controls. This commitment was codified in 40 CFR 52.1123, 48 FR 51480 November 9, 1983. On December 5, 1982, Kenneth A. Hagg, Director of the Division of Air Quality Control of the DEQE submitted a certification for the Group III CTGs for large petroleum dry cleaners, certifying that the State has no sources in this source category. EPA accepts the DEQE's certification and is codifying the information at 40 CFR 52.1168.

EPA is codifying the information on large petroleum dry cleaners without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective 60 days from today.

Final Action

I. EPA is approving Massachusetts' SIP revisions to Regulations 310 CMR 7.00 and 7.02(12)(c) for the control of volatile organic compound leaks from gasoline tank trucks and bulk terminal vapor recovery systems.

II. EPA is codifying information certifying that no large petroleum dry cleaners are located in the Commonwealth of Massachusetts at 40 CFR 52.1168.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 25, 1985. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by Reference.

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

Dated: September 17, 1985.

Lee M. Thomas,

Administrator.

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

PART 52—[AMENDED]

Subpart W—Massachusetts

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1120, paragraph (c) is amended by adding paragraph (64) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(64) A revision to the Ozone Attainment Plan was submitted by S. Russell Sylva, Commissioner of the

Massachusetts Department of Environmental Quality Engineering on February 14, and May 22, 1985 to control emissions from gasoline tank trucks and bulk terminal vapor recovery systems.

(i) Incorporation by Reference.

(A) Amendments to Regulations 310 CMR 7.00 and 7.02(12) (c) and (d), "Motor Vehicle Fuel Tank Trucks", adopted December 1984.

(B) The May 22, 1985 letter from Massachusetts DEQE, and the enforcement manual submitted and adopted on May 22, 1985, including Method 27, record form, potential leak points, major tank truck leak sources, test procedure for gasoline vapor leak detection procedure by combustible gas detector, instruction manual for Sentox 2 and Notice of Violation.

3. Section 52.1167 is added as follows:

§ 52.1167 EPA approved regulations.

TABLE 52.1167.— EPA APPROVED REGULATIONS

State citation, title and subject	Date adopted by State	Date adopted by EPA	*Federal Register* citation	Section 52.1120	Comments and unapproved sections
310 CMR 7.00 and 7.02(12)(c).	2/14 and 5/22/85	[Date Revision is published in *FR*].	[*FR* Citation from published date].	64	Motor vehicle fuel tank trucks.

4. Section 52.1168 is added as follows:

§ 52.1168 Certification of no sources.

On December 12, 1984, Kenneth A. Hagg, Director, Division of Air Quality Control of the Department of Environmental Quality Engineering submitted a certification that there are no petroleum dry cleaning sources with actual emissions greater than 100 tons per year in the Commonwealth of Massachusetts.

[FR Doc. 85-22774 Filed 9-24-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL-2903-4]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf of the Ventura County Air Pollution Control District (VCAPCD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: September 16, 1985.

ADDRESS: Ventura County Air Pollution Control District, 800 South Victoria Avenue, Ventura, CA 93009.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105. Tel: (415) 974-8221, FTS 454-8221.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the VCAPCD. Delegation of authority was granted by a letter dated September 16, 1985 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request of September 9, 1985, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the Ventura County Air Pollution Control District (VCAPCD). We have reviewed your request for delegation and have found the VCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR part 60 subpart
Fossil-fuel fired steam generators	D
Electric utility steam generators	Da
Portland cement plants	F
Petroleum storage vessels	Ka
Primary copper smelters	P
Primary zinc smelters	Q
Primary lead smelters	R
Primary aluminum reduction plants	S
Electric arc furnaces and argon-oxygen decarburization	AAa
Kraft pulp mills	BB
Glass manufacturing plants	CC
Grain elevators	DD
Surface coating of metal furniture	EE
Stationary gas turbines	GG
Lime manufacturing plants	HH
Lead-acid battery manufacturing plants	KK
Metallic mineral processing plants	LL
Automobile and light-duty truck surface coating operations	MM
Phosphate rock plants	NN
Ammonium sulfate	PP
Graphic arts industry: publication rotogravure printing	QQ
Pressure sensitive tape and label surface coating operations	RR
Industrial surface coating: large appliances	SS
Metal coil surface coating	TT
Asphalt processing and asphalt roofing manufacture	UU
Synthetic organic chemical manufacturing industry: Equipment leaks of VOC	VV
Beverage can surface coating industry	WW
Flexible vinyl and urethane coating and printing	FFF
Equipment leaks of VOC, petroleum refineries and synthetic organic chemical manufacturing industry	GGG
Synthetic fiber production facilities	HHH
Petroleum dry cleaners	JJJ

NESHAPS	40 CFR part 61 subpart
Vinyl chloride	F
Equipment leaks (fugitive emission sources) of benzene	J
Asbestos	M
Equipment leaks (fugitive emission sources)	V

In addition, we are redelegating the following NSPS and NESHAPS categories since the VCAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR part 60 subpart
General provisions	A
Incinerators	E
Nitric acid plants	G
Sulfuric acid plants	H
Asphalt concrete plants	I
Petroleum refineries	J
Storage vessels for petroleum liquids	K
Secondary lead smelters	L
Secondary brass and bronze ingot production plants	M
Iron and steel plants (BOPF)	N
Sewage treatment plants	O
Phosphate fertilizer industry:	
Wet process phosphoric acid plants	T
Superphosphoric acid plants	U
Diammonium phosphate plants	V
Triple superphosphate plants	W
Granular triple superphosphate	X
Coal preparation plants	Y
Ferroalloy production facilities	Z
Iron and steel plants (electric arc furnaces)	AA

NESHAPS	40 CFR part 61 subpart
General provisions	A
Beryllium	C
Beryllium rocket motor firing	D
Mercury	E

Acceptance of this delegation constitutes your agreement to follow all applicable

provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

cc: Ventura County Air Pollution Control District

With respect to the areas under the jurisdiction of the VCAPCD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the VCAPCD at the address shown in the ADDRESS section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 17, 1985.

John Wise,

Acting Regional Administrator.

[FR Doc. 85-22906 Filed 9-24-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[A-9-FRL-2903-3]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS), State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board (CARB) on behalf of the South Coast Air Quality Management District (SCAQMD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: September 16, 1985.

ADDRESS: South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105. Tel: (415) 974-8221, FTS 454-8221.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the SCAQMD. Delegation of authority was granted by a letter dated September 16, 1985 and is reproduced in its entirety as follows:

Mr. James D. Boyd,

Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Dear Mr. Boyd: In response to your request of September 9, 1985, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the South Coast Air Quality Management District (SCAQMD). We have reviewed your request for delegation and have found the SCAQMD's programs and procedures to be acceptable. This delegation includes authority for the following source categories.

NSPS	40 CFR part 60 subpart
General provisions	A
Electric utility steam generators	Da
Steel plants: Electric arc furnaces and argon-oxygen decarburization vessels constructed after 8-17-83.	AAa
Kraft pulp mills	BB
Glass manufacturing plants	CC
Surface coating of metal furniture	EE
Lead-acid battery manufacturing plants	KK
Metallic mineral processing plants	LL
Automobile and light-duty truck surface coating operations.	MM
Phosphate rock plants	NN
Graphic arts industry: Publication rotogravure printing	QQ
Pressure sensitive tape and label surface coating operations.	RR
Industrial surface coating: large appliances	SS
Metal coil surface coating	TT
Asphalt processing and asphalt roofing manufacture.	UU
Synthetic organic chemical manufacturing industry: Equipment leaks of VOC.	VV
Beverage can surface coating industry	WW
Flexible vinyl and urethane coating and printing	FFF
Equipment leaks of VOC, petroleum refineries and synthetic organic chemical manufacturing industry.	GGG
Synthetic fiber production facilities	HHH
Petroleum dry cleaners	JJJ

NESHAPS	40 CFR part 61 subpart
Equipment leaks (fugitive emission sources) of benzene.	J
Asbestos	M
Equipment leaks (fugitive emission sources)	V

In addition, we are redelegating the following NSPS and NESHAPS categories since the SCAQMD's revised programs and procedures are acceptable:

NSPS	40 CFR part 60 subpart
Fossil-fuel fired steam generators	D
Incinerators	E
Portland cement plants	F
Nitric acid plants	G
Sulfuric acid plants	H
Asphalt concrete plants	I
Petroleum refineries	J
Storage vessels for petroleum liquids	K
Petroleum storage vessels	Ka
Secondary lead smelters	L
Secondary brass and bronze ingot production plants	M
Iron and steel plants (BOPF)	N
Sewage treatment plants	O
Primary copper smelters	P
Primary zinc smelters	Q
Primary lead smelters	R
Primary aluminum reduction plants	S
Phosphate fertilizer industry:	
Wet Process phosphoric acid plants	T
Superphosphoric acid plants	U
Diammonium phosphate plants	V
Triple superphosphate plants	W
Granular triple superphosphate	X
Coal preparation plants	Y
Ferroalloy production facilities	Z
Iron and steel plants (electric arc furnaces)	AA
Grain elevators	DD
Stationary gas turbines	GG
Lime manufacturing plants	HH
Ammonium sulfate	PP

NESHAPS	40 CFR part 61 subpart
General provisions	A
Beryllium	C
Beryllium rocket motor firing	D
Mercury	E
Vinyl chloride	F

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

cc: South Coast Air Quality Management District

With respect to the areas under the jurisdiction of the SCAQMD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the

SCAQMD at the address shown in the **ADDRESS** section of this notice.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 17, 1985.

John Wise,

Acting Regional Administrator.

[FR Doc. 22907 Filed 9-24-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL-2903-2]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) State of Nevada, Clark County Health District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the Clark County Health District (CCHD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments to these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: June 24, 1985.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8221, FTS 454-8221.

SUPPLEMENTARY INFORMATION: The CCHD has requested authority for delegation of certain NSPS and NESHAPS categories. Delegation of authority was granted by letter dated June 24, 1985 and is reproduced in its entirety as follows:

Mr. Michael H. Naylor, Director,
Air Pollution Control Division, Clark County Health District, P.O Box 4426, 625 Shadow Lane, Las Vegas, NV 89106

Dear Mr. Naylor: In response to your request of June 6, 1985, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart JJJ-Standards of Performance for Petroleum Dry Cleaners and the National Emission Standard for Hazardous Air Pollutants (NESHAPS) category in 40 CFR Part 61: Subpart M—National Emission Standard for Asbestos. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

With respect to the areas under the jurisdiction of the CCHD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the CCHD at the address shown in the letter of delegation.

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

I certify that this rule will not have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 17, 1985.

John Wise,

Acting Regional Administrator.

[FR Doc. 85-22908 Filed 9-24-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR PARTS 60 and 61

[A-9-FRL-2903-1]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the Nevada Department of Conservation and Natural Resource (NDCNR). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments to these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: August 20, 1985.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8221, FTS 454-8221.

SUPPLEMENTARY INFORMATION: The NDCNR has requested authority for delegation of certain NSPS and NESHAPS categories. Delegation of authority was granted by letters dated May 10, 1985, June 5, 1985, June 24, 1985, and August 20, 1985 are reproduced in their entirety as follows:

Mr. Dick Serdoz, P.E.,
Air Quality Officer, Nevada Department of Conservation and Natural Resources, Capitol Complex, Carson City, NV 89710

Dear Mr. Serdoz: In response to your request of April 15, 1985, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) in 40 CFR Part 60: Subpart PPP-Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

June 5, 1985.

Dick Serdoz, P.E.,
Air Quality Officer, Nevada Department of Conversation and Natural Resources, Division of Environmental Protection, Capitol Complex, Carson City, NV 89710

Dear Mr. Serdoz: In response to your requests of May 9, 1985, I am pleased to inform you that we delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart A—General Provisions and the National

Emission Standard for Hazardous Air Pollutants (NESHAPS) category in 40 CFR Part 61: Subpart A—General Provisions. These delegations do not include the exceptions noted in your May 9, 1985 letters. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61 including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

June 24, 1985.

Dick Serdoz, P.E.

Air Quality Officer, Nevada Dept. of Conservation and Natural Resources, Division of Environmental Protection, Capitol Complex, Carson City, NV 89710

Dear Mr. Serdoz: In response to your request of May 30, 1985, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart EE—Standards of Performance for Surface Coating of Metal Furniture. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

August 20, 1985.

Mr. Richard Serdoz, P.E.

Air Quality Officer, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources, Capitol Complex, Carson City, NV 89710.

Dear Mr. Serdoz: In response to your request of July 17, 1985, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart KKK—Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

With respect to the areas under the jurisdiction of the NDCNR, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPs source categories should be directed to the NDCNR at the address shown in the letter of delegation.

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

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 17, 1985.

John Wise,

Acting Regional Administrator.

[FR Doc. 85-22909 Filed 9-24-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 403

[OW-FRL-2855-2]

General Pretreatment Regulations for Existing and New Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On February 10, 1984, the Environmental Protection Agency (EPA) revised the fundamentally different factors (FDF) variance provision of the General Pretreatment Regulations (40 CFR 403.13). This action was taken in response to the decision of the United States Court of Appeals for the Third Circuit in *National Association of Metal Finishers (NAMF)* v. *EPA*, 719 F.2d 624 (3d Cir. 1983). On February 27, 1985, the United States Supreme Court reversed the portion of the *NAMF* decision affecting FDF variances from categorical pretreatment standards. *Chemical Manufacturers Association (CMA) et al.* v. *Natural Resources Defense Council (NRDC)*, Nos. 83-1013 and 83-1373. Today, EPA is reinstating the original FDF provision of the pretreatment regulations as authorized by *CMA* v. *NRDC*.

DATE: The effective date of this action is September 25, 1985.

FOR FURTHER INFORMATION CONTACT: Craig Jakubowics, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 426-4793.

SUPPLEMENTARY INFORMATION: Section 403.13 of the General Pretreatment Regulations establishes the criteria and procedures for a fundamentally different factors (FDF) variance. The variance would be an adjustment, on a case-by-case basis, to the discharge limits specified in a categorical pretreatment standard as they apply to an individual indirect discharger who is able to demonstrate that it is fundamentally different from those industrial facilities considered by EPA in establishing the categorical pretreatment standard in question.

In 1981, the Natural Resources Defense Council (NRDC) challenged the pretreatment FDF provision. NRDC argued that EPA has no authority under the Clean Water Act (CWA) to grant FDF variances, and that such a variance for toxic pollutants is prohibited by section 301(1) of the Act. The U.S. Third Circuit Court of Appeals held that 301(1) bars EPA from granting pretreatment FDF variances for toxic pollutants (*NAMF* v. *EPA*, 719 F.2d 624, 643-646 (3d Cir. 1983)), and remanded the FDF provision to EPA. The court did not rule on whether EPA generally has authority under the CWA to grant FDF variances from pretreatment standards.

In response to the court's ruling, EPA made a technical change to § 403.13 of the pretreatment regulations (49 FR 5131, February 10, 1984). EPA added a sentence to § 403.13 to make it clear that an FDF variance was not available for toxic pollutants covered by a categorical pretreatment standard. FDF variances, therefore, were available only for non-conventional and conventional pollutants regulated in categorical pretreatment standards.

In addition to this regulatory action, EPA and the Chemical Manufacturers Association (CMA) sought Supreme Court review of that part of the Third Circuit's decision addressing the FDF provision. On February 27, 1985, the Supreme Court reversed the decision of the Third Circuit, holding that section 301(1) of the Clean Water Act does not prohibit EPA from granting fundamentally different factors variances for toxic pollutants regulated in pretreatment standards (*CMA* v. *NRDC*, Nos. 83-1013 and 83-1373). In reaching this conclusion, the Court found EPA's interpretation of section

301(1) (*i.e.*, that section 301(1) does not apply to FDF variances) rational in view of the language of that section, the legislative history and the overall structure of the Act.

As authorized by the Supreme Court decision, EPA today is revising § 403.13 of the General Pretreatment Regulations to again permit FDF variances for toxic pollutants regulated in categorical pretreatment standards. The effect of this final action will be to remove the sentence added to the regulation in the wake of the Third Circuit's *NAMF* decision, thus putting the FDF provision back into the form as promulgated in 1981.

A remaining question that needs to be addressed concerns the timing for filing FDF applications. As provided in § 403.13, an FDF request must be filed within 180 days of the effective date of the categorical pretreatment standard in question, or, if the indirect discharger has filed a category determination request pursuant to § 403.6(a) of the pretreatment regulations, within 30 days after a final decision has been made on the category determination.

The deadline for submitting an FDF application for a number of indirect dischargers expired prior to the *NAMF* decision. Although some industrial facilities in this group did file FDF requests for toxic pollutants in a timely fashion, some of their applications were not acted upon because the Third Circuit ruling was issued before a decision was reached by the Approval Authority (*i.e.*, an approved pretreatment State or EPA Regional Office). The deadline for some other indirect dischargers to file an FDF request for toxic pollutants expired after the Third Circuit's *NAMF* decision. Indirect dischargers in this latter group were thus precluded from filing FDF requests for toxic pollutants.

Those indirect dischargers whose deadline for applying for an FDF variance from Toxic pollutants expired prior to the Third Circuit decision, but had submitted a request in a timely manner, should inform the Approval Authority if they wish their previously filed FDF application to be considered by the Approval Authority. These indirect dischargers should contact their Approval Authority within 60 days of this **Federal Register** notice. The categorical pretreatment standards in this group are (all of the following are in 40 CFR): Electroplating (Part 413) (except for TTO limits); Timber Products (Part 429); Iron and Steel (Part 420); Inorganic Chemicals (Phase I) (Part 415); Petroleum Refining (Part 419); Pulp and Paper Mills (Parts 430 and 431); Steam Electric Power Plants (Part 423); Leather Tanning and Finishing (Part 425); Porcelain Enameling (Part 466); Coil Coating (Part 465).

Indirect dischargers wishing to reactivate their FDF application cannot submit a new or modified request raising new issues or criteria to justify an FDF variance. Only the basis alleged in the original, timely filed application can be relied upon. However, additional information can be submitted to update the original application, or to provide the Approval Authority with supplemental information that will assist in its decision on the FDF request.

Indirect dischargers in these categories who never applied for an FDF variance for toxic pollutants and whose deadline for filing an FDF request lapsed prior to the Third Circuit decision are barred from now applying for an FDF. It should be noted, however, that in some cases EPA has amended or is in the process of amending these categorical pretreatment standards. Therefore, an indirect discharger may have a new opportunity to apply for an FDF variance from such amended pretreatment standards.

With regard to those indirect dischargers whose period for filing an FDF request for toxics was totally preempted by the Third Circuit decision, EPA will consider any FDF request for toxic pollutants if filed within 180 days of the date of this **Federal Register** notice as a timely request. The categorical pretreatment standards affected by this condition are (all of the following are in 40 CFR): Electrical and Electronic Components (Phase II) Part 469); Copper Forming (Part 468); Aluminum Forming (Part 467); Pharmaceuticals (Part 439); Coil Coasting (Canmaking) (Part 465); Nonferrous Metals Manufacturing (Phases I and II) (Part 421); Battery Manufacturing (Part 461); Inorganic Chemicals (Phase II) (Part 415); Nonferrous Metals Forming (Part 471).

Several industrial categories, while not completely precluded from filing an FDF application for toxics, had their deadlines cut short by the *NAMF* ruling. These are Electroplating (Part 413) (for TTO limits only), Metal Finishing (Part 433) and Electrical and Electronic Components (Phase I) (Part 469). In recognition of the fact that these groups did have some opportunity to file an FDF application, their time for filing for an FDF variance for toxic pollutants will be less than the 180 days provided those categories completely precluded because of the *NAMF* decision. Electroplating (TTO limits only) and Metal Finishing had 22 days prior to *NAMF*, and therefore EPA will consider as timely filed any FDF variance request for toxic pollutents submitted within 158 days of this notice. Electrical and Electronic Components (Phase I) had 125 days prior to *NAMF*, and EPA will consider as timely filed any FDF variance request for toxic pollutants filed within 55 days of the date of this notice.

It is important to note that the *NAMF* ruling, and subsequent regulatory changes to the FDF provision of the General Pretreatment Regulations, concerned only the prohibition of FDF variances for toxic pollutants. At no time were FDF variances eliminated for non-conventional or conventional pollutants regulated in categorical pretreatment standards. Therefore, even though today's action reinstates the time available for some industrial categories to file FDF requests for toxic pollutants where their time period was either cut short or preempted by *NAMF*, no additional time is being provided to these industrial categories to file FDF requests exclusively for non-conventional or conventional pollutants. However, under limited circumstances, EPA will consider as timely a request for an FDF variance for a non-conventional or conventional pollutant, filed in conjuction with the request for a variance for a toxic pollutant, submitted by a facility in these industrial categories. To be considered, the applicant must demonstrate that the pollutant is in the same waste stream as the toxic pollutant(s), that it is appropriately controlled by the treatment technology used to control the toxic pollutant(s) and that the FDF request for the non-conventional or conventional pollutant was not previously submitted because the need for the variance for such a pollutant is inextricable from the need for the variance for the toxic pollutant(s). Of course, the criteria for an FDF variance as provided in § 403.13 of the pretreatment regulations must be satisfied as well.

Some categorical pretreatment standards have not yet been promulgated by EPA. Indirect dischargers in these industrial categories will be bound by the deadlines for filing an FDF application as specified in § 403.13.

One final point deserves emphasis. The filing of an FDF request does not constitute grounds to avoid or delay compliance with discharge limits specified in the applicable pretreatment standards. Not unless and until a final decision is made to approve an FDF request can the limits in a pretreatment standard be considered modified.

Executive Order 12291

Under Executive Order 12291, EPA must determine whether a regulation is major and therefore subject to the requirement of a regulatory impact analysis. The change made by today's action does not satisfy any of the criteria specified in section 1(b) of Executive Order 12291 and, as such, does not constitute a major rulemaking. This rule has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to prepare a regulatory flexibility analysis to assess the impact of all proposed rules on small entities. EPA has determined that the rule will not have a significant economic impact on a substantial number of small entities.

Final Agency Action and Effective Date

Today's action constitutes final Agency action. The Agency has determined that notice and public comment on this action are unnecessary and contrary to the public interest, and thus not required by section 4(a) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b). This action merely puts back into effect the previously existing regulation which was modified only to respond to a court order which has now been reversed by the Supreme Court. Thus, further comment on this regulation, which was originally promulgated after notice and comment, is unnecessary. Moreover, a notice and comment period would cause unwarranted delay and uncertainty for industries that have applied or wish to apply for FDF variances as authorized by the Surpeme Court decision in *CMA v. NRDC*. Therefore, good cause exists for taking this action without providing for notice and comment as prescribed by the APA. For the same reason the Agency has determined that good cause exists for the final action taken today to become effective immediately.

List of Subjects in 40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: September 17, 1985.

Lee M. Thomas,

Administrator.

PART 403–GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES

For the reasons set out in the preamble, 40 CFR Part 403 is revised as follows:

1. The authority citation for Part 403 continues to read as follows:

Authority: Section 54(c)(2) of the Clean Water Act of 1977 (Pub. L. 95–217), Secs. 204(b)(1)(B), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405 and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92–500), as amended by the Clean Water Act of 1977.

§ 403.13 [Amended]

2. Section 403.13 is amended by removing paragraph (b)(2) of that section, and redesignating paragraph (b)(1) as (b).

[FR Doc. 85–22868 Filed 9–24–85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435 and 436

[BERC–507–CN]

Medicaid Program; Federal Financial Participation for Inmates in Public Institutions and Individuals in an Institution for Mental Diseases; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of Final Rule.

SUMMARY: This document corrects errors in a final rule published in the **Federal Register** on April 3, 1985 (50 FR 13196) on Federal financial participation for services furnished to certain institutionalized individuals. That final rule contained obsolete references to institutions for tuberculosis and an incorrect cross reference.

EFFECTIVE DATE: September 25, 1985.

FOR FURTHER INFORMATION CONTACT: Michelle French, (301) 594–5610.

SUPPLEMENTARY INFORMATION: The final rule, "Federal Financial Participation for Inmates in Public Institutions and Individuals in an Institution for Mental Disease or Tuberculosis", published in the **Federal Register** on April 3, 1985 (50 FR 13196), contained obsolete references to institutions for tuberculosis.

Section 2335 of the Deficit Reduction Act of 1984, Pub. L. 98–369, repealed special conditions and requirements applicable to institutional services provided to Medicare and Medicaid patients with tuberculosis. These special conditions were originally intended to assure that institutional services provided to tuberculosis patients were not custodial and could reasonably be expected to improve the patient's condition or result in the condition being noncommunicable. The special provider category for tuberculosis hospitals was also eliminated. This is a self-implementing legislative provision. We, inadvertently, failed to remove the references to institutions for tuberculosis prior to publishing the final rule. In addition, two regulation sections include an incorrect cross-reference. Therefore, in FR Doc. 85–7885, beginning on page 13199, make the following corrections. The words "tuberculosis or" are removed from 42 CFR 435.1008 (a)(2) and (b) and 436.1004 (a)(2) and (b).

In §§ 435.1008(b) and 436.1004(b), the cross reference "(a)(2)" is corrected to read "(a)".

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: August 6, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Dated: September 20, 1985.

Margaret M. Heckler,

Secretary.

[FR Doc. 85–22913 Filed 9–24–85; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1820

[Circular No. 2565]

Application Procedures; Changes of Addresses of State Offices

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The final rulemaking amends 43 CFR Part 1820 to reflect the new addresses of several of the State Offices of the Bureau of Land Management. All filings and other documents relating to public lands in the respective States shall be filed at the new addresses of the State Offices with the appropriate areas of jurisdiction.

EFFECTIVE DATE: September 25, 1985.

FOR FURTHER INFORMATION CONTACT: Eleanor R. Schwartz, (202)–343–8735.

SUPPLEMENTARY INFORMATION: This final rulemaking reflects the administrative action of changing or updating the addresses of several of the State Offices of the Bureau of Land Management. It changes the addresses for the filing of documents relating to

public lands in several States, but makes no other changes in filing requirements. Therefore, this amendment is published as a final rulemaking with the effective date shown above.

The Department of the Interior has determined that because this rule is an administrative action, it is not a major rule for purposes of E.O. 12291, and neither an environmental impact analysis nor a regulatory flexibility analysis is required. There are no additional information collection requirements imposed by this final rulemaking.

List of Subjects in 43 CFR Part 1820

Administrative practice and procedures, Alaska, Archives and records, Public lands.

Under the authority of section 2478 of the Revised Statutes (43 U.S.C. 1201), Subpart 1821, Part 1820, Group 1800, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

September 18, 1985.

PART 1820—[AMENDED]

1. The authority citation for Part 1820 continues to read as follows:

Authority: R.S. 2478; 43 U.S.C. 1201, unless otherwise noted.

2. The portion of § 1821.2–1(d) beginning with the heading "State Office and Area of Jurisdiction" and ending after the address and Jurisdiction of the Wyoming State Office, is revised to read as follows:

§ 1821.2–1 [Amended]

* * * * *

State Office and Area of Jurisdiction

Alaska State Office, 701, C Street, Box 13, Anchorage, Alaska 99513—Southern Alaska, plus all mineral leasing.[1]

Fairbanks District Office, 1541 Gaffney Road, Fairbanks, Alaska 99703—Northern Alaska except for all minerals leasing.[1]

Arizona State Office, 3707 North 7th Street, Phoenix, Arizona 85014; Mail: P.O. Box Phoenix, Arizona 85011—Arizona

California State Office, Federal Building, 2800 Cottage Way, Sacramento, California 95825—California

Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80205—Colorado

Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304—Arkansas, Iowa, Louisiana, Minnesota, Missouri and all States east of the Mississippi

Idaho State Office, 3380 Americana Terrace, Boise, Idaho, 83706—Idaho

Montana State Office, Granite Tower, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107—Montana, North Dakota and South Dakota

Nevada State Office, Federal Building, Room 3123, 300 Booth Street, Reno, Nevada 89509; Mail: P.O. Box 12000, Reno, Nevada 89520—Nevada

New Mexico State Office, Joseph M. Montoya, Federal Building, South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87504–1449—Kansas, New Mexico, Oklahoma, and Texas

Oregon State Office, 825 Northeast Multnomah Street, P.O. Box 2965, Portland, Oregon 97208—Oregon and Washington

Utah State Office, CFS Financial Center, 324 South State Street, Salt Lake City, Utah 84111–2303—Utah

Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001; Mail: P.O. Box 1828, Cheyenne, Wyoming 82003—Wyoming and Nebraska

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[FR Doc. 85–22916 Filed 9–24–85; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Part 3200

[Circular No. 2566]

Geothermal Resources Leasing; General Changes in Lease Acreage and Application Fees

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rule increases the limitation on acreage that can be held by a lessee under Federal geothermal leases to 51,200 acres per State. This final rule also increases the geothermal lease application fee to $75.

EFFECTIVE DATE: December 26, 1985.

ADDRESS: Inquiries should be sent to: Director (140), Bureau of Land Management, Main Interior Building, Room 5555, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Karl F. Duscher, (202) 653–2187.

SUPPLEMENTARY INFORMATION: On April 16, 1985, a proposed rulemaking to increase the per State limitation on acreage that can be held by a lessee under Federal geothermal leases from 20,480 to 51,200 acres and to increase the lease application fee from $50 to $150 was published in the **Federal Register** (50 FR 14945). A 60-day comment period was provided and, consistent with section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025), two public hearings were held to receive comments specifically on the acreage limitation increase. Eight comments were received: four from companies engaged in geothermal exploration (one of these commenters also represented an industry association), one from a Federal agency, one from a State Government, one from an industry association, and one from an individual.

Six of the comments strongly favored the proposed acreage increase. Of the remaining two comments, one was neutral on the increase, the other did not address it. Accordingly, the final rulemaking adopts the language of the proposed rulemaking on the acreage limitation increase. However, consistent with authority granted by section 7 of the Geothermal Steam Act, this aspect of the final rulemaking will not be effective until December 26, 1985.

Only one comment was received with respect to the lease application fee increase. That comment objected to the three-fold increase, noting that the application fee to obtain a Federal geothermal lease would be twice the fee required to obtain a Federal oil and gas lease. In re-examining the proposed increase, the Bureau of Land Management has determined that certain streamlining actions can be taken with respect to processing geothermal lease applications so that administrative costs should more closely parallel those incurred for processing oil and gas lease applications (currently estimated to be $75 per application). Therefore, the final rulemaking sets the application fee at $75. For convenience, this aspect of the final rulemaking also will not become effective until December 26, 1985. Geothermal lease applications received on or after the effective date of this final rulemaking that are not accompanied by the required $75 filing fee will be rejected.

The principal author of this final rulemaking is Karl Duscher, Division of Fluid Mineral Leasing, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The increase in lease size, which would be accomplished by this proposed rulemaking, will be equally favorable to anyone offering to lease the geothermal resources on the public lands.

There are no new information collection requirements contained in this rulemaking requiring approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 43 CFR Part 3200

Environmental protection, Geothermal energy, Mineral royalties, Public lands-

classification, Public lands-mineral resources, Surety bonds.

Under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025), Part 3200 of Group 3200, Subchapter C, Chapter II of the Code of Federal Regulations is amended as set forth below:

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

September 4, 1985.

PART 3200—[AMENDED]

1. The authority citation for Part 3200 is revised to read:

Authority: 30 U.S.C. 1001–1025.

§ 3201.2 [Amended]

2. Section 3201.2(a) is amended by removing the figure "20,480" where it appears and replacing it with the figure "51,200".

§ 3205.2 [Amended]

3. Section 3205.2(b) is amended by removing the figure "$50" where it appears and replacing it with the figure "$75".

[FR Doc. 85-22915 Filed 9-24-85; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[PRB-1; FCC 85-506]

Federal Preemption of State and Local Regulations Pertaining to Amateur Radio Facilities

AGENCY: Federal Communications Commission.

ACTION: Declaratory ruling.

SUMMARY: This document declares a limited preemption of state and local regulations which preclude amateur communications. The ruling is necessary so that amateurs and local governing bodies alike will be aware of the strong federal interest in promoting amateur communications. The effect of the ruling is to give local communities and amateur operators a clear statement of the federal interest in amateur communications.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Amateur radio, Antennas, Radio.

Memorandum Opinion and Order

In the matter of Federal preemption of state and local regulations pertaining to Amateur radio facilities; PRB-1.

Adopted: September 16, 1985.

Released: September 19, 1985.

By the Commission: Commissioner Rivera not participating.

Background

1. On July 16, 1984, the American Radio Relay League, Inc. (ARRL) filed a Request for issuance of a Declaratory Ruling asking us to delineate the limitations of local zoning and other local and state regulatory authority over Federally-licensed radio facilities. Specifically, the ARRL wanted an explicit statement that would preempt all local ordinances which provably preclude or significantly inhibit effective, reliable amateur radio communications. The ARRL acknowleges that local authorities can regulate amateur installations to insure the safety and health of persons in the community, but believes that those regulations cannot be so restrictive that they preclude effective amateur communications.

2. Interested parties were advised that they could file comments in the matter [1]. With extension, comments were due on or before December 26, 1984 [2], with reply comments due on or before January 25, 1985 [3]. Over sixteen hundred comments were filed.

Local Ordinances

3. Conflicts between amateur operators regarding radio antennas and local authorities regarding restrictive ordinances are common. The amateur operator is governed by the regulations contained in Part 97 of our rules. Those rules do not limit the height of an amateur antenna but they require, for aviation safety reasons, that certain FAA notification and FCC approval procedures must be followed for antennas which exceed 200 feet in height above ground level or antennas which are to be erected near airports. Thus under FCC rules some amateur antenna support structures require obstruction marking and lighting. On the other hand, local municipalities or governing bodies frequently enact regulations limiting antennas and their support structures in height and location, e.g. to side or rear yards, for health, safety or aesthetic considerations. These limiting regulations can result in conflict because the effectiveness of the communications that emanate from an amateur radio station are directly dependent upon the location and the height of the antenna. Amateur operators maintain that they are precluded from operating in certain bands allocated for there use if the height of their antennas is limited by a local ordinance.

4. Examples of restrictive local ordinances were submitted by several amateur operators in this proceeding. Stanley J. Cichy, San Diego, California, noted that in San Diego amateur radio antennas come under a structures ruling which limits building heights to 30 feet. Thus, antennas there are also limited to 30 feet. Alexander Vrenios, Mundelein, Illinois wrote that an ordinance of the Village of Mundelein provides that an antenna must be a distance from the property line that is equal to one and one-half times its height. In his case, he is limited to an antenna tower for his amateur station just over 53 feet in height.

5. John C. Chapman, an amateur living in Bloomington, Minnesota, commented that he was not able to obtain a building permit to install an amateur radio antenna exceeding 35 feet in height because the Bloomington city ordinance restricted "structures" heights to 35 feet. Mr. Chapman said that the ordinance, when written, undoubtedly applied to buildings but was now being applied to antennas in the absence of a specific ordinance regulating them. There were two options open to him if he wanted to engage in amateur communications. He could request a variance to the ordinance by way of a hearing before the City Council, or he could obtain affidavits from his neighbors swearing that they had no objection to the proposed antenna installation. He got the building permit after obtaining the cooperation of his neighbors. His concern, however, is that he had to get permission from several people before he could effectively engage in radio communications for which he had a valid FCC amateur license.

6. In addition to height restrictions, other limits are enacted by local jurisdictions—anti-climb devices on towers or fences around them; minimum distances from high voltage power lines; minimum distances of towers from property lines; and regulations pertaining to the structural soundness of the antenna installation. By and large, amateurs do not find these safety precautions objectionable. What they do object to are the sometimes prohibitive, non-refundable application filing fees to

[1] Public Notice, August 30, 1984, Mimeo. No. 6299, 49 FR 36113, September 14, 1984.

[2] Public Notice, December 19, 1984, Mimeo No. 1498.

[3] Order, November 8, 1984, Mimeo. No. 770.

obtain a permit to erect an antenna installation and those provisions in ordinances which regulate antennas for purely aesthetic reasons. The amateurs contend, almost universally, that "beauty is in the eye of the beholder." They assert that an antenna installation is not more aesthetically displeasing than other objects that people keep on their property, e.g. motor homes, trailers, pick-up trucks, solar collectors and gardening equipment.

Restrictive Covenants

7. Amateur operators also oppose restrictions on their amateur operations which are contained in the deeds for their homes or in their apartment leases. Since these restrictive covenants are contractual agreements between private parties, they are not generally a matter of concern to the Commission. However, since some amateurs who commented in this proceeding provided us with examples of restrictive covenants, they are included for information. Mr. Eugene O. Thomas of Holiister, California included in his comments an extract of the Declaration of Covenants and Restrictions for Ridgemark Estates, County of San Benito, State of California. It provides:

> No antenna for transmission or reception of radio signals shall be erected outdoors for use by any dwelling unit except upon approval of the Directors. No radio or television signals or any other form of electromagnetic radiation shall be permitted to originate from any lot which may unreasonably interfere with the reception of television or radio signals upon any other lot.

Marshall Wilson, Jr. provided a copy of the restrictive covenant contained in deeds for the Bell Martin Addition #2, Irving, Texas. It is binding upon all of the owners or purchasers of the lots in the said addition, his or their heirs, executors, administrators or assigns. It reads: No antenna or tower shall be erected upon any lot for the purposes of radio operations.

William J. Hamilton resides in an apartment building in Gladstone, Missouri. He cites a clause in his lease prohibiting the erection of an antenna. He states that he has been forced to give up operating amateur radio equipment except a hand-held 2 meter (144–148 MHz) radio transceiver. He maintains that he should not be penalized just because he lives in an apartment.

Other restrictive covenants are less global in scope than those cited above. For example, Robert Webb purchased a home in Houston, Texas. His deed restriction prohibited "transmitting or receiving antennas extending above the roof line."

8. Amateur operators generally oppose restrictive covenants for several reasons. They maintain that such restrictions limit the places that they can reside if they want to pursue their hobby of amateur radio. Some state that they impinge on First Amendment rights of free speech. Others believe that a constitutional right is being abridged because, in their view, everyone has a right to access the airwaves regardless of where they live.

9. The contrary belief held by housing subdivision communities and condominium or homeowner's associations is that amateur radio installations constitute safety hazards, cause interference to other electronic equipment which may be operated in the home (televisions, radio, stereos) or are eyesores that detract from the aesthetic and tasteful appearance of the housing development or apartment complex. To counteract these negative consequences, the subdivisions and associations include in their deeds, leases or by-laws restrictions and limitations on the location and height of antennas or, in some cases, prohibit them altogether. The restrictive covenants are contained in the contractual agreement entered into at the time of the sale or lease of the property. Purchasers or lessees are free to choose whether they wish to reside where such restrictions on amateur antennas are in effect or settle elsewhere.

Supporting Comments

10. The Department of Defense (DOD) supported the ARRL and emphasized in its comments that continued success of existing national security and emergency preparedness telecommunications plans involving amateur stations would be severely diminished if state and local ordinances were allowed to prohibit the construction and usage of effective amateur transmission facilities. DOD utilizes volunteers in the Military Affiliate Radio Service (MARS),[4] Civil Air Patrol (CAP) and the Radio Amateur Civil Emergency Service (RACES). It points out that these volunteer communicators are operating radio equipment installed in their homes and that undue restrictions on antennas by local authorities adversely affect their efforts. DOD states that the responsiveness of these volunteer systems would be impaired if local ordinances interfere with the effectiveness of these important national telecommunication resources. DOD favors the issuance of a ruling that would set limits for local and state regulatory bodies when they are dealing with amateur stations.

11. Various chapters of the Amercian Red Cross also came forward to support the ARRL's request for a preemptive ruling. The Red Cross works closely with amateur radio volunteers. It believes that without amateurs' dedicated support, disaster relief operations would significantly suffer and that its ability to serve disaster victims would be hampered. It feels that antenna height limitations that might be imposed by local bodies will negatively affect the service now rendered by the volunteers.

12. Cities and counties from various parts of the United States filed comments in support of the ARRL's request for a Federal preemption ruling. The comments from the Director of Civil Defense, Port Arthur, Texas are representative:

> The Amateur Radio Service plays a vital role with our Civil Defense program here in Port Arthur and the design of these antennas and towers lends greatly to our ability to communicate during times of disaster.
>
> We do not believe there should be any restrictions on the antennas and towers except for reasonable safety precautions. Tropical storms, hurricanes and tornadoes are a way of life here on the Texas Gulf Coast and good communications are absolutely essential when preparing for a hurricane and even more so during recovery operations after the hurricane has passed.

13. The Quarter Century Wireless Association took a strong stand in favor of the issuance of a declaratory ruling. It believes that Federal preemption is necessary so that there will be uniformity for all Amateur radio installations on private property throughout the United States.

14. In its comments, the ARRL argued that the Commission has the jurisdiction to preempt certain local land use regulations which frustrate of prohibit amateur radio communications. It said that the appropriate standard in preemption cases is not the extent of state and local interest in a given regulation, but rather the impact of that regulation of Federal goals. Its position is that Federal preemption is warranted whenever local governmental regulations relate adversely to the operational aspects of amateur communication. The ARRL maintains that localities routinely employ a variety of land use devices to preclude the installation of effective amateur antennas, including height restrictions, conditional use permits, building

[4] MARS is solely under the auspices of the military which recruits volunteer amateur operators to render assistance to it. The Commission is not involved in the MARS program.

setbacks and dimensional limitations on antennas. It sees a declaratory ruling of Federal preemption as necessary to cause municipalities to accommodate amateur operator needs in land use planning efforts.

15. James C. O' Connell, an attorney who has represented several amateurs before local zoning authorities, said that requiring amateurs to seek variances or special use approval to erect reasonable antennas unduly restricts the operation of amateur stations. He suggested that the Commission preempt zoning ordinances which impose antenna height limits of less than 65 feet. He said that this hight would represent a reasonable accommodation of the communication needs of most amateurs and the legitimate concerns of local zoning authorities.

Opposing Comments

16. The City of La Mesa, California has a zoning regulation which controls amateur antennas. Its comments reflected an attempt to reach a balanced view.

> This regulation has neither the intent, nor the effect, of precluding or inhibiting effective and reliable communications. Such antennas may be built as long as their construction does not unreasonably block views or constitute eyesores. The reasonable assumption is that there are always alternatives at a given site for different placement, and/or methods for aesthetic treatment. Thus, both public objectives of controlling land use for the public health, safety, and convenience, and providing an effective communications network, can be satisfied.
>
> A blanket ruling to completely set aside local control, or a ruling which recognizes control only for the purpose of safety of antenna construction, would be contrary to . . . legitimate local control.

17. Comments from the County of San Diego state:

> While we are aware of the benefits provided by amateur operators, we oppose the issuance of a preemption ruling which would elevate 'antenna effectiveness' to a position above all other considerations. We must, however, argue that the local government must have the ability to place reasonable limitations upon the placement and configuration of amateur radio transmitting and receiving antennas. Such ability is necessary to assure that the local decision-makers have the authority to protect the public health, safety and welfare of all citizens.
>
> In conclusion, I would like to emphasize an important difference between your regulatory powers and that of local governments. Your Commission's approval of the preemptive requests would establish a 'national policy'. However, any regulation adopted by a local jurisdiction could be overturned by your Commission or a court if such regulation was determined to be unreasonable.

18. The City of Anderson, Indiana, summarized some of the problems that face local communities:

> I am sympathetic to the concerns of these antenna owners and I understand that to gain the maximum reception from their devices, optimal location is necessary. However, the preservation of residential zoning districts as 'liveable' neighborhoods is jeopardized by placing these antennas in front yards of homes. Major problems of public safety have been encountered, particularly vision blockage for auto and pedestrian access. In addition, all communities are faced with various building lot sizes. Many building lots are so small that established setback requirements (in order to preserve adequate air and light) are vulnerable to the unregulated placement of these antennas.
>
> . . . the exercise of preemptive authority by the FCC in granting this request would not be in the best interest of the general public.

19. The National Association of Counties (NACO), the American Planning Association (APA) and the National League of Cities (NLC) all opposed the issuance of an antenna preemption ruling. NACO emphasized that federal and state power must be viewed in harmony and warns that Federal intrusion into local concerns of health, safety and welfare could weaken the traditional police power exercised by the state and unduly interfere with the legitimate activities of the states. NLC believed that both Federal and local interests can be accommodated without preempting local authority to regulate the installation of amateur radio antennas. The APA said that the FCC should continue to leave the issue of regulating amateur antennas with the local government and with the state and Federal courts.

Discussion

20. When considering preemption, we must begin with two constitutional provisions. The tenth amendment provides that any powers which the constitution either does not delegate to the United States or does not prohibit the states from exercising are reserved to the states. These are the police powers of the states. The Supremacy Clause, however, provides that the constitution and the laws of the United States shall supersede any state law to the contrary. Article III, Section 2. Given these basic premises, state laws may be preempted in three ways: First, Congress may expressly preempt the state law. See *Jones* v. *Rath Packing Co.*, 430 U.S. 519, 525 (1977). Or, Congress may indicate its intent to completely occupy a given field so that any state law encompassed within that field would implicity be preempted. Such intent to preempt could be found in a congressional regulatory scheme that was so pervasive that it would be reasonable to assume that Congress did not intend to permit the states to supplement it. See *Fidelity Federal Savings & Loan Ass'n* v. *de la Cuesta*, 458 U.S. 141, 153 (1982). Finally, preemption may be warranted when state law conflicts with federal law. Such conflicts may occur when "compliance with both Federal and state regulations is a physical impossibility," *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132, 142, 143 (1963), or when state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress," *Hines* v. *Davidowitz*, 312 U.S. 52, 67 (1941). Furthermore, federal regulations have the same preemptive effect as federal statutes, *Fidelity Federal Savings & Loan Association* v. *de la Cuesta, supra.*

21. The situation before us requires us to determine the extent to which state and local zoning regulations may conflict with federal policies concerning amateur radio operators.

22. Few matters coming before us present such a clear dichotomy of viewpoint as does the instant issue. The cities, counties, local communities and housing associations see an obligation to all of their citizens and try to address their concerns. This is accomplished through regulations, ordinances or covenants oriented toward the health, safety and general welfare of those they regulate. At the opposite pole are the individual amateur operators and their support groups who are troubled by local regulations which may inhibit the use of amateur stations or, in some instances, totally preclude amateur communications. Aligned with the operators are such entities as the Department of Defense, the American Red Cross and local civil defense and emergency organizations who have found in Amateur Radio a pool of skilled radio operators and a readily available backup network. In this situation, we believe it is appropriate to strike a balance between the federal interest in promoting amateur operations and the legitimate interests of local governments in regulating local zoning matters. The cornerstone on which we will predicate our decision is that a reasonable accommodation may be made between the two sides.

23. Preemption is primarily a function of the extent of the conflict between federal and state and local regulation. Thus, in considering whether our regulations or policies can tolerate a state regulation, we may consider such factors as the severity of the conflict and the reasons underlying the state's

regulations. In this regard, we have previously recognized the legitimate and important state interests reflected in local zoning regulations. For example, in Earth Satellite Communications, Inc., 95 FCC 2d 1223 (1983), we recognized that

> . . . countervailing state interests inhere in the present situation . . . For example, we do not wish to preclude a state or locality from exercising jurisdiction over certain elements of an SMATV operation that properly may fall within its authority, such as zoning or public safety and health, provided the regulation in question is not undertaken as a pretext for the actual purpose of frustrating achievement of the preeminent federal objective and so long as the non-federal regulation is applied in a nondiscriminatory manner.

24. Similarly, we recognize here that there are certain general state and local interests which may, in their even-handed application, legitimately affect amateur radio facilities. Nonetheless, there is also a strong federal interest in promoting amateur communications. Evidence of this interest may be found in the comprehensive set of rules that the Commission has adopted to regulate the amateur service.[5] Those rules set forth procedures for the licensing of stations and operators, frequency allocations, technical standards which amateur radio equipment must meet and operating practices which amateur operators must follow. We recognize the Amateur radio service as a voluntary, noncommercial communication service, particularly with respect to providing emergency communications. Moreover, the amateur radio service provides a reservoir of trained operators, technicians and electronic experts who can be called on in times of national or local emergencies. By its nature, the Amateur Radio Service also provides the opportunity for individual operators to further international goodwill. Upon weighing these interests, we believe a limited preemption policy is warranted. State and local regulations that operate to preclude amateur communications in their communities are in direct conflict with federal objectives and must be preempted.

25. Because amateur station communications are only as effective as the antennas employed, antenna height restrictions directly affect the effectiveness of amateur communications. Some amateur antenna configurations require more substantial installations than others if they are to provide the amateur operator with the communications that he/she desires to engage in. For example, an antenna array for international amateur communications will differ from an antenna used to contact other amateur operators at shorter distances. We will not, however, specify any particular height limitation below which a local government may not regulate, nor will we suggest the precise language that must be contained in local ordinances, such as mechanisms for special exceptions, variances, or conditional use permits. Nevertheless, local regulations which involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to accommodate reasonably amateur communications, and to represent the minimum practicable regulation to accomplish the local authority's legitimate purpose.[6]

26. Obviously, we do not have the staff or financial resources to review all state and local laws that affect amateur operations. We are confident, however, that state and local governments will endeavor to legislate in a manner that affords appropriate recognition to the important federal interest at stake here and thereby avoid unnecessary conflicts with federal policy, as well as time-consuming and expensive litigation in this area. Amateur operators who believe that local or state governments have been overreaching and thereby have precluded accomplishment of their legitimate communications goals, may, in addition, use this document to bring our policies to the attention of local tribunals and forums.

27. Accordingly, the Request for Declaratory Ruling filed July 16, 1984, by the American Radio Relay League, Inc., is granted to the extent indicated herein and, in all other respects, is denied.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-22968 Filed 9-24-85; 8:45 am]

BILLING CODE 6712-01-M

[5] 47 CFR Part 97.

[6] We reiterate that our ruling herein does not reach restrictive covenants in private contractual agreements. Such agreements are voluntarily entered into by the buyer or tenant when the agreement is executed and do not usually concern this Commission.

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47 CFR Part 97

[PR Docket No. 85-21; FCC 85-505]

Amendment of the Amateur Radio Service Rules To Delete the 30-Day Waiting Period Before Retaking an Examination and To Provide the Number of Candidates for an Examination May Be Limited

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This document amends the Amateur Radio Service Rules by deleting the period that a candidate must wait before retaking an amateur examination and by providing that exams may be limited as to the number of applicants. The waiting period rule change is necessary in order to provide more flexibility to candidates who have failed exams. Making clear in the rules that exams may be limited as to the number of candidates merely makes explicit an existing practice. The effect of the rule changes is to facilitate the taking of examinations, to continue public announcements in a manner so that the concept of open and aboveboard examinations is maintained and to make the public aware that some exams are not open to everyone.

EFFECTIVE DATE: November 8, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Amateur radio, Radio, Examinations.

Report and Order

In the matter of amendment of § 97.26 of the Commission's rules to remove unnecessary regulations concerning amateur operator examinations administered by volunteers; PR Docket No. 85-21, RM-4835.

Adopted: September 16, 1985.
Released: September 19, 1985.

By the Commission.

1. On January 23, 1985, the Commission adopted a Notice of Proposed Rule Making (50 FR 5644; February 11, 1985) proposing to amend the Amateur Rules to delete the requirement that an applicant for an amateur operator license wait 30 days before retaking the same or higher examination element when the applicant has failed an element. The Notice also proposed to require public announcement only for examination sessions intended for five or more candidates. Eighteen comments were filed in the proceeding.

2. We will first address the matter of the retest waiting period. Two basic positions can be distilled from the comments. Commenters favoring complete elimination of a waiting period are of the belief that without a waiting period amateur applicants would have more incentive to study and retake the

examination. This position is illustrated by Floyd Grant in his comments:

> If a person who has failed an exam can retake it a short time in the future, he may be more likely to apply himself for a short period, knowing that if he does learn the material he will be able to upgrade (or receive an original license) soon after he has mastered the material.

3. Commenters who favor retaining a waiting period before retaking an examination element believe that an interval is necessary to preclude answering the examination questions mechanically or unthinkingly as a result of repetitive rote learning. They do not want a candidate to encounter the same questions on subsequent examinations. They also feel that it would be an undue burden on Volunteer Examiner Coordinators (VEC's) to prepare new examinations more than once a month, resulting in increased costs. These commenters also oppose the idea of allowing each VEC the latitude to establish a waiting period to suit its own capabilities, stating that it would lead to confusion and loss of program integrity.

4. Many of the commenters offer alternatives. For example, the American Radio Relay League, Inc. (ARRL) wanted a retest waiting period retained but changed to 27 days. The ARRL reasons are as follows:

> Although a uniform, mandatory waiting period prior to examination retake is necessary, it should not be so long as to require an applicant to wait two months because a thirty-day waiting period forces that person to miss an examination opportunity offered monthly. . . . Thus, the League hereby renews its request that the retake waiting period be retained, but reduced to 27 days.

5. The 30-day waiting period following failed examinations was a carry-over from the days when the Commission administered the examinations. While it may promote conscientious preparation for examinations, its purpose was to conserve Commission resources. If concerns for integrity can be satisfied, we see no need to restrict the remarkably flexible volunteer examination system with outdated prohibitions.

6. There is no persuasive evidence in the record that an applicant who has waited 30 days between tests will be better prepared for the next test than one who has waited 27 days, or 13 days or 7 days or any other period of time. Thus, we feel that the only circumstance which must be guarded against is the administration of *the same questions* at the applicant's next examination. Our instructions to the VEC's already prevent this from occurring.

7. VEC's have been instructed not to use the same set of questions in successive examination sessions. This prevents, for example, Friday test takers from giving advance information to Saturday test takers. It also precludes the possibility of the same questions on reexaminations. Different VEC's can and do coordinate examination sessions at different events in the same locality. Since each VEC makes up its own test designs following our algorithm, it is highly unlikely that examination sessions coordianted by two different VEC's will contain the same questions. Thus, we feel there is no need to guard against passing the examination by rote by the additional mechanism of a mandatory waiting period.

8. We conclude that the public interest will best be served by eliminating the retest waiting period altogether. This decision adds no additional burdens on VEC's. They are under no obligation to give tests on demand, to hold sessions on multiple dates, to examine more people than they can plan for or accommodate, to promptly return to a locality for retesting or in any other way to alter their present procedures. Their only obligations are to maximize the number of different examinations in use and to change frequently the questions used. These obligations already exist.

9. The second item in the Notice of Proposed Rule Making sought to require public announcement only for examination sessions intended for five or more candidates. This would have excluded public announcement of certain exams for handicapped persons or examinations given to a candidate at home for medical reasons. The ARRL opposed the proposal saying that no examination should be private, i.e., without public announcement. It said that unannounced "back room" exams promote abuse or the perception of possible abuse. The ARRL position is that exams should be in the public eye to insure integrity. It said that if the Commission did decide to eliminate the public announcement of exams, it should be done, not on the basis of the number of persons present (because that leads to secret exams), but rather on the basis that special exceptions are made for those who are handicapped or who cannot leave their homes because of a disability. The Central Vermont Amateur Radio Club also opposed deletion of the public announcement requirement. It said that the volunteer examiner program must be operated in the open and in full view of all interested persons. The club believes that no group is small enough to escape such scrutiny without arousing suspicions of collusion and cronyism. Five other commenters also objected to deletion of the requirement. Three commenters supported the proposal to revise the announcement requirement.

10. Examinations, whether administered in a hotel ballroom or in an invalid's parlor, must be given by a team of three examiners, each of whom has been accredited by a VEC. This circumstance alone is calculated to preclude fraudulent examinations. Nevertheless, in view of the comments, we will continue to require that public announcement of all examinations be given. However, since there are various circumstances to be considered in administering exams, the rule that we adopt makes clear that the number of candidates at any one exam session may be limited. The public announcement should therefore alert the public to any such limitation.

11. In view of the foregoing, and with the modifications discussed above, we adopt the rules that were proposed in our Notice of Proposed Rule Making.

12. Insofar as it is consistent with the rules herein adopted, the petition of Phil H. Miller concerning the waiting period is granted and is denied in all other respects.

13. It is ordered that part 97 is amended as set forth in the Appendix hereto. This action is taken pursuant to the authority contained in section 4(f)(4)(B) and (i); and, section 303(r) of the Communications Act of 1934, as amended.

14. It is further ordered, that these rule amendments shall become effective November 8, 1985.

15. It is further ordered, that the Secretary shall cause a copy of this Report and Order to be published in the **Federal Register.**

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

17. Information in this matter may be obtained by contacting Maurice J. DePont, (202) 632–4964, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 97—[AMENDED]

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 97 continues to read as follows:

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

2. Paragraph (a) of § 97.26 is revised to read:

§ 97.26 Examination procedure.

(a) Each examination for an amateur operator license must be administered at a place and time chosen by the examiner(s). The number of candidates at any examination session may be limited. Public announcement must be made before all examinations for elements 1(B), 1(C), 3, 4(A) or 4(B).

* * * * *

3. Paragraph (h) of § 97.26 is removed and reserved.

[FR Doc. 85-22967 Filed 9-24-85; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 50330-5121]

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule implementing the identification system for fish traps, fish trap buoys, and vessels fishing them. This applies to all vessels harvesting species identified in the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP), with the exception of black sea bass. The FMP contained a management measure requiring that fish traps and fish trap buoys be identified with the boat or vessel fishing them. Regulations to implement this provision of the FMP were reserved pending development of the identification system by NMFS and approval by the South Atlantic Fishery Management Council. The identification system has been developed and approved and is implemented by this rule. This rule also includes requirements for buoy lines for fish traps used in specific areas and identifies materials which must be used in the construction of degradable panels or door fastening devices on traps. The intended effect of this regulation is to enhance enforcement of measures designed to prevent trap poaching and theft and to provide for escapement of fish from lost or abandoned traps.

EFFECTIVE DATE: October 25, 1985.

ADDRESS: A copy of the final supplemental regulatory impact review for this rule may be obtained from Rodney C. Dalton, Southeast Region, NMFS, 9450 Koger Boulevard, Street Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton, 813-893-3722.

SUPPLEMENTARY INFORMATION: The FMP was approved on July 28, 1983, under authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act). The FMP contains a provision for identifying traps and trap buoys with the boat or vessel fishing the traps for all snapper-grouper species except for black sea bass traps. Final regulations implementing the FMP were published on August 31, 1983 (48 FR 39466); however, § 646.5 of the regulations pertaining to gear identification was reserved pending development of the identification system. NMFS has now developed and the Council has approved the gear and vessel identification system. This final rule implements that system.

The proposed rule (50 FR 13639, April 5, 1985) for this action contained a discussion of the need for the identification of fish traps, fish trap buoys, and vessels fishing them. This discussion is not repeated here.

Response to Comments

Only three comments were received from one commentor, who first objected to traps constructed with galvanized wire, particularly chicken wire, and to the trap volume of 35 cubic feet on the basis that such traps kill fish. Limited studies as referenced in the supplemental regulatory impact review (RIR) have not indicated high mortalities in standard size traps; i.e., 35 cubic feet, and no information is known to be available on the mortality of fish in traps constructed with galvanized wire. The same commentor questioned the effect of zinc anodes on the degrading of ungalvanized 0.062-inch-diameter iron wire used in the construction of escape panels. No revisions were made based upon these comments because adequate data are not available to substantiate them. In the event future research results in evidence regarding these issues they will be readdressed.

The same commentor recommended implementation of a requirement that the escape panel be placed on the side of fish traps. This would prevent locating the panel on the bottom of the traps thereby defeating the purpose of the panel. Also, this requirement would prevent locating doors with degradable hinges on the top or bottom of traps where the panel would remain in place after the hinges have degraded. NOAA concurs with this recommendation and § 646.22(b)(1) has been modified accordingly.

Changes From the Proposed Rule

Section 646.6

The section was not reorganized as proposed, but instead two paragraphs have been added to the end of the section. Paragraph (a)(17) was revised in response to public comment.

Section 646.22(b)(1)

This was modified in response to public comment.

Classification

The Assistant Administrator determined that this regulatory amendment is necessary for the conservation and management of the snapper-grouper fishery and that it is consistent with the Magnuson Act and other applicable law.

It was previously determined, on the basis of an RIR and regulatory flexibility analysis (RFA) that rules to implement the FMP, except for this measure, were not major under Executive Order 12291. The RIR/RFA was summarized in the preamble to the final rules for the FMP (48 FR 39466, August 31, 1983). A supplemental regulatory impact review for this rule implementing the identification system review for this rule implementing the identification system was prepared, and it indicated that the anticipated benefits exceed the compliance cost to the public (see **"ADDRESS"** section for availability).

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities; a summary was published with the proposed rule (50 FR 13639, April 5, 1985). As a result, a regulatory flexibility analysis was not prepared.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). A request to collect this information was submitted to the Office of Management and Budget for a review under section 3504(h) of the PRA and has been approved under OMB control number 0048-0097.

This action is part of a Federal action for which a final environmental impact statement (EIS) was prepared. The final EIS for the FMP was filed with the Environmental Protection Agency and the notice of availability was published on August 19, 1983 (48 FR 37702).

The Council determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing.

Dated: September 20, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 646 is amended as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

1. The authority citation for Part 646 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In Part 646, the Table of Contents is amended by revising the title for § 646.5 from "Gear identification [Reserved]" to read as follows: "Vessel and gear identification."

3. In § 646.2 the definitions of "Black sea bass trap" and "Official number" are added in alphabetical order to read as follows:

§ 646.2 Definitions.

* * * * *

Black sea bass trap means a fish trap that harvests or contains at any time no more than 25 percent by number of fishes in the management unit other than black sea bass.

* * * * *

Official number means the documentation number issued by the U.S. Coast Guard or the registration number issued by a State or by the U.S. Coast Guard for undocumented vessels.

* * * * *

4. A new § 646.5 is added to read as follows:

§ 646.5 Vessel and gear identification.

(a) *Applicability.* Fishing vessels from which fish traps, other than black sea bass traps, are deployed in the FCZ are required to obtain a vessel and gear identification number and color code from the Regional Director.

(b) *Application.* (1) An application for a vessel and gear identification number and color code under this part must be signed by the owner or operator of the vessel and submitted on an appropriate form obtained from the Regional Director. Fishermen who have an existing number and color code from another fishery may indicate on the application their preference to use that same identification system for the fish trap fishery. Whenever possible, the Regional Director will reissue the requested number and color code adding only a single letter prefex to indicate that the vessel and gear are engaged in the fish trap fishery. The application must be submitted to the Regional Director 30 days prior to the date on which the applicant desires receipt of the vessel and gear identification number and color code.

(2) Applicants must provide all of the following information:

(i) Name, mailing address including ZIP code, and telephone number of the owner of the vessel;

(ii) Name of the vessel;

(iii) The vessel's official number;

(iv) Home port on principal port of landing, gross tonnage, radio call sign, and length of the vessel;

(v) Engine horsepower and year the vessel was built;

(vi) Number, dimensions, and estimated cubic volume of the fish traps that will be fished;

(vii) Any other information concerning vessel and gear characteristics requested by the Regional Director; and

(viii) A statement that the applicant will allow authorized officers reasonable access to his property (vessel and dock) to inventory fish traps for compliance with these regulations.

(3) Any change in the information specified in this paragraph must be submitted in writing to the Regional Director by the applicant within 15 days of any such change. Failure to notify the Regional Director of any change in the required information will result in a rebuttable presumption that the information is still accurate and current.

(c) *Issuance.* The Regional Director will issue a color code, vessel and gear identification number, and fish trap tags imprinted with the vessel and gear identification number to the applicant not later than 30 days from the date of receipt of a completed application.

(d) *Display.* Vessels from which fish traps, other than black sea bass traps, are fished; fish traps; and buoys must display the identification number and color code designated by the Regional Director.

(1) *Vessels.* Vessels must permanently and conspicuously display the identification number and color code designated by the Regional Director under paragraph (c) of this section in a manner so as to be readily identifiable from the air and water.

(i) To be visible from the air, the identification number and color code must be permanently affixed to the uppermost structural portion of the vessel or other similar area. The color code must be in the form of a circle at least 20 inches in diameter, and the areas surrounding the circle must be of a contrasting color. The identification number must be at least 10 inches in height and must be affixed adjacent to the 20-inch diameter circle.

(ii) To be visible from the water, the identification number and color code must be permanently affixed to both starboard and port sides of the vessel near amidships. The color code must be in the form of a circle at least 8 inches in diameter and the area surrounding the circle must be of a contrasting color. The identification number must be at least 4 inches in height and must be affixed adjacent to the 8-inch diameter circle.

(2) *Fish traps.* Each fish trap must have affixed to it permanently the numbered identification tag supplied by the Regional Director.

(3) *Buoys.* The use of buoys to identify fish traps is not required. If buoys are used, they must display the identification number and color code so as to be easily distinguished, located, and identified. The identification number must be in legible figures at least 2 inches in height and affixed to each buoy.

(e) Fish traps fished in the FCZ will be presumed to be the property of the most recently documented owner. This presumption will not apply with respect to fish traps which are lost or sold if the owner of such traps reports the loss or sale within 15 days to the Regional Director.

(f) Unmarked fish traps deployed in the FCZ, other than black sea bass traps, are illegal and may be disposed of in any appropriate manner by the Secretary (including an authorized officer). If owners of the unmarked trap can be ascertained, those owners remain subject to appropriate civil penalties.

(Approved by the Office of Management and Budget under Control No. 0048–0097.)

5. Section 646.6 is amended by redesignating existing text consisting of introductory text and paragraphs (a)–(q) as new paragraph (a) consisting of introductory text and paragraphs (a)(1)–(17), revise the new introductory text of (a), revise the newly redesignated paragraph (a)(17), add a new paragraph (a)(18), and add a new paragraph (b) to read as follows:

§ 646.6 Prohibitions.

(a) It is unlawful for any person to do any of the following:

* * * * *

(17) Fish with fish traps, except black sea bass traps, without an assigned vessel and gear identification number; possess aboard a fishing vessel unmarked fish traps; use, or possess aboard a fishing vessel, buoys not marked with the assigned gear identification number and color code; falsify or fail to affix and maintain

vessel or gear markings as required by § 646.5; or

(18) Possess fish traps shoreward of the outer boundary of the FCZ and south of 25°35.5′ N. latitude (Fowey Rocks Light, Florida) except as specified in § 646.22(b)(5).

(b) It is unlawful to violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

6. In § 646.22, paragraph (b)(1) is revised and a new paragraph (b)(5) is added to read as follows:

§ 646.22 Gear limitations.

* * * * *

(b)(1) Fish traps are required to have on at least one side, excluding top and bottom, panels or door-hinging devices or door fasteners which will degrade or self-destruct and which must be constructed of one of the following degradable materials:

(i) Untreated hemp, jute, or cotton string of 3/16-inch diameter or smaller;

(ii) Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners; or

(iii) Ungalvanized or uncoated iron wire of 0.062-inch diameter or smaller.

(iv) The diameter of the panel opening must be equal to or larger than the interior axis of the trap's throat (funnel).

* * * * *

(5) Buoy lines attached to fish possessed or fished shoreward to the outer boundary of the FCZ and south of 25°35.5′ N. latitude must be a minimum of 125 feet in length.

* * * * *

[FR Doc. 85-22870 Filed 9-20-85; 2:52 pm]

BILLING CODE 3510-22-M

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50 CFR Part 650

[Docket No. 31222-246]

Atlantic Sea Scallop Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of continuation of adjusted meat count and shell height standards.

SUMMARY: NOAA extends the present average meat count standard for Atlantic sea scallops of redundant 35 meats per pound (minimum shell height of 3⅜ inches), through December 31, 1985, unless superseded by the implementation of Amendment 1. This action will eliminate the potential for inconsistencies in management measures imposed on Canadian and U.S. sea scallop fishermen that would adversely affect the U.S. domestic fishery if the standard reverted to 30 meats per pound. The adjustment allows U.S. fishermen to harvest sea scallops at sizes smaller than would be allowed in the absence of the continued adjustment.

EFFECTIVE DATE: October 1, 1985 through December 31, 1985.

FOR FURTHER INFORMATION CONTACT: Carol Kilbride (Scallop Management Coordinator), 617 281-3600, ext. 244.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for Atlantic Sea Scallops (FMP) contain at § 650.22(a) provisions that require the Director, Northeast Region, National Marine Fisheries Service (Regional Director), to review the status of the Atlantic sea scallop resource on a continuing basis.

In the spring of 1983, the Regional Director, following consultation with the New England Fishery Management Council (Council), implemented the findings of his first annual report by temporarily adjusting the management standards to allow harvest of sea scallops at 35 meats per pound (minimum 3⅜ inch shell height) through December 31, 1983 (48 FR 23434, May 25, 1983).

Regulations at § 650.22(b)(5) require the Regional Director to review adjustments of the standards and permit the Regional Director to renew a temporary adjustment upon making a finding consistent with the criteria for initial adjustment specified in § 650.22(c). The criteria which must be met include: (1) The objective of the scallop FMP would be achieved more readily and be better served through an adjustment of the prevailing standards; (2) the recommended alteration in the standards would not reduce expected catch over the following year by more than 5 percent from that which would have been expected under the prevailing standard; (3) the recommended standards for meat count and shell height are consistent with each other; and (4) inconsistencies exist in the management measures applied to sea scallop stocks in areas harvested by both domestic and foreign fishermen, and those inconsistencies provide foreign fishermen with an advantage over domestic fishermen which can be demonstrated to adversely affect the domestic fishery. These criteria were met in December 1983, and the 35 meats per pound meat count adjustment was continued through May 15, 1984 (48 FR 57496, December 30, 1983). Extensions through September 30, 1984 (49 FR 21058, May 18, 1984), and September 30, 1985 (49 FR 39065, October 3, 1984) were based on the same rationale criteria.

The last adjustment to the average meat count was accomplished with the expectation that the Council would prepare an amendment to the FMP modifying the meat count measure to provide improved protection for small sea scallops and that agreement with Canada to impose regulations consistent with the amendment would occur. The Council has submitted to the Secretary for approval Amendment 1 to the Fishery Management Plan for Atlantic Sea Scallops. The amendment proposes to establish (1) a minimum standard of four ounces whereby the ten smallest scallops in a one-pint sample must weigh at least four ounces; (2) eliminate the adjustable meat count/shell height standard; and (3) extend the enforcement of the minimum weight standard beyond the point of first transaction in the United States. If the amendment is approved, final regulations implementing this new weight standard would become effective on December 1, 1985.

The Regional Director has found that the criteria specified in § 650.22(c) continue to be met and has therefore determined to renew the management standards adjustment to permit the harvest of sea scallops at an average meat count of 35 meats per pound (minimum 3⅜ inch shell height) size during the period from October 1, 1985, through December 31, 1985, unless superseded by the implementation of Amendment 1.

Other Matters

This action is taken under the authority of 50 CFR Part 650, and is taken in compliance with National Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 650

Fisheries.

Dated: September 20, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85-22933 Filed 9-20-85; 5:10 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 186
Wednesday, September 25, 1985

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3

Debt Collection

AGENCY: Department of Agriculture.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule would implement the salary offset provision of the Debt Collection Act of 1982. Section 5 of the Act (codified in 5 U.S.C. 5514) authorized procedures to recover debts owed to the Federal Government by offsetting against salaries of Federal employees owing such debts. In addition, the Office of Personnel Management issued regulations (5 CFR Part 550, Subpart K) to be used by Federal agencies in implementing the Act.

This proposed rule includes protection for employees owing debts as provided in the Debt Collection Act (i.e. notification, inspection of relevant records, payment agreements, and hearings). The rule would enhance USDA's ability to recover delinquent debts owned by Federal employees, while ensuring that the rights of Federal employees are protected.

DATE: Comments must be received on or before October 25, 1985.

ADDRESS: Send comments to: Earl C. Hadlock, Deputy Director, Office of Personnel, U.S. Department of Agricultural, Washington, D.C. 20250. Written comments received may be inspected in Room 305–W of the Administration Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Frank Padalino, Office of Personnel U.S. Department of Agriculture, Room 305–W, Washington, D.C. 20250, (202) 447–5619.

SUPPLEMENTARY INFORMATION:

Background

USDA is owed a significant amount of money by Federal employees. The salary offset provision of the Debt Collection Act of 1982 provides opportunities to increase the collection of these delinquent debts while ensuring employee rights are protected. This rule would enable USDA to fully implement the salary offset provision of the Act.

Regulatory Impact

USDA has reviewed this proposed rule in accordance with Executive Order 12291 and has determined that it is not a major rule. The Department has determined that this action will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprise in domestic or export markets. It is anticipated that the final rule would enable USDA to increase collections by approximately $5 million, representing money that is already owed and overdue. It will impact on only a small percentage of Federal employees; those who are delinquent in repaying their debts to the Department of Agriculture.

Under the circumstances explained above, the Assistant Secretary for Administration has determined that this action will not have a significant impact on a substantial number of small entities. This proposed rule sets procedures for salary offset and does not affect the environment.

List of Subjects in 7 CFR Part 3

Salary offset, Claims, Debt management.

Accordingly, USDA proposes to add a new Subpart C to Part 3 of Title 7 of the Code of Federal Regulations to read as follows:

PART 3—[AMENDED]

Subpart C—Salary Offset

Sec.

Authority: 5 U.S.C. 5514; 5 CFR Part 550, Subpart K.

Subpart C—Salary Offset

§ 3.51 Scope.

(a) The provisions of this subpart set forth the Department's procedures for the collection of a Federal employee's pay by salary offset to satisfy certain valid and past due debts owed the government.

(b) These regulations apply to:

(1) Current employees of the Department and other agencies who owe debts to the Department; and

(2) Current employees of the Department who owe debts to other agencies.

(c) These regulations do not apply to debts or claims arising under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.); the Social Security Act (42 U.S.C. 301 et seq.); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute.

(d) These regulations identify the types of salary offset available to the Department, as well as certain rights provided to the employee, which include a written notice before deductions begin, the opportunity to petition for a hearing and to receive a written decision if a hearing is granted. These employee rights do not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal

benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

(e) These regulations do not preclude an employee from:

(1) Requesting waiver of a salary overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716;

(2) Requesting waiver of any other type of debt, if waiver is available by statute; or

(3) Questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office.

(f) Nothing in these regulations precludes the compromise, suspension or termination of collection actions where appropriate under the Department's regulations contained elsewhere.

§ 3.52 Definitions.

(a) "Agency" means:

(1) An Executive Agency as defined by section 105 of Title 5 U.S.C., the U.S. Postal Service, the U.S. Postal Rate Commission; and

(2) A Military Department as defined by section 102 of Title 5, U.S.C.

(b) "Debt" means:

(1) An amount owed to the United States from sources which include, but are not limited to, insured or guaranteed loans, fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice).

(2) An amount owed to the United States by an employee for pecuniary losses, including but not limited to:

(i) Theft, misuse, or loss of Government funds;

(ii) False claims for services and travel;

(iii) Illegal, unauthorized obligations and expenditures of Government appropriations;

(iv) Authorization of the use of Government owned or leased equipment, facilities, supplies, and services for other than official or approved purposes;

(v) Vehicle accidents where the employee is determined to be liable for the repair or replacement of a government owned or leased vehicle;

(vi) Erroneous entries on accounting records or reports; and

(vii) Deliberate failure to provide physical security and control procedures for accountable officers, if such failure is determined to be the proximate cause for a loss of Government funds.

(c) "Department" or "USDA" means the United States Department of Agriculture.

(d) "Disposable Pay" means any pay due an employee that remains after required deductions for Federal, State and Local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs; premiums for life and health insurance benefits; and such other deductions required by law to be withheld.

(e) "Employee" means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces.

(f) "Hearing official" means an administrative law judge of the Department or some other individual not under the control of the Secretary.

(g) "Salary Offset" means a deduction of a debt by deduction(s) from the disposable pay of an employee without his or her consent.

(h) "Secretary" means the Secretary of the U.S. Department of Agriculture or his or her designee.

(i) "Waiver" means the cancellation, remission, forgiveness, or non-recovery of a debt owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, 5 U.S.C. 8346(b) or any other law.

§ 3.53 Coordinating offset with another federal agency.

(a) *When USDA is owed the debt.* When USDA is owed a debt by an employee of another agency, the other agency shall not initiate the requested offset until USDA provides the agency with a written certification that the debtor owes USDA a debt (including the amount and basis of the debt and the due date of the payment) and that USDA has complied with these regulations.

(b) *When another agency is owed the debt.* The Department may use salary offset against one of its employees who is indebted to another agency, if requested to do so by that agency. Such a request must be accompanied by a certification by the requesting agency that the person owes the debt (including the amount and basis of the debt and the due date of the payment) and that the agency has complied with its regulations required by 5 U.S.C. 5514 and 5 CFR Part 550, Subpart K.

§ 3.54 Determination of indebtedness.

(a) In determining that an employee is indebted to USDA and that 4 CFR Parts 101 through 105 have been satisfied and that salary offset is appropriate, the Secretary will review the debt to make sure that it is valid and past due.

(b) If the Secretary determines that any of the requirements of part (a) of this section have not been met, no determination of indebtedness shall be made and salary offset will not proceed until the Secretary is assured that the requirements have been met.

§ 3.55 Notice requirements before offset.

Except as proviced in § 3.51(d), salary offset will not be made unless the Secretary first provides the employee with a minimum of 30 calendar days written notice. This Notice of Intent to Offset Salary (Notice of Intent) will state:

(a) That the Secretary has reviewed the records relating to the debt and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(b) The Secretary's intention to collect the debt by means of deduction from the employee's current disposable pay until the debt and all accumulated interest are paid in full;

(c) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(d) An explanation of the Department's requirements concerning interest, penalties and administrative costs; unless such payments are waived in accordance with 31 U.S.C. 3717 and § 3.34 of this part;

(e) The employee's right to inspect and copy Department records relating to the debt;

(f) The employee's right to enter into a written agreement with the Secretary for a repayment schedule differing from that proposed by the Secretary, so long as the terms of the repayment schedule proposed by the employee are agreeable to the Secretary;

(g) The right to a hearing conducted by a hearing official on the Secretary's determination of the debt, the amount of the debt, or percentage of disposable pay to be deducted each pay period, so long as a petition is filed by the employee as prescribed by the Secretary;

(h) That the timely filing of a petition for hearing will stay the collection proceedings;

(i) That a final decision on the hearing will be issued at the earliest practical date, but not later than 60 calendar days after the filing of the petition requesting the hearing, unless the employee requests, and the hearing officer grants, a delay in the proceedings;

(j) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(1) Disciplinary procedures appropriate under 5 U.S.C. Chapter 75, 5 CFR Part 752, or any other applicable statutes or regulations;

(2) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or any other applicable statutory authority; or

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or any other applicable statutory authority;

(k) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(l) That amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee, unless there are applicable contractual or statutory provisions to the contrary;

(m) The method and time period for requesting a hearing; and

(n) The name and address of an official of USDA to whom communications should be directed.

§ 3.56 Request for a hearing.

(a) Except as provided in paragraph (c) of this section, an employee must file a petition for a hearing, that is received by the Secretary not later than 30 calendar days from the date of the Department's notice described in § 3.55, if an employee wants a hearing concerning:

(1) The existence or amount of the debt; or

(2) The Secretary's proposed offset schedule (including percentage).

(b) The petition msut be signed by the employee and should identify and explain with reasonable specificity and brevity the facts, evidence and witnesses which the employee believes support his or her position. If the employee objects to the percentage of disposable pay to be deducted from each check, the petition should state the objection and the reasons for it.

(c) If the employee files a petition for hearing later than the 30 calendar days as described in paragraph (a) of this section, the hearing officer may accept the request if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the filing deadline (unless the employee has actual notice of the filing deadline).

§ 3.57 Result if employee fails to meet deadlines.

An employee will not be granted a hearing and will have his or her disposable pay offset in accordance with the Secretary's offset schedule if the employee:

(a) Fails to file a petition for a hearing as prescribed in § 3.56; or

(b) Is scheduled to appear and fails to appear at the hearing.

§ 3.58 Hearings.

(a) If an employee timely files a petition for a hearing under § 3.56, the Secretary shall select the time, date, and location for the hearing.

(b) (1) Hearings shall be conducted by an appropriately designated hearing official; and

(2) Rules of evidence shall not be adhered to, but the hearing official shall consider all evidence that he or she determines to be relevant to the debt that is the subject of the hearing and weigh it accordingly, given all of the facts and circumstances surrounding the debt.

(c) USDA will have the burden of going forward to prove the existence of the debt.

(d) The employee requesting the hearing shall bear the ultimate burden of proof.

(e) The evidence presented by the employee must prove that no debt exists or cast sufficient doubt such that reasonable minds could differ as to the existence of the debt.

§ 3.59 Written decision following a hearing.

Written decisions provided after a hearing will include:

(a) A statement of the facts presented at the hearing to support the nature and origin of the alleged debt and those presented to refute the debt;

(b) The hearing officer's analysis, findings and conclusions, considering all of the evidence presented and the respective burdens of the parties, in light of the hearing;

(c) The amount and validity of the alleged debt determined as a result of the hearing; and

(d) The repayment schedule (including percentage of disposable pay), if applicable.

(e) The determination of the amount of the debt at this hearing is the final agency action on this matter.

§ 3.60 Review of departmental records related to the debt.

(a) *Notification by employee.* An employee who intends to inspect or copy Departmental records related to the debt must send a letter to the Secretary stating his or her intention. The letter must be received by the Secretary within 30 calendar days of the date of the Notice of Intent.

(b) *Secretary's response.* In response to the timely notice submitted by the debtor as described in paragraph (a) of this section, the Secretary will notify the employee of the location and time when the employee may inspect and copy Departmental records related to the debt.

§ 3.61 Written agreement to repay debt as alternative to salary offset.

(a) *Notification by employee.* The employee may propose, in response to a Notice of Intent, a written agreement to repay the debt as an alternative to salary offset. Any employee who wishes to do this must submit a proposed written agreement to repay the debt which is received by the Secretary within 30 calendar days of the date of the Notice of Intent.

(b) *Secretary's response.* The Secretary will notify the employee whether the employee's proposed written agreement for repayment is acceptable. The Secretary may accept a repayment agreement instead of proceeding by offset. In making this determination, the Secretary will balance the Department's interest in collecting the debt against hardship to the employee. If the debt is delinquent and the employee has not disputed its existence or amount, the Secretary will accept a repayment agreement, instead of offset, for good cause such as, if the employee is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§ 3.62 Procedures for salary offset; when deductions may begin.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the Secretary's Notice of Intent to collect from the employee's current pay.

(b) If the employee filed a petition for a hearing with the Secretary before the expiration of the period provided for in § 3.56 then deductions will begin after the hearing officer has provided the employee with a hearing, and a final written decision has been rendered in favor of the Secretary.

(c) If an employee retires or resigns before collection of the amount of the indebtedness is completed, the remaining indebtedness will be collected according to the procedures for administrative offset (see Subpart B of this part).

§ 3.63 Procedures for salary offset: types of collection.

A debt will be collected in a lump-sum or in installments. Collection will be by lump-sum collection unless the employee is financially unable to pay in one lump-sum, or if the amount of the debt exceeds 15 percent of disposable pay for an ordinary pay period. In these cases, deduction will be by installments, as set forth in § 3.64.

§ 3.64 Procedures for salary offset: methods of collection.

(a) *General.* A debt will be collected by deductions at officially-established pay intervals from an employee's current pay account, unless the employee and the Secretary agree to alternative arrangements for repayment under § 3.61.

(b) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in no more than three years. Installment payments of less than $25 per pay period or $50 a month will be accepted only in the most unusual circumstances.

(c) *Sources of deductions.* The Department will make deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay.

§ 3.65 Procedures for salary offset: imposition of interest, penalties and administrative costs.

Interest, penalties and administrative costs will be charged in accordance with 4 CFR 102.13.

§ 3.66 Non-Waiver of rights.

So long as there are no statutory or contractural provisions to the contrary, no employee payment (of all or portion of a debt) collected under these regulations will be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514.

§ 3.67 Refunds.

The Department will refund promptly to the appropriate individual amounts offset under these regulations when:

(a) A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or

(b) The Department is directed by an administrative or judicial order to refund amount deducted from the employee's current pay.

§ 3.68 Agency regulations.

Heads of USDA agencies may issue regulations or policies not inconsistent with Office of Personnel Management regulations (5 CFR Part 550, Subpart K) and regulations in this subpart governing the collection of a debt by salary offset.

Done this 19th day of August 1985, at Washington, D.C.

John R. Block,

Secretary of Agriculture.

[FR Doc. 85-22918 Filed 9-24-85; 8:45 am]

BILLING CODE 3410-96-M

Food Safety and Inspection Service

9 CFR Parts 317, 318 and 381

[Docket No. 84-020P]

Total Plant Quality Control for Labeling

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) proposes to expand the concept of generically approved labeling of meat and poultry products for these establishments operating a USDA-approved Total Quality Control system which can develop an acceptable plan for controlling the labeling of their products. Eligible establishments may submit their plan for a Total Quality Control for Labeling system to the FSIS Administrator for approval. If the Administrator finds the plan for the Total Quality Control for Labeling system to be adequate to assure that misbranding of product will not occur, all labeling for products made at the establishment and for which there is a standard of identity or composition in the meat and poultry products inspection regulations or for which there are certain specified Agency policies will be eligible for generic approval and would not be subject to additional individual review and approval by FSIS before use.

DATE: Comments must be received on or before November 25, 1985.

ADDRESS: Written comment to: Regulations Office, Attn: Ms. Annie Johnson, FSIS Hearing Clerk, FSIS, Room 2637, South Agriculture Building, USDA, Washington, DC 20250. (See also "Comments" under **SUPPLEMENTARY INFORMATION.**)

FOR FURTHER INFORMATION CONTACT: Mr. Joseph V. Germano, Deputy Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-4293.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that the proposed rule is not a major rule under Executive Order 12291. The proposal would provide greater flexibility to meat and poultry processors in obtaining labeling approvals. It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Administrator, FSIS, has determined that the proposal would not have a significant economic impact on a substantial number of small entities, as defined by Pub. L., 96-354 (5 U.S.C. 601).

The proposal would provide an alternative to certain aspects of the current labeling approval system for those meat and poultry establishments which have been in operation, for at least one year, a USDA-approved total plant quality control system. As of September 1984, there were over 400 Total Quality Control meat and poultry establishments. These establishments range from one person operations to those by some of the largest processors in the nation.

The proposal would permit a USDA-appoved Total Quality Control (TQC) establishment to submit a plan for controlling the labeling of a broad range of products prepared in its establishment. If the Administrator finds the plan for Total Quality Control for Labeling (TQCL) systems to be adequate to assure that misbranding of product will not occur, the plan would be approved. Once the plan is implemented, labeling for products within specified categories could be approved at such plants, and the labeling would not have to receive additional authorization by the Department before use. This TQC Labeling system could provide significant savings and flexibility to the establishments. Various studies by government and private groups have shown that the Department's current labeling approval system imposes costs on industry, especially those resulting from time lost in the review/approval process.

The proposed rule would provide savings to industry primarily by reducing time burdens. In exchange,

however, some paperwork burdens may increase primarily because of the initial TQCL application procedures and secondarily, because of paperwork required in maintaining the system. These may be offset, however, by the reduction in paperwork surrounding individual label approvals. However, since the proposed rule creates a voluntary program, each firm would independently determine whether the expected gain from participating will outweigh maintaining a TQCL system. Firms could continue to exercise this choice even after implementing a TQCL system; that is, firms could still, at their option, seek approvals using the current prior label approval procedures.

The Department will also consider other points of view concerning the proposal which limits the use of TQCL to TQC establishments. Comments submitted regarding this aspect of the proposal should include data and other information to support an alternative position.

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be submitted in duplicate to the Regulations Office. Comments should refer to the docket number located in the heading of this document. Any person desiring an opportunity for oral presentation of views must make their request to Mr. Germano so that arrangements may be made for the presentation. A transcript will be made of views orally presented. All comments submitted concerning this proposal will be available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m. Monday through Friday.

Background

Pursuant to the authority contained in section 1(n) and 7 of the Federal Meat Inspection Act (21 U.S.C. 601(n), 607) and in sections 4(h) and 8 of the Poultry Products Inspection Act (21 U.S.C. 453(h), 457) and related Federal meat and poultry product inspection regulations (9 CFR Parts 317 and 381, Subpart N), the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA) conducts a prior approval program for labels and other labeling material to be used on federally inspected meat and poultry products. In March 1983, FSIS published a final rule streamlining and simplifying labeling approval procedures which had in most cases required a label to be approved by the Standards and Labeling Division in Washington, DC (48 FR 11410). Consistent with a number of other efforts to make more efficient use of Agency resources, reduce costs to government and industry, and more rapidly approve labeling, the rule revised the prior labeling approval system by establishing three categories of labeling approvals.

1. IIC Approvals

The March 1983 rule authorizes inspectors in charge (IICs) of official establishments to approve certain labeling and labeling modifications provided all mandatory information is sufficiently prominent and the labeling is not false or misleading. The types of labeling an IIC is authorized to approve include the following:

New Labeling

—Final labeling which has a Standards and Labeling Division (SLD) sketch approval if the final labeling is made without modification or modified only as SLD prescribed;
—Labeling for single ingredient products which do not contain quality control claims, negative claims, geographical claims, nutritional claims, guarantees, or are printed in a foreign language;
—Container labeling for products sold under specifications only to Federal government agencies if the specifications include specific labeling requirements;
—Labeling for shipping containers containing fully labeled immediate containers;
—Labeling for products not intended for human food;
—Inspection legends;
—Meat carcass ink brands and meat food product ink and burning brands;
—Labeling for poultry heads and feet intended for export for processing as human food;
—Inserts, tags, liners, pasters, and similar devices with printed or graphic matter for use on or within containers and coverings.

Labeling Modifications to Previously Approved Labeling

—Brand name changes if the name does not use a term which connotes quality or other product characteristics, has no geographic significance and does not affect the product name or labeling format;
—Deletions of the word "new;"
—Additions, deletions, or amendments of handling instructions;
—Changes in the quantity of an ingredient statement if changes comply with any minimum or maximum limits for use of the ingredient;
—Changes in color;
—Additions, deletions, or substitutions of a USDA poultry grade shield;
—Changes in product vignette.

The types of labeling and labeling modifications in the IIC-approval category were selected because they are not complicated or the modifications involve changes of minor that they present little risk of misbranding of product. For example, final labeling for a single ingredient product such as "Chicken Wings" may be submitted to the IIC for approval provided all mandatory labeling information, including the product name, net weight statement, inspection legend and establishment number, name and address of the manufacturer, packer, or distributor, and, if needed, handling instructions, are prominently displayed. The labeling may not contain any quality claims such as "blue ribbon," negative claims such as "no phosphates added," geographical claims such as "Buffalo, New York Style," nutritional claims such as "lower fat," guarantees such as money-back offers, or be printed in a foreign language.

For IIC approvals, the establishment must submit to the IIC three copies of the labeling, each attached to a label application form. If the labeling is in full compliance with the regulations, the IIC signs, numbers, and dates each application. One copy is kept on file in the inspector's office. A second copy is submitted to SLD for possible audit and incorporation into a central labeling file. The third copy is returned to plant management.

2. Generically Approved Labeling

The March 1983 rule created a second category of labeling which no longer requires an individual review and authorization by USDA. This category includes final labeling previously approved by SLD or the IIC. The IIC receives a copy of the label prior to use. Only the minor modifications specified in 9 CFR 317.5 and 381.134 or the types of labeling or labeling changes described below may be considered generically approved. They include the following:

—Enlargements or reductions of all labeling features, provided minimum size requirements are met and the labeling is legible;
—Substitutions of certain terms for their abbreviations, or certain abbreviations for their whole forms;
—Additions of the name and address of a distributor or previously approved master or stock labeling;
—Holiday wrappers or coverings;

—Changes in the language or arrangement of package opening or serving instructions;
—Additions, deletions, or amendments of coupons, cents-off statements, cooking instructions, packer product code information, or universal product codes;
—Changes in the name or address of the packer, manufacturer, or distributor that appears in the signature line;
—Changes in the net weight statement provided size requirements are met;
—Additions, deletions, or amendments of recipe suggestions;
—Changes in punctuation;
—Newly assigned or revised establishment numbers for a particular establishment;
—Additions or deletions of open dating information;
—Changes in type of packaging material on which labeling is printed.

The generically approved category includes labeling for which an individual review and approval by USDA is believed to be unnecessary. For example, if an establishment wishes to substitute the word "pound" for the abbreviation "lb." in the net weight statement on labeling already previously approved, there seems little point in resubmitting an application for reapproval of the entire label. SLD already has a copy of the original approval which is subject to audit and the generically approved labeling is supplied to the IIC to assure its accuracy prior to its use.

For labeling to be considered as generically approved, the establishment must supply the IIC, prior to use, a single copy of the modified labeling along with the approval number of the previously approved final labeling on which it is based. This copy remains on file in the inspector's office for review by a USDA supervisor during routine plant visits. A copy of generically approved labeling is not forwarded to SLD for audit nor is it included in the SLD central labeling file. Since generically approved labeling receives no individual review and approval from the Department, the plant has primary responsibility for its compliance with the regulations. However, the IIC retains the authority to discontinue use of the labeling if a determination is made that it is false or misleading.

3. SLD Approvals

The use of IIC or generically approved labeling is strictly voluntary. Plant operators may whenever they wish submit any and all of their labeling to SLD for approval. There are, however, certain types of labeling that must be approved by SLD. This category of labeling includes:
—Labeling modifications not specifically identified in either the IIC-approval or the generically approved category;
—Sketch labeling;
—Temporary approvals.

The SLD-approved category includes labeling involving complex or novel issues where consistency and uniformity would be more difficult to maintain if delegated to the plant level. For example, a labeling claim such as "all natural" is open to a great deal of individual interpretation and thus could be confusing to the public. As such, it remains subject to SLD review.

For SLD approvals, as for those approved by the IIC, three copies of the labeling, each attached to an application form, are required. One copy is included in the SLD central labeling file; a second copy is sent to the IIC; and the third copy is returned to the plant management.

Analysis of the Current Procedures

The current labeling approval procedures have been well received by industry and field inspection personnel. Since the implementation of the Field Delegation System (IIC approvals) on June 1, 1983, over 20,000 labeling applications were approved by IIC's the first year, and a total of 2,802 plant operators opted to use IIC label approvals. Since its adoption, industry has demonstrated interest in the use and acceptance of the IIC labeling approval program.

A 100 percent audit of the IIC-approved labeling conducted by SLD for the year June 1, 1983 through May 31, 1984 revealed a relatively low error rate (6.4 percent of the entire year). Most errors were minor, and many involved procedural errors, for example, determinations of whether labeling is eligible for IIC approval, and technical errors related to the product name, printing of the inspection legend, net weight statement, or ingredient statement. Most of these errors were such that the labeling as a whole would not be considered false or misleading. Examples include an error in the size of the net weight statement or an error in the printing of the inspection legend.

SLD has no method for examining the number of types of generically approved labeling; however, a field survey for the year June 1, 1983 through May 31, 1984, showed that 5,987 generically approved labels were used by 492 of the 2148 plants participating in the survey.

Performance of agency field personnel in implementing the IIC label approval procedures has been considered positive. As anticipated, there has been little impact on the IIC's workload. The monthly average time IIC's spend on labeling approval is 2.46 hours. In addition, the increased direct involvement in labeling approvals has been well-received by most IIC's, who generally are in the best position to ensure that meat and poultry products are properly and accurately labeled.

In the preamble to the final rule that established the current labeling approval regulations, the Department acknowledged industry's desire to expand the generically approved labeling category. The Department also indicated it would consider the possibility of expanding the class of generically approved labeling for those plants which have demonstrated the technological and managerial capacity to ensure that misbranding of product will not occur. However, because of the experimental nature of the procedures, the Department initially chose to narrowly define this category until it could assess the effectiveness of the program. The Department's current position is that the present level of field delegation of label approvals is functioning satisfactorily, and, therefore, it believes that there is a basis to assume that IIC's and plant operators have the ability to assume expanded labeling approval authority without jeopardizing the integrity or effectiveness of the prior approval system or of the labeling itself.

Quality Control

Major changes have taken place throughout the meat and poultry industries over the past two decades. Rapidly changing technology, keener competition, and a growing economy have had a significant impact on the types of meat and poultry products being prepared. For recordkeeping purposes, the Department now recognizes over 1,100 different categories of processed meat and poultry products which are currently being marketed. Each year, the number of variations within these categories increases as new products are developed using complex blends of ingredients which make the products more susceptible to variations. At the same time, consumers have increasingly come to expect and indeed demand uniformity and consistency in the products they buy.

In response to these consumer demands, companies began to realize that more sophisticated procedures for controlling production were necessary to meet consumer expectations and demands. By the 1960's, meat and

poultry processors were beginning to develop quality control programs to assure product uniformity and consistency. Such quality control programs are designed to produce a product within predetermined limits using statistical sampling and monitoring at predetermined critical control points in the production process. Abnormal variations at these critical control points would, if not adjusted, result in non-conforming finished product. Companies have found that quality control programs provide cost effective methods for producing consistently uniform products within specified limits in addition to meeting their responsibility for ensuring regulatory compliance.

Total Quality Control

As a result of dramatic changes throughout the meat and poultry industries, the Department has been modernizing its inspection program to meet today's needs while continuing to carry out its regulatory responsibilities. In September 1980, the Federal meat and poultry products inspection regulations were amended to allow meat and poultry processing establishments to submit plans for implementing a USDA-approved total plant quality control (TQC) system as a method for meeting their regulatory responsibilities (45 FR 54310).

Under the TQC approach, plant management develops a plan that describes the controls at each phase of product handling and processing and provides for data collection concerning the observations and tests made at specified control points. Examinations and tests at these control points are performed by establishment personnel who record their findings and make adjustments or take other appropriate corrective action, including halting production. Thus, a plant TQC system requires the commitment and support of top management to operate effectively. The Administrator evaluates the proposed plan and determines if the system has the features that will consistently produce products in compliance with all published regulatory requirements and standards and labeling guidelines.

Once the plan is approved, specially trained Department inspectors are assigned to TQC establishments. These inspectors evaluate the data generated by the system and also conduct their own independent observations and tests and draw samples to verify that establishment data are accurate and factual and that the finished product complies with the provisions contained in the USDA-approved TQC system. If the inspector finds discrepancies between the establishment's data and FSIS verification samples or tests, but the discrepancies do not involve adulteration or misbranding of product, the establishment is notified and given an opportunity to take corrective action. If the establishment is producing adulterated or misbranded product for distribution, the Department will terminate its approval of the TQC system and institute any other appropriate actions. Currently, over 450 TQC systems have been approved for implementation in federally inspected plants.

From the Agency's perspective, TQC provides a basis for more efficient use of its resources. TQC inspection techniques are designed to prevent, through process control, the manufacture of non-complying product and to promote production efficiency. Process control can continuously be adjusted or improved due to the availability of objectively-collected and USDA-verified manufacturing data. TQC also provides a base for continuously updated, reliable information, knowledge, and experience from which regulatory reform needs can be evaluated and proposed.

Total Quality Control for Labeling (TQCL)

The Department's experience with the field labeling approval and the TQC regulations have demonstrated the willingness and ability of major segments of the meat and poultry industries to fulfill their responsibility to provide consumers with safe, wholesome, and accurately labeled meat and poultry products under a somewhat modified regulatory system. As a result of the FSIS experience with these two programs, the Department is proposing to expand the concept of generically approved labeling for those establishments operating a USDS-approved TQC system.

Any operator of a USDA-approved TQC establishment who has operated its TQC system for a period of at least one year may apply to the Administrator for approval of its TQCL system. The TQCL system, as proposed, would be an extension of the establishment's TQC system and would be subject to the same requirements and control procedures. The Department is proposing to limit the eligibility for TQCL approval to establishments which have had an approved TQC system in operation for at least one year. This reflects the view that its assessment of a system to control labeling is fully intertwined with a broader evaluation of an establishment's process controls and that, in the absence of such a broader program, the Department cannot fully evaluate the capacity to control product labeling.

In considering this issue, it may be helpful to consider labeling review and approval, as traditionally practiced by the Department, as a two-level process. The first level involves the evaluation of the labeling materials themselves. The reviewer, or IIC under the appropriate circumstances, checks the labeling in question to see that certain required features such as an accurate product name and a statement of net quantity of contents are present. The reviewer or IIC also reviews formulation information to ensure that all ingredients are used in accordance with any regulatory restrictions and that they are listed in the proper order of predominance on the label. Label copy is further checked for compliance with any other applicable requirements and to assure that it is not false or misleading in any respect. Approvals are then issued for labeling which meets all of the applicable criteria.

The approved labeling has additional regulatory impact beyond the point of this initial review, however. The labeling approval, as transmitted to both the establishment and the IIC, constitutes continuing authority to produce and market the product in question provided the establishment complies with the processing procedures as outlined in the approval form itself.

Within the first area of labeling, involving the proper assurances that the labeling itself is correct, there does not seem to be any basis for distinguishing between plants with TQC status and those without such status. In either case, an establishment could presumably develop a program that demonstrates the proper knowledge of labeling regulations, designate a responsible individual, provide access to records, etc., to the point where the Department would have considerable confidence in its ability to generate labeling materials which are accurate and in compliance with all applicable requirements. It is the Department's present position, however, that this alone would not provide sufficient basis for the type of regulatory relief being proposed, since the non-TQC establishment does not also have a continuing system in place by which the Department can readily assess continuing compliance with the labeling agreement.

In adopting this position the Department is not attempting to imply that non-TQC establishments are unable to control their processes nor that they are somehow inferior to TQC

establishments. It is simply adopting the position that, in attempting to consistently monitor a nationwide program, it needs a mechanism for gauging this ability and that TQC is the one current mechanism for doing so. Since the TQCL program will be voluntary and somewhat experimental in nature, it seems reasonable to propose this type of limitation with the expectation that experience gained from such a program could lead to the establishment of its broader application in the future. Comments are welcome on this point, particularly from establishment owners or operators operating under traditional inspection, or from other interested parties who could identity eligibility criteria for non-TQC plants.

Labeling eligible to be generically approved under a TQCL system would be limited to that for which published regulatory standards of identify or composition exist or for which there are certain specified provisions in an official Agency manual known as the "Labeling Policy Book."

Labeling of products with nutritional information or statements would continue to receive specific SLD approval prior to use. Changes to the nutrition labeling would then be eligible for TQCL approval provided the changes did not involve product reformulation or otherwise affect the SLD-approved nutritional information. The Administrator has determined that the evaluation and presentation of nutritional information is a relatively complex phase of labeling. Further, nutrition labeling is in a state of flux as the Agency attempts to identify a variety of ways in which establishments can assure the continued accuracy of nutrition information. Therefore, all such labeling must be initially approved by SLD prior to its use.

The standards of product identity or composition found in the meat and poultry products inspection regulations specify the minimum amount of meat or poultry required in the product formulation. For example, the standard of composition for "Lamb Stew" requires that at least 25 percent uncooked lamb be used in formulating the product (9 CFR 319.104). Standards of identity set specific product requirements for a food's makeup. These standards often specify: (1) The kind and minimum amount of meat and/or poultry; (2) the maximum amount of non-meat ingredients, such as extenders or binders or moisture; and (3) any other ingredients allowed or expected in certain finished products.

Also, provisions concerning names and composition for numerous meat and poultry products have evolved from the prior labeling approval process. These policy memoranda issued by SLD are incorporated periodically into the Labeling Policy Book and often specify minimum meat or poultry content, as well as restrictions, and expected or permitted ingredients. Policy memoranda are issued by SLD on an as-needed basis. A listing of these memoranda and their availability is published semi-annually in the Federal Register. The Labeling Policy Book is meant to provide consumers and producers with decisions by the SLD in connection with the approval of labeling for meat and poultry products based on recipe information gathered from cook books, old formulas, and other reliable sources. For example, "Chicken Almondine" should contain almonds in addition to at least 50 percent chicken meat. The Labeling Policy Book is widely recognized and quoted from by industry members and inspection personnel. The Labeling Policy Book is available to the general public for a fee by writing to: U.S. Department of Agriculture, Food Safety and Inspection Service, Administrative Services Division, Room 0151, South Building, 14th & Independence Avenue, SW, Washington, DC 20250.

The meat and poultry products inspection regulations and the Labeling Policy Book provide the labeling regulatory requirements and policy necessary to assure that all products eligible to be generically approved under the TQCL system are not misbranded. Through the development of audit procedures, the Department will continue to ensure that these products are in full compliance with the applicable product standards and Agency labeling policies, and that labeling for such products contain all mandatory information and are not false or misleading. All other labeling for products not covered by standards of identify or composition in the meat and poultry products inspection regulations or Labeling Policy Book will continue to be approved by either SLD or the IIC prior to use.

Applying for TQCL

The basic requirements for proposing a TQCL system for approval are similar to those existing for TQC. The proposal, however, must relate specifically to product labeling. At a minimum it must include:

1. A letter of intent to the Administrator from the establishment stating:

a. The company's purpose for seeking an approved TQCL system and willingness to adhere to the requirements of the system as approved by the Department.

b. That all information generated by the establishment's TQCL system will be available to USDA personnel at all times at a designated central location in each TQC plant. This must include complete formulation and processing information for each product produced.

c. That establishment quality control personnel would have authority to halt production or shipping of product in cases where other corrective measures have been ineffective.

d. That establishment management would be available for consultation any time USDA personnel find it necessary.

2. If an establishment has personnel with primary duties relating to TQCL, a plant organizational chart must be submitted. The flow of responsibility is no predominately related to production.

3. A list identifying the applicable meat and poultry product inspection regulations and Labeling Policy Book entries relating to the labeling of products prepared in the establishment that are eligible for generic approval under the TQCL system.

4. Detailed information concerning the manner in which the TQCL system would function. Such information should include the nature of the records that would be used, the procedure for reviewing the labeling, the nature and types of deficiencies the system is designed to identify, and the nature of corrective action that will be taken if necessary.

The establishment's application will be reviewed and evaluated by the Administrator. If approved, arrangements will be made for the plan's implementation. If the application is denied, the applicant will receive written notification stating the basis for denial. The applicant will have an opportunity to submit a written statement in response to the denial and the right to request a hearing, under applicable Rules of Practice, concerning the decision to deny approval of the proposed TQCL system.

Once a TQCL system is implemented, the establishment assumes primary responsibility for its generically approved labeling and for documenting its procedures for implementing the use of new labeling. The requirements for labeling under TQCL systems are no different from those under the traditional labeling approval system, that is, product labeling may not be false or misleading and must be in full compliance with the regulations. The current TQC regulations require that a TQC establishment obtain prior approval for labeling to be used on

product being test-marketed. Approval of labeling for these test products could also receive TQCL approval if the product labeling is otherwise eligible for such approval.

As is true for all generically approved labeling, the establishment must supply a single copy of each labeling to the IIC prior to use. An additional copy of any labeling approved under a TQCL system that does not qualify to be generically approved under the current field label approval regulations shall be supplied to the IIC for forwarding to SLD for possible audit. The audit system is intended to serve as an additional safeguard against misbranded products reaching the marketplace.

Termination of TQCL

The establishment or the Administrator would be able to terminate the TQCL system by following the current procedures in the regulations for termination of TQC systems. These procedures allow the establishment to terminate a TQC system by notifying the Administrator. These procedures allow the Administrator to terminate a TQC system if the establishment prepared or distributed adulterated or misbranded product or if the establishment failed to comply with the approved TQC system after notification by the Administrator of non-compliance. Under this proposal, termination of a TQC system will terminate the TQCL system approval as well. However, a TQCL system may be terminated for reasons other than adulteration or misbranding of product without affecting the TQC system.

If a TQC or a TQCL system is terminated, the Administrator would not consider a reapplication request for at least 6 months after the termination. Since a prerequiste for TQCL system approval requires that an establishment be operating a TQC system for at least the prior year, a reapplication for TQCL would have to await reapproval of a terminated TQC system and one year of its operation.

Expected Benefits

The TQCL system would provide an innovative and efficient means of carrying out the Department's prior labeling approval responsibilities. Through the use of this system, both government and industry could realize savings while continuing to ensure that meat and poultry products are properly labeled.

The proposed system should also provide multi-plant companies some of the benefits they sought when the Department proposed the field delegation program. Under the field delegation program, IIC's approve labeling for use only in the plant to which they are assigned. Therefore, a multi-plant company seeking labeling approval for several establishments must submit its labeling application or applications to SLD.

Under field delegation, all labeling within the generically approved category is, by definition, approved for use after supplying a copy of the labeling to the IIC. Under the TQCL system, a multi-plant company could receive "one" generically approved labeling for several of its plants by supplying each inspector in charge with a copy of such labeling prior to its use.

This proposal expands the generically approved labeling category and gives multi-plant companies a meaningful alternative to SLD approval. A multi-plant company could coordinate its design of labeling, perhaps at some central location, as long as each establishment has an approved TQCL system.

Accordingly, § 317.4, paragraph (a), § 317.5, paragraph (a), § 318.4, paragraph (e), paragraph (f), paragraph (g), and paragraph (h), of the Federal meat inspection regulations and § 381.134, paragraph (a), § 381.145, paragraph (e), paragraph (f), paragraph (g), and paragraph (h), and paragraph (i), of the poultry products inspection regulations would be amended to read as set forth below.

Proposed Rule

List of Subjects

9 CFR PART 317

Food labeling.

9 CFR PART 318

Food additives, Meat and poultry products, Meat inspection, Preparation of products, Official establishment, Quality control.

9 CFR PART 381

Food labeling.

PART 317—[AMENDED]

1. The authority citation for Part 317 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Paragraph (a) of section 317.4 (9 CFR 317.4) would be revised to read as follows:

§ 317.4 Labeling to be approved by the Administrator.

(a) No labeling shall be used on any product until it has been approved in its final form by the Administrator. For the convenience of the establishment, sketches or proofs of new labeling may be submitted in triplicate to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Washington, DC, for approval, and the preparation of final labeling deferred until such approval is obtained. "Sketch" labeling is a printer's proof or other copy which clearly shows all labeling material, e.g., size, location, and an indication of final color. All final labeling shall be submitted in triplicate to the Standards and Labeling Division for approval, except where such approval may be obtained from the inspector-in-charge as specified in this section or where generic approval is granted as specfied in § 317.5 or as provided in § 318.4. Any establishment that wishes to submit any labeling to the Standards and Labeling Division for approval may do so.

* * * * *

3. Paragraph (a) of section 317.5 (9 CFR 317.5) would be revised to read as follows:

§ 317.5 Generically approved labeling.

(a) Labeling which is generically approved under paragraph (b) of this section or under § 318.4 is approved for use without additional authorization, provided the labeling shows all mandatory information in a sufficiently prominent manner and is not otherwise false or misleading in any particular. Any inspector-in-charge that determines that labeling being used under paragraph (b) of this section or § 318.4 is false or misleading in any particular or that labeling alleged by an establishment to be approved under paragraph (b) of this section or § 318.4 is not so approved shall prohibit the use of the labeling. This determination shall remain in effect unless and until an alternative decision is made by the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. A copy of any labeling to be used in accordance with paragraph (b) of this section or § 318.4 shall be supplied to the inspector-in-charge prior to its use. A copy of any labeling approved in accordance with § 318.4 shall be forwarded by the inspector-in-charge to the Standards and Labeling Division.

* * * * *

PART 318—[AMENDED]

1. The authority citation for Part 318 continues to read as follows:

Authority: 34 Stat. 1260, 81 Stat. 584, as amended (21 U.S.C. 601 *et seq.*); 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C.) 901 *et seq.*,); 76 Stat. 663 (7 U.S.C. 450 *et seq.*).

2. Section 318.4 would be amended by redesignating paragraphs (e) through (g) as (f) through (h) and by adding a new paragraph (e) to read as follows:

§ 318.4 Preparation of products to be officially supervised; responsibilities of official establishment; plant operated quality control.

* * * * *

(e) *Applying For Total Quality Control for Labeling.* (1) Except for the initial approval of labeling bearing nutritional information or related statements, labeling for meat food products subject to a specific definition and standard of identity or composition provided for in Part 319 of this Subchapter or subject to provisions as to composition and labeling incorporated in the Labeling Policy Book [1] are generically approved if the labeling is controlled under a total quality control for labeling system approved by the Administrator and is used in accordance with § 317.5. The logo described in paragraph (g) of this section and the labeling for test-marketed products described in paragraph (c)(4) of this section are generically approved if the conditions of this Subchapter are met.

(2) Any operator of an official establishment who has operated under a USDA-approved Total Plant Quality Control system for at least 12 months prior to making the request described in this subparagraph and who has a plan for a total quality control for labeling system to control the labeling of meat food products which are prepared in the establishment and which are subject to the standards or provisions in the Labeling Policy Book described in paragraph (e)(1) of this section, may request that the Administrator evaluate the system to determine whether it is adequate to result in such product being labeled in compliance with the requirements of the Act and the regulations under it. Such a request shall include, at a minimum, those items and information listed in paragraphs (c)(1)–(4) of this section but specifically related to product labeling.

3. Newly redesignated paragraph (f) would be revised to read as follows:

(f) *Evaluation and Approval of Total Plant Quality Control, Total Quality Control for Labeling, or Partial Quality Control.*

(1) The Administrator shall evaluate the material presented in accordance with the provisions of paragraphs (c), (d) or (e) of this section. If it is determined by the Administrator on the basis of the evaluation that the total plant quality control system, total quality control for labeling system, or partial quality control program will result in finished products and/or product labeling, as the case may be, controlled in the manner being in full compliance with requirements of the Act and regulations, the system or program will be approved. Plans will be made for implementation under USDA supervision.

(2) In any situation where the system or program is found by the Administrator to be unacceptable, formal notification shall be given to the applicant of the basis for the denial. The applicant will be afforded an opportunity to modify the system or program in accordance with the notification. The applicant shall also be afforded an opportunity to submit a written statement in response to this notification of denial and a right to request a hearing with respect to the merits or validity of the denial. If the applicant requests a hearing and the Administrator, after review of the answer, determines the initial determination to be correct, he shall file with the Hearing Clerk of the Department the notification, answer and the request for hearing, which shall constitute the complaint and anwer in the proceeding, which shall thereafter be conducted in accordance with Rules of Practice which shall be adopted for this proceeding.

(3) The establishment shall be responsible for the effective operation of the approved total plant quality control system, total quality control for labeling system, or partial quality control program to assure compliance with the requirements of the Act and regulations. The Secretary shall continue to provide the Federal inspection necessary to carry out the Secretary's responsibilities under the Act.

* * * * *

4. Newly redesignated paragraph (h) of § 318.4 (9 CFR 318.4) would be revised to read as follows:

* * * * *

(h) *Termination of Total Plant Quality Control, Total Quality Control for Labeling, or Partial Quality Control.*

(1) Termination of an approval for a total plant quality control system of an establishment with an approved total quality control for labeling system automatically terminates approval of both systems, but termination of the approval for a total quality control for labeling system does not automatically terminate approval for both systems.

(2) The approval of a total plant quality control system, total quality control for labeling system, or a partial quality control program may be terminated at any time by the operator of the official establishment upon written notice to the Administrator.

(3) The approval of a total plant quality control system, total quality control for labeling system, or partial quality control program may be terminated upon the establishment's receipt of a written notice from the Administrator under the following conditions:

(i) If adulterated or misbranded meat food product is found by the Administrator to have been prepared for or distributed in commerce by the subject establishment. In such case, opportunity will be provided to the establishment owner or operator to present views to the Administrator within 30 days of the date of terminating the approval. In those instances where there is conflict of facts, a hearing, under applicable Rules of Practice, will be provided to the establishment owner or operator to resolve the conflict. The Administrator's termination of approval shall remain in effect pending the final determination of the proceeding.

(ii) If the establishment fails to comply with the quality control program to which it has agreed after being notified by letter from the Administrator or designee. Prior to such termination, opportunity will be provided to the establishment operator to present views to the Administrator within 30 days of the date of the letter. In those instances where there is a conflict of facts, a hearing, under applicable Rules of Practice, will be provided to the establishment operator to resolve the conflict. The Administrator's termination of quality control approval shall remain in effect pending the final determination of the preceeding.

(4) If approval of the total plant quality control system, total quality control for labeling system, or partial quality control program has been terminated in accordance with the provisions of this section, an application and request for approval of the same or a modified total quality control system will not be evaluated by the Administrator for at least 6 months from the termination date; or for at least 2 months from the termination date in the case of a partial quality control program; or, in the case of a total quality control for labeling system, for at least 6 months from the termination date or satisfaction of the condition in paragraph (e)(2) of the section concerning operation of a USDA-approved total plant quality control establishment for 12 months.

[1] The Labeling Policy Book may be obtained for a fee from the Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

PART 381—[AMENDED]

1. The authority citation for Part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended, (21 U.S.C. 451 *et seq.*); 76 Stat. 663, (21 U.S.C. 450 *et seq.*).

2. Paragraph (a) of § 381.134 (9 CFR 381.134) would be revised to read as follows:

§ 381.134 Generically approved labeling.

(a) Labeling which is generally approved under paragraph (b) of this section or under § 381.145 is approved for use without additional authorization provided the labeling shows all mandatory information in a sufficiently prominent manner and is not otherwise false or misleading in any particular. Any inspector-in-charge that determines that labeling being used under paragraph (b) of this section or § 381.145 is false or misleading in any particular or that labeling alleged by an establishment to be approved under paragraph (b) of this section or § 381.145 is not so approved shall prohibit the use of labeling. This determination shall remain in effect unless and until an alternative decision is made by the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. A copy of any labeling to be used in accordance with paragraph (b) of this section or § 381.145 shall be supplied to the inspector-in-charge prior to its use. A copy of any labeling used in accordance with § 381.145 shall be forwarded by the inspector-in-charge to the Standards and Labeling Division.

* * * * *

3. Section 381.145 would be amended by redesignating paragraphs (e) through (h) as (f) through (i) and by adding a new paragraph (e) to read as follows:

§381.145 Poultry products and other articles entering or at official establishments; examination and other requirements.

* * * * *

(e) *Applying For Total Quality Control for Labeling.* (1) Except for the initial approval of labels bearing nutritional information or related statements, labeling for poultry products subject to a specific definition and standard of identity or composition provided for a Subpart P of this Subchapter or for a product subject to provisions as to composition and labeling incorporated in the Labeling Policy Book are generically approved if the labeling is conatrolled under a total quality control for labeling system approved by the Administrator and is used in accordance with § 381.134. The logo described in paragraph (g) of this section and the labeling for test-marketed products described in paragraph (c)(4) of this section are generically approved if the conditions of this subparagraph are met.

(2) Any operator of an official establishment who has operated under a USDA-approved Total Quality Coantrol system for at least the 12 months prior to making the request described in this subparagraph and who has a plan for a total quality control for labeling system to control the labeling of poultry product which is prepared in the establishment and which is subject to the standards or provisions in the Labeling Policy Book described in paragraph (e)(1) of this section, may request that the Administrator evaluate the system to determine whether it is adequate to result in product being labeled in compliance with the requirements of the Act and the regulations under it. Such a request shall include, at a minimum, those items and information listed in paragraphs (c)(1)–(4) of this section but specifically related to product labeling.

4. Newly redesignated paragraph (f) would be revised to read as follows:

* * * * *

(f) *Evaluation and Approval of Total Plant Quality Control, Total Quality Control for Labling, or Partial Quality Control.* (1) The Administrator shall evaluate the material presented in accordance with the provisions in paragraph (c), (d) or (e) of this section. If it is determined by the Administrator on the basis of the evaluation that the total plant quality control system, total quality control for labeling system, or partial control program will result in finished products and/or product labeling, as the case may be, controlled in the manner being in full compliance with requirements of the Act and regulations, the system or program will be approved. Plans will be made for implementation under USDA supervision.

(2) In any situation where the system or program is found by the Administrator to be unacceptable, formal notification shall be given to the applicant of the basis for the denial. The applicant will be afforded an opportunity to modify the system or program in accordance with this notification. The applicant shall also be afforded an opportunity to submit a written statement in response to this notification of denial and a right to request a hearing with respect to the merits or validity of the denial. If the applicant requests a hearing and the Administrator, after review of the answer, determines the initial determination to be correct, he shall file with the Hearing Clerk of the Department the notification, answer and the request for hearing, which shall constitute the complaint and answer in the proceeding, which shall thereafter be conducted in accordance with Rules of Practice which shall be adopted for this proceeding.

(3) The establishment shall be responsible for the effective operation of the approved total plant quality control system, total quality control for labeling system, or partial quality control program to assure compliance with the requirements of the Act and regulations. The Secretary shall continue to provide the Federal inspection necessary to carry out the responsiblities of the Act.

* * * * *

5. Newly redesignated paragraph (h) would be renewed to read as follows

* * * * *

(h) *Termination of Total Plant Quality Control, Total Quality Control for Labeling, or Partial Quality Control* (1) Termination of an approval for total plant quality control system of an establishment with an approved total quality control for labeling system automatically terminates approval of both systems, but termination of the approval for a total quality control for labeling system does not automatically terminate approval for both systems.

(2) The approval of a plant quality control system, total quality control for labeling system, or a partial quality control program may be terminated at any time by the operator of the official establishment upon written notice to the Administrator.

(3) The approval of a total plant quality control system, total quality control for labeling system, or partial quality control program may be terminated upon the establishment's receipt of a written notice from the Administrator under the following conditions:

(i) If adulterated or misbranded poultry product is found by the Administrator to have been prepared for or distributed in commerce by the subject establishment. In such case, opportunity will be provided to the establishment owner or operator to present views to the Administrator within 30 days of the date of terminating the approval. In those instances where there is a conflict of facts, a hearing, under applicable Rules of Practice, will be afforded to the establishment owner

or operator, if requested, to resolve the conflict. The Administrator's termination of approval shall remain in effect pending the final determination of the proceeding.

(ii) If the establishment fails to comply with the quality control program to which it has agreed after being notified by letter from the Administrator or designee. Prior to such termination, opportunity will be provided to the establishment operator to present views to the Administrator within 30 days of the date of the letter. In those instances where there is a conflict of facts, a hearing, under applicable Rules of Practice, will be afforded to the establishment owner or operator, if requested, to resolve the conflict. The Administrator's termination of quality control approval shall remain in effect pending the final determination of the preceeding.

(4) If approval of the total plant quality control system, total quality control for labeling system, or partial quality control program has been terminated in accordance with the provisions of this section, an application and request for approval of the same or a modified total plant quality control system will not be evaluated by the Administrator for at least 6 months from the termination date; or for at least 2 months from the termination date in the case of a partial quality control program; or, in the case of a total quality control for labeling system, for at least 6 months from the termination date or satisfaction of the condition in paragraph (e)(2) of this section concerning operation of a USDA-approved total plant quality control establishment for 12 months.

Done at Washington, DC on: August 5, 1985.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 85-22763 Filed 9-24-85; 8:45 am]

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FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 541 and 542

[No. 85-821]

Corporate Governance

Dated: September 13, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed Rule.

SUMMARY: The Federal Home Loan Bank Board is proposing extensive revisions to its regulations regarding the corporate governance of federal associations. Due to the magnitude of the revisions, the Board intends to present the proposal in four parts which will be issued separately for public comment. The proposed regulations would reorganize portions of subchapter C (the regulations for federally chartered associations), and amend and add sections to provide a more logical and coplete body of rules for the corporate governance of federal associations. Part I would provide proposed definitions and set forth rules for the organization and incorporation of federal associations. Part II would contain provisions regarding federal stock associations and federal mutual associations Part III would propose revisions to the rules governing operations of and conversion to federal associations. Part IV would contain provisions regarding conservators, receivers, trust powers, miscellaneous provisions, Board rulings and statements of policy.

DATE: Comments on the proposal must be received by November 18, 1985.

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

FOR FURTHER INFORMATION CONTACT: David A. Permut, Senior Attorney (202-377-6962); V. Gerard Comizio, Attorney, (202-377-6457); Patricia D. Neidecker, Paralegal, (202-377-6410); or Julie L. Williams, Associate General Counsel and Director, (202-377-6459); Corporate and Securities Division, Office of General Counsel, at the above address.

SUPPLEMENTARY INFORMATION:

I. Overview

On October 15, 1982, the Garn-St Germain Depository Institutions act of 1982 ("Act") Pub. L. 97-320, was enacted. The Act greatly broadened the types of charters and organizational options open to federal associations. Previously, federal association could be organized on a *de novo* basis only as federal mutual sayings and loan associations. The Board could charter federal savings banks, but only as mutual institutions with accounts insured by the FSLIC, and only as a direct consequence of a conversion from a state-chartered mutual savings bank. The Act substantially expanded the Board's authority in this area, permitting not only *de novo* organization of federal savings banks but also allowing any current or future federal association to be chartered either as a federal savings and loan association or a federal savings bank. Furthermore, federal charters, whether in the stock or mutual from, may be obtained by state-chargtered savings banks without the requirement that they surrender their FDIC insurance in favor of FSLIC insurance of accounts.

In recognition of the fact that multiple options exist for the orgainzation of *de novo* federal association and the conversion of various coproate entities, the Board directed the staff to study whether the existing regulations adequately covered the multiplicity of structural options for federal associations. As a result, the Board has concluded that the existing regulations cover many of the options, but in a piecemeal fashion, and that a number of important matters relating to the coporate governance of federal associations have either not been adaquately covered or have not been addressed in codified form. Consequently, the Board has preliminarily determined to propose a substantial updating of its regulations for corporate governance of federal associations. The following proposed amendments to the federal regulations were developed, based on the Model Business Corporation Act ("MBCA"), the corporate codes of Delaware, California, New York and Florida, and the Board's experience with the specific statutory requirements involved in chartering or converting federal associations, set froth under the Home Owners' Loan Act of 1933, as amended, ("HOLA") 12 U.S.C. 1464 *et seq.*

II. Reorganization

The Board believes that the existing structure of the Fedeal Regulations could be improved, in order to present a more logical strúcture, so that the public would not need to hunt for the various rules governing federal associations, but could directly determine what they were. The following chart was developed to reorganize the Federal Regulations:

REGULATIONS FOR THE FEDERAL SAVINGS AND LOAN SYSTEM

Present	Proposed
Section I	
Part 541—Definitions	Part 541—Definitions.
Part 542—[removed 8/3/79]	Part 542—Organization and Incorporation of Federal Associations.
Section II	
Part 543—Incorporation, Organization and Conversion of Federal Mutual Associations.	Part 543—Federal Stock Associations.
Part 544—Charter and Bylaws.	Part 544—Federal Mutual Associations.

REGULATIONS FOR THE FEDERAL SAVINGS AND LOAN SYSTEM—Continued

Present	Proposed
Section III	
Part 545—Operations	Part 545—Operations.
Part 546—Merger, Dissolution, Reorganization and Conversion.	Part 546—Conversion of and to Federal Associations.
Section IV	
Part 547—Appointment of Conservators and Receivers.	Part 547—Appointment of Conservators and Receivers.
Part 548—Powers of Conservator and Conduct to Conservatorship.	Part 548—Powers of Conservator and Conduct of Conservatorship.
Part 549—Powers of Receiver and Conduct of Receivership.	Part 549—Powers of Receiver and Conduct of Receiverships.
Part 550—Trust Powers of Federal Associations.	Part 550—Trust Powers of Federal Associations.
Part 551—Service of Process Upon Board.	Part 551—Miscellaneous.
Part 552—Stock Associations	Part 552—Reserved.
Part 553—	Part 553—Reserved.
Part 554—	Part 554—Reserved.
Part 555—Board Rulings	Part 555—Board Rulings.
Part 556—Statements of Policy.	Part 556—Statements of Policy.

III. Description of the Proposed Amendments

A. Part 541—Definitions

1. Existing definitions were amended or redesignated to reflect the changes in the regulatory structure: §§ 541.1—Act; 541.2(c)—Federal Association; 541.2(d)—Interim Federal Association; 541.2(e)—Interim State Association; 541.6—Commercial Paper; 541.8—Corporate Debt Security; 541.9 Debit Card; 541.11—Director; 541.13—General Reserves; 541.14—Home; 541.14(a)—Combination of Home and Business Property; 541.14(b)—Dwelling Unit; 541.14(c)—Single-family Dwelling; 541.16—Insured Institution; 541.17—Loans; 541.17(a)—Guaranteed Loan; 541.17(b)—Insured Loan; 541.20—(Regulatory) Net Worth; 541.24—Residential Real Estate; 541.24(a)—Combination of Residential Real Estate and Business Property Involving Minor or Incidental Business Use; 541.24(b)—Improved Real Estate; 541.24(c)—Improved Residential Real Estate; 541.24(d)—Nonresidential Real Estate; 541.24(e)—Unimproved Real Estate; 541.24(f)—Cooperative housing development; 541.27(a)—Short-term Savings Accounts; 541.27(b)—Withdrawal Value of a Savings Account; 541.32 Supervisory-Agent; Principal Supervisory Agent;

2. New definitions were added, in alphabetical order, either from existing sections of the regulations and amended as necessary, or created to reflect the changes in the regulatory structure. These included: §§ 541.2—Association [old 552.13(b)(1)]; 541.3.—Bulk Purchase of Assets [new]; 541.4—Capital Stock [new]; 541.5—Chapter [new]; 541.8.—Consolidation [old 552.13(b)(2)]; 541.2(a)—Constituent Association [old 552.13(b)(3)]; 541.10 Depository Institutions [new]; 541.11—Director [old 541.31]; 541.2(b)—Disappearing Association [old 552.13(b)(4)]; 541.12—Dividend [new]; 541.15—Home Office [new]; 541.18 Members [new]; 541.19—Merger [old 552.13(b)(5)]; 541.2(f)—Mutual Association [old 552.13(b)(6)]; 541.20—Net Worth [new]; 541.21—Officer [new]; 541.2—Paid-in Capital [new]; 541.23—Redemption [new]; 541.2(g)—Resulting Association [old 546.1(c)]; 541.25—Retained Earnings [new]; 541.26—Retirement or Concellation of stock [new]; 541.28—State [HOLA]; 541.29—Stock [new]; 541.30—Stockholder [new]; 541.2(h)—Stock Association [old 552.13(b)(7)]; 541.31—Subscriber [new]; and 541.33—Treasury Stock [new].

B. Part 542—Organization and Incorporation

1. Sections of the existing Parts 543 and 552, as amended, have been put into this new section to create a logical structure for the chartering and organization of federal associations.

2. The following twelve sections are proposed.

542.1 Application for permission to organize
542.2 Corporate title
542.3 Organizational expense
542.4 Public notice and protest
542.5 Conditional approval of application/corporate existence
542.6 Interim board of directors and interim officers
542.7 Certificate of authority
542.8 Failure to complete organization
542.9 Interim associations
542.10 Associations proposed by the Corporation or the Federal Deposit Insurance Corporation
542.11 Limitation on transaction of business
542.12 Service of process

3. Section 542.1—Application for permission to organize—contains many parts of the old §§ 543.2 and 552.2.

Paragraph (a)—*General*—is a general section and remains unchanged.

Paragraph (b)—*Computation of time*—is a new section relating to timetables applied to applications for permission to organize as well as other applications when incorporated by reference by other regulations. This paragraph is in part derived from existing section 505 of the General Regulations.

Paragraph (c)—*Forms supporting information*—is current § 543.2(b) with several significant amendments. Applications could be submitted by five persons in recognition of the fact that the applicants generally become the first board of directors. This would also be consistent with the proposed elimination of the cumulative voting requirement, discussed below; in which case a five person organizational committee would be all that would be necessary. Preprinted charters would be available from the Supervisory Agent ("SA"). An undertaking that no funds would be accepted for deposit until receipt of the new certificate of authority, discussed below, would also be made an initial application requirement.

Paragraph (d)—*Amendment of applications; substitution of applicants; and additional information*—is current § 543.2(c) with the addition of directions to the applicants should they desire to substitute another applicant(s) prior to Board approval of their application.

4. Section 542.2—*Corporate title*—Paragraph (a) *General*—is the first part of current § 543.1. The second part of that section regarding title changes has been included in the amendment of charter sections at proposed new Parts 543 and 544.

Paragraph (b)—*Registered name*—is a new section drawn from the MBCA. While the Board would not "reserve" a corporate title for future use of an association in its record system, such registration would provide a means of notifying the public of the use or intended use of a registered title and could serve to reduce litigation in this area.

5. Section 542.3—*Organizational expenses*—is a new section to indicate to organizational groups the extent of permissible organizational expenses, the necessity of meeting the Board's minimum-capitalization requirements net of expenses, and the liability of the organizers for expenses in the event of withdrawal or disapproval of the application.

6. Section 542.4—*Public notice and protests*—contains most of current §§ 543.2(d), (e) and (f).

Paragraph (a)—*Public notice and inspection*—is essentially current § 543.2(d).

Paragraph (b)—*Protest*—tracks current § 543.2(e), but additionally would allow the SA to determine substantiality rather than the Principal SA, in order to expedite the process.

Paragraph (c)—*Oral argument*—is essentially current § 543.2(e), modified to provide that the Supervisory Agent will determine the time and place of oral argument.

7. Section 542.5—*Conditional approval application for permission to organize and commencement of*

corporate existence—is a new section to expressly provide that corporate existence commences upon conditional Board approval of the application, but that applicants must fulfill any conditions of the Board approval prior to being issued a certificate of authority to commence business operations. This section also refers applicants to the Administrative Procedure Act for their right to appeal in the case of Board denials.

8. Section 542.6—*Interim board of directors and interim officers*—is derived from current §§ 543.6(a) and 552.2–1(d).

9. Section 542.7—*Certificate of authority*—In a codification of longstanding practice, this new section would direct the Principal SA to issue a certificate of authority to commence business when he is satisfied that the applicants have satisfied the minimum-capitalization requirements, sold stock in accordance with the requirements of Part 563g [as proposed], obtained Bank membership and insurance of accounts, paid the necessary premium to the FSLIC for insurance, elected interim officers, bonded the interim officers, directors and agents, and have complied with any undertaking made in connection with the application or other requirement or condition imposed by the Board.

10. Section 542.8—*Failure of completion*—is essentially current §§ 543.6(d) and 552.2–1(i).

11. Sections 542.9—*Special procedures for interim Federal associations*—is essentially current §§ 543.2(h) and 552.2–2, but provides for a delegation to the Supervisory Agent for the use of interims in transactions when the interim will disappear.

12. Sections 542010—*Federal associations proposed by FSLIC or FDIC*—is essentially current §§ 543.7–1 and 552.2–3 with a provision added for institutions proposed by the FDIC under section 5(o) of the HOLA or any successor provisions.

13. Section 542.11—*Limitations on transactions of business*—is essentially current § 552.2–4 with a reference to the proposed new "certificate of authority" section.

14. Section 542.12—*Service of process*—is a new section to provide explicit direction with regard to service of process. The Board is requesting public comment on any alternate service-of-process rule such as using existing state law for service of process for federal associations with home offices in that State.

Paragraph (a)—*Registered office and registered agent*— would explicitly designate a registered office for a federal association and allow the association to appoint a registered agent for service of process.

Paragraph (b)—*Out-of-state offices and service by mail*—would establish procedures for service of process when offices of the association are outside the state where the home office is located. In addition, the section would codify the longstanding Board position that service corporation offices and agency offices are separate corporate entities to which state law on service of process applies.

C. Comment Period and Effective Date

The Board is soliciting comments on Part I of the proposal for a period of 60 days, but will also accept comments after the 60-day period if made in conjunction with comments regarding later Parts of the proposal.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603 (1982), the Board is providing the following initial regulatory flexibility analysis:

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

2. *Small entities to which the proposed rules would apply.* The rule would apply to all federally chartered savings and loan associations and savings banks ("federal associations").

3. *Impact of the proposed rules on small institutions.* The policies will affect all federal associations equally and will not have an adverse impact on small institutions.

4. *Overlapping or conflicting federal rules.* There are no known federal rules which duplicate, overlap, or conflict with the proposed rules.

5. *Alternatives to the proposed rule.* There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed in the supplementary information set forth above.

List of Subjects in 12 CFR Parts 541 and 542

Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby proposes to revise Part 541 and add Part 542, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

1. Revise Part 541 as follows:

PART 541—DEFINITIONS

Sec.

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947; 3 CFR 1943–1948 comp.) p. 1071.

§ 541.0 General rules of construction.

Unless another definition is provided in this subchapter, or the context otherwise requires, the definitions in Part 521 of this chapter apply.

§ 541.1 Act.

The Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1461 *et. seq.*

§ 541.2 Association.

Any building and loan, savings and loan, or homestead association, cooperative bank or savings bank organized under Federal or state law, including interim Federal associations and interim state associations.

(a) *Constituent association.* Resulting or disappearing association in a merger, consolidation or bulk purchase of assets.

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

(c) *Federal association.* A savings and loan association or savings bank chartered by the Board under section 5 of the Act and, except as the Board may otherwise provide, any building and

loan, savings and loan, building, or homestead association, organized or incorporated under the laws of the District of Columbia.

(d) *Interim Federal association.* An association chartered by the Board under section 5 of the Act to facilitate the acquisition of an existing Federal association or other insured institution or to facilitate any other transaction the Board may approve.

(e) *Interim state association.* An insured institution, other than a Federal association, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, chartered to facilitate the acquisition of an existing Federal association or other insured institution or to facilitate any other transaction the Board may approve.

(f) *Mutual association.* Any association not authorized to issue stock under Federal or state law.

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

(h) *Stock association.* Any association authorized to issue stock.

§ 541.3 Bulk purchase of assets.

A transfer of all or substantially all the assets, which may include the assumption of all or substantially all the liabilities of an association or a depository institution to or from a Federal association.

§ 541.4 Capital stock.

Common, preferred or other equity securities that can be issued by a Federal stock association, but not including mutual capital certificates, income capital certificates, Net Worth Certificates or subordinated debt.

§ 541.5 Charter.

The document issued by the Board granting Federal associations the right to operate perpetually for the purpose or purposes enumerated under section 5 of the Act and subject to the Constitution, the laws of the United States and the applicable rules, regulations, and orders of the Board. The charter shall include any amendments or supplements thereto, and any revised charter.

§ 541.6 Commercial paper.

Any note, draft, or bill of exchange which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited.

§ 541.7 Consolidation.

Fusion of two or more associations into a newly-created association having the combined powers and rights of all its constituent associations.

§ 541.8 Corporate debt security.

A marketable obligation evidencing the indebtedness of any corporation in the form of a bond, note and/or debenture which is commonly regarded as a debt security and is not predominantly speculative in nature. A security is marketable if it may be sold with reasonable promptness at a price which corresponds reasonably to its fair value.

§ 541.9 Debit card.

A card that enables an accountholder to obtain access to a savings account for the purpose of making withdrawals or of transferring funds to a third party by non-transferable order or authorization.

§ 541.10 Depository institution.

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

§ 541.11 Director.

Any director, trustee, or other person performing similar functions with respect to any organization whether incorporated or unincorporated. The term does not include an advisory director, honorary director, director emeritus, or similar person, unless the person is otherwise performing functions similar to those of a director.

§ 541.12 Dividend.

A transfer of cash or assets or an occurrence of indebtedness to or for the benefit of any stockholders without consideration, including a transfer by an affiliate. A dividend does not include a *pro rata* distribution to stockholders of stock in the association or the purchase of stock for cash or property.

§ 541.13 General reserves.

Aggregate reserves established solely to meet losses.

§ 541.14 Home.

Real estate comprising a single-family dwelling(s) or a dwelling unit(s) for four or fewer families in the aggregate.

(a) *Combination of home and business property.* A home used in part for business.

(b) *Dwelling unit.* The unified combination of rooms designed for residential use by one family, other than a single-family dwelling.

(c) *Single-family dwelling.* A structure designed for residential use by one family, or a unit so designed, whose owner owns, directly or through a non-profit cooperative housing organization, an undividend interest in the underlying real estate, including property owned in common with others which contributes to the use and enjoyment of the structure or unit.

§ 541.15 Home office.

The office designated in Section Two of a Federal association's charter.

§ 541.16 Insured institution.

An insured institution as defined in § 561.1 of this Chapter.

§ 541.17 Loans.

Obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

(a) *Guaranteed loan.* A loan guaranteed or as to which a commitment to guarantee has been made under the Servicemen's Readjustment Act of 1944, or Chapter 37 of Title 38, U.S. Code, as amended.

(b) *Insured loan.* A loan as to which the mortgage is insured, or as to which a commitment for such insurance has been made under the National Housing Act or the Servicemen's Readjustment Act of 1944, or Chapter 37 of Title 38 U.S. Code, as amended.

§ 541.18 Members.

Any holder of an association's savings, demand or other authorized accounts or other persons deemed members under the charter of a Federal mutual association.

§ 541.19 Merger.

United two or more associations by the transfer of all property rights and franchises to the resulting association, which retains its corporate identity.

§ 541.20 Net worth.

Regulatory net worth as defined in § 561.13 of this Chapter.

§ 541.21 Officer.

The president, and any vice-president, secretary, treasurer, comptroller and any other person performing similar functions with respect to any association. The term "officer" also includes the chairman of the board of

directors, the chief executive officer, chief financial officer, or a person performing similar functions, if such individual is authorized by the charter or bylaws of the association to participate in its operating management or if such individual in fact participates in such management.

§ 541.22 Paid-in capital.

The sum of the cash and other consideration received, less expenses, including commissions, which sum is paid or incrred by the association in connection with the issuance of stock, plus any cash and other consideration contributed to the association by or on behalf of its stockholders or transferred to paid-in capital by action of the board of directors or stockholders, less any distribution therefrom.

§ 541.23 Redemption.

(a) *Account redemption.* The termination by repayment of all or any part of the savings accounts of a Federal association pursuant to provisions in such association's charter or § 555.8 of this subchapter.

(b) *Stock redemption.* A reacquisition by a Federal stock association of the association's stock in accordance with the terms of the issuance of such stock.

§ 541.24 Residential real estate.

The terms "residential real estate" or "residential real property" means homes (including condominiums and cooperatives), combinations of homes and business property, other real estate used for primarily residential purposes other than a home (but which may include homes), combinations of such real estate and business property involving only minor business use, farm residences and combinations of farm residences and commercial farm real estate, property to be improved by the construction of structures, or leasehold interests in the above real estate.

(a) *Combination of residential real estate and business property involving only minor or incidential business use.* Residential real estate for which no more than twenty percent of the total appraised value of the real estate is attributable to the business use.

(b) *Improved nonresidential real estate.* Nonresidential real estate (1) containing a permanent structure(s) constituting at least 25 percent of its value, or (2) containing improvements which make it usable by a business or industrial enterprise; or (2) used, or to be used within a reasonable time, for commercial farming, excluding hobby and vacation property.

(c) *Improved residential real estate.* Residential real estate containing offsite or other improvements sufficient to make the property ready for primary residential construction, and real estate in the process of being improved by a building or buildings to be constructed or in the process of construction for primarily residential use.

(d) *Nonresidential real estate.* The terms" "nonresidential real estate" or "nonresidential real property" mean real estate that is not "residential real estate", as that term is defined in paragraph (a) of this section.

(e) *Unimproved real estate.* Real estate that will be improved, as defined in paragraphs (b) or (c) of this section.

(f) *Cooperative housing development.* Real estate primarily comprising a group of single-family dwellings owned by a non-profit cooperative housing organization.

§ 541.25 Retained earnings.

Cumulative net income and losses from past fiscal years that have not been distributed.

§ 541.26 Retirement of cancellation of stock.

Removal of reacquired stock from the status of outstanding and issued stock.

§ 541.27 Definitions relating to savings accounts.

(s) *Short-term savings account.* A savings account which will be withdrawn in less than twenty-four months or was established to accumulate funds to pay taxes or insurance permiums or real estate sucuring a loan.

(b) *Withdrawal value of a savings account.* The amount invested in a savings account plus earnings credited thereto, less lawful decuctions therefrom.

§ 541.28 State.

Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Somoa, and any territory or prossession of the United States.

§ 541.29 Stock.

Common or preferred stock.

§ 541.30 Stockholder.

The owner as reflected on the books and records of the association of common or preferred stock in a stock association.

§ 541.31 Subscriber.

One who subscribes for stock in a stock association or the required capital of a mutual association.

§ 541.32 Supervisory Agent; Principal Supervisory Agent.

(a) *Supervisory Agent.* The Principal Supervisory Agent or any other officer or employee of the Federal Home Loan Bank designated under § 501.10 or § 501.11 of this Chapter.

(b) *Principal Supervisory Agent.* The President of the Federal Home Loan Bank of the district in which a Federal association or insured institution is, or will be, located, or any other person designated in writing as Principal Supervisory Agent by the Board to serve as such for such term as under such conditions as may be specified.

§ 541.33 Treasury stock.

The stock of an association which has been issued, has been acquired by and is held by the association, and has not been cancelled or restored to the status of authorized by unissued stock. Treasury stock shall be deemed to be "issued" stock, but not "outstanding" stock.

2. Add Part 542 as follows:

PART 542—ORGANIZATION AND INCORPORATION

Sec.

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. plan No. 3 of 1947; 3 CFR 1943–1948 Comp., p. 1071.

§ 542.1 Application for permission to organize.

(a) *General.* Questions regarding this section shall be directed to the Supervisory Agent of the Federal Home Loan Bank of which the institution will be a member. Recommendations by Supervisory Agents and offices and employees of the Board regarding applications for permission to organize a Federal association are privileged, confidential, and subject to § 505.5 of this Chapter.

(b) *Computation of time.* In computing any period of time prescribed or allowed by this part, the date of the act, event, or default from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday, or a Federal holiday, in which event the period shall run until the next day which is neither a Saturday, Sunday nor a Federal holiday.

(c) *Forms; supporting information.* Persons applying for permission to organize a Federal association shall obtain the Board-approved application and notice forms and related instructions from the Supervisory Agency. An application for Federal Home Loan Bank membership pursuant to Part 523 and an application for insurance of accounts pursuant to Part 562 shall be filed. An application for permission to organize and all required supporting information shall be executed by at least five persons (the "applicants") and submitted to the Supervisory agent. The applicants shall propose a corporate title in accordance with § 542.2 of this Part to be included in Section One of the association's charter. The applicants shall specify the type of standard charter, which may include any preapproved charter provisions desired. Preprinted standard charters, preapproved optional charter provisions and model bylaws shall be available from the Supervisory Agency. The supporting information shall show: (1) Applicants are citizens of the United States of good character and responsibility; (2) there is a need for the proposed association in the community to be served by it; (3) the association has a reasonable probability of success; (4) the association can be established without undue injury to properly conducted existing local thrift and home-financing institutions; and (5) a description of local community credit needs. The application shall also include an undertaking that no funds will be accepted for deposit until the Board or its delegate issues a certificate of authority pursuant to § 542.7 of this Part. An application shall be deemed filed when an original and two conformed copies are delivered to the Supervisory Agent; the Supervisory Agent shall notify the applicant in writing that the application is complete and direct the applicant to publish notice pursuant to § 542.4(a) of this Part when the Supervisory Agent determines that all information required under this paragraph (c) has been submitted.

(d) *Amendment of application; substitution of applicants; and additional information.* An applicant may amend an application or file additional supporting information only until publication of notice under § 542.4(a), unless otherwise requested to do so by the Supervisory Agent or the Board. Change in the composition of the applicants shall be made upon the filing of required information and only with the approval of the Supervisory Agent. In connection with such changes, the Supervisory Agency may require additional information or a new application.

§ 542.2 Corporate title.

(a) *General.* A Federal association's corporate title shall be as specified in its charter. Except for corporate titles in existence or applied for as of May 4, 1984, a Federal association's title shall include the word "Savings" and in some manner indicate that the association is a Federal association. A Federal association shall not adopt a title that misrepresents the nature of the institution or the services it offers. A Federal association may effect a change in its corporate title by amending its charter in accordance with this section and §§ 543.4 or 544.4 of this subchapter.

(b) *Registered name.* Persons applying for permission to organize a Federal association pursuant to § 542.1 of this Part or a Federal association proposing to change its corporate title pursuant to section § 543.4 or 544.4 shall register the title with the Supervisory Agent. The register of proposed titles will be open to public inspection. Corporate titles may not, however, be "reserved" for future use and registration under this section is not dispositive of nor is it intended to address an association's right to use such title. Corporate titles of institutions that completed their organization prior to [Effective Date of final rule if adopted] shall be deemed registered with the Supervisory Agent.

§ 542.3 Organizational expenses.

(a) *General.* Expenses incurred by applicants in making an application for permission to organize a Federal association will generally be allowed, as a charge to an approved association's capital, if such expenses are reasonably documented and disclosed to current and/or prospective stockholders in the case of a stock association, or pledgees in the case of a mutual association, with sufficient information to enable stockholders or pledgees to evaluate the reasonableness of the expenses. Organizational expenses typically include filing fees, cost of professional and consulting services, travel expenses, and printing, postage, telephone and supply costs. While some professional and consulting assistance is normal and may properly be charged to the association's organizing expenses, organizers are expected to be able to contribute time and expertise to the organization of the association and should neither unduly rely upon, nor make an excessive charge to, the association's accounts for professional and consulting services.

(b) *Failure to document; excessive expenses.* Organization expenses which are not documented, not adequately disclosed, clearly unnecessary, or so large that the payment would render capital inadequate, reflect adversely on the organizing group. The Board may prohibit payment of excessive expenses from association funds and/or require that additional capital, sufficient to compensate for excessive expenses, be raised prior to issuance of a certificate of authority to commence business.

(c) *Responsibility for expenses.* Organizational expenses for disapproved or withdrawn applications are the sole responsibility of the organizing group. Any fee which is contingent upon any action, decision, or forbearance on the part of the Board will generally be grounds for withdrawal of the conditional approval of the application for permission to organize or for disapproval of the application.

§ 542.4 Public notice and protest.

(a) *Public notice and inspection.* (1) The applicants shall publish notice within 10 days after being notified by the Supervisory Agent that the application is complete. Notice shall be published in a newspaper printed in the English language and having a general circulation in the community in which the home office of the new association is to be located. If the Supervisory Agent determines that the primary language of a significant number of adult residents of the community is a language other than English, the Supervisory Agent may require that notice also be given simultaneously in the appropriate language(s).

(2) Promptly after publication, the applicant(s) shall transmit to the Supervisory Agent a copy of such notice and publisher's affidavit of publication.

(3) The Supervisory Agent shall give notice of the application to the State official who supervises savings and loan associations in the state in which the home office of the new association is to be located, and to persons whose requests for announcements under Part 563e of this Chapter have been received in time for such notification; these notices shall be in addition to legal notification as set forth in this section. The Supervisory Agent may also give

notice to any other persons he believes might have an interest in the application.

(4) The application and its filing shall be confidential until publication of notice. Thereafter, the application and all related communications may be inspected by any person at the Supervisory Agent's office during regular working hours, unless application information is exempted from public disclosure under § 505.5 of this Chapter.

(b) *Protest.* Communications and answers to protests shall be submitted only as provided in this paragraph (b) or as requested by the Supervisory Agent or the Board.

(1) Within 10 days of the date of publication of notice of application (or 17 days after such date if an extension is requested in writing within the 10-day period), anyone may file a communication in favor or in protest of the application by furnishing three copies to the Supervisory Agent. If the applicant or any person who has filed a substantial protest pursuant to this paragraph wishes to have oral argument heard on the merits of an application, a request for oral argument must be made within 10 days of that person being informed that the protest is substantial.

(2) Within 10 days after the filing of a protest, the Supervisory Agent shall advise the protestant and the applicant, in writing, whether the protest is considered "substantial."

(3) A protest will be considered substantial only if it is written and seasonably filed, and only in those instances where the reason for the protest is consistent with one of the regulatory bases set forth in the relevant regulation for denying the application (excluding supervisory considerations) and contains at least the following:

(i) A summary of the reasons for the protest;

(ii) The specific matters in the application to which the protestant objects, and the reasons for each objection;

(iii) Facts supporting the protest, including relevant economic or financial data; and

(iv) Any adverse effects on the protestant which may result from approval of the application.

(4) A protest filed by an individual or community group pertaining to an applicant's performance under Part 563e of this Chapter (the Community Reinvestment Act regulations) shall not be considered insubstantial merely because of the form in which it is submitted. The Supervisory Agent's determination whether a protest is "substantial" is final.

(5) The applicant may file an answer to any protest until 10 days after receiving notice pursuant to paragraph (b)(2), of this section, by furnishing three copies to the Supervisory Agent.

(c) *Oral argument.* (1) *General.* Oral argument on the merits of an application shall be heard if (i) the applicant or anyone who has filed a substantial protest has seasonably requested it pursuant to paragraph (b) of this section; or (ii) the Supervisory Agent, after reviewing the application and other pertinent information, considers oral argument desirable. The Supervisory Agent shall mail notice of the time (which shall be not less than 10 days after such mailing) and place of oral argument to the applicant and to all persons who filed substantial protests. The Supervisory Agent shall designate the time and place of any oral argument.

(2) *Procedure.* The Supervisory Agent, or any other person designated by the Board, may hear and determine all matters relating to the conduct of oral argument. Arguments may be made in person or by authorized representatives and, unless otherwise permitted by the Supervisory Agency, shall be based only on written information previously filed and determined to be substantial protests. A reasonable time of at least one hour shall be allowed to each side for oral argument. A transcript of the oral argument shall be made and included in the application file.

§ 542.5 Conditional approval of application for permission to organize and commencement of corporate existence.

Except as otherwise provided in § 542.9(b) of this Part, applications for permission to organize may only be approved by the Board and shall be subject to the condition that applicants obtain a certificate of authority under § 542.7 of this Part and to any other conditions imposed by the Board. Upon conditional approval of an application, the Board shall issue to the association a charter for a Federal savings and loan association or for a Federal savings bank, as requested by the applicants, which shall be in the form provided in Part 543 or 544 of this subchapter and which shall be furnished to the association at the time the certificate of authority is issued. Corporate existence commences upon conditional Board approval of such application. Denials of permission-to-organize applications may be appealable under 5 U.S.C. 701–706 (1976).

§ 542.6 Interim board of directors and interim officers.

Upon approval of an application for permission to organize a Federal association, the applicants shall constitute the interim board of directors of the association until the board of directors of the association are elected by the members at the organizational meeting. The interim officers of the association shall be elected by the interim directors and shall serve until their successors are duly elected and qualified. The association must hold an organizational meeting to elect its directors and officers within six months after receiving a certificate of authority to commence business. The interim officers may effect compliance with any conditions prescribed by the Board.

§ 542.7 Certificate of authority.

A Federal association may commence business activities only upon receipt of a certificate of authority. The Principal Supervisory Agent shall issue a certificate of authority and furnish the association an executed copy of the association's charter when it has been demonstrated to his satisfaction that:

(a) There are sufficient funds paid in to the association to satisfy the minimum-capitalization requirements specified in the Board's conditional approval of the application for permission to organize, and, with respect to a stock association, all shares of stock proposed to have been sold have been sold and fully paid for or, with respect to a mutual association, all accounts proposed to have been pledged as capital, have been so pledged;

(b) Any stock sold has been sold in accordance with the requirements of Part 563g [as proposed elsewhere in this issue of the **Federal Register**].

(c) The association's interim officers, directors, and agents have been bonded to the extent required by § 563.19 of this Chapter;

(d) The association has obtained membership in the Federal Home Loan Bank for which it is eligible to be a member under § 523.3–2 of this Chapter;

(e) The association has paid the necessary premium and received insurance of accounts from the Corporation; and

(f) The association and organizers have complied with all undertakings made in connection with the application and with any other requirement or condition imposed by the Board by regulation or resolution.

§ 542.8 Failure of completion.

Any charter issued by the Board shall become void and all subscriptions to capital stock in the case of a stock association, or pledges in the case of a mutual association, shall thereupon be returned, if (a) a certificate of authority

is not issued to a Federal association within six months after the Board conditionally approves the application for permission to organize, or within such additional period as the Board or its delegate for good cause may grant, or (b) in the case of an interim Federal association, if a transaction facilitated by the existence of an interim institution has not been approved.

§ 542.9 Special procedures for interim Federal associations.

(a) *General.* The procedures prescribed by § 542.4 (a), (b), and (c) of this Part shall not be required with respect to applications for permission to organize an interim Federal association except as may be required by Parts 543, 544, 563, and 574 of this Chapter.

(b) *Approval.* Conditional approval of an application for permission to organize an interim Federal association shall be conditioned on Board or delegated approval of the transaction in the following situations: (1) Where the corporate existence of an interim Federal association will not continue after consummation of the transaction which it is chartered to facilitate, the applicants need not obtain a certificate of authority but must satisfy any conditions imposed by the Supervisory Agent who may grant both conditional and final approval of the application in conjunction with approval of an application, a failure to disapprove a change-in-control notice, or failure to object to a notice of an exempt acquisition filed pursuant to Part 574. (2) Where the corporate existence of an interim Federal association will continue after the consummation of the transaction which it is chartered to facilitate, the applicants must obtain a certificate of authority pursuant to this Part and may receive conditional and final approval of the application only from the Board in conjunction with approval of an application, a failure to disapprove a change-in-control notice, or failure to object to a notice of an exempt acquisition filed pursuant to Part 574. In evaluating the information provided in accordance with the requirements of § 542.1(c) of this Part, the Board or the Supervisory Agent will consider the purpose for which the interim association will be organized, the form of any proposed transaction involving the interim association, the effect of the transaction on any existing institution involved in the transaction, and the effect of the transaction on the community and other properly conducted existing thrift institutions.

§ 542.10 Federal associations proposed by the Corporation or the Federal Deposit Insurance Corporation.

Sections 542.1 through 542.9 of this Part do not apply to a Federal association which is proposed by the Corporation under section 5(p) of the Act or to a Federal association which is proposed by the Federal Deposit Insurance Corporation under section 5(o) of the Act. Incorporation and organization of such associations shall be complete when the Board so determines.

§ 542.11 Limitations on transaction of business.

No person may collect money from others for the purpose of organizing a Federal association, or represent himself as authorized to do so, until the Board has conditionally approved the application for permission to organize pursuant to § 542.5 of this Part, and no Federal association shall transact any business prior to obtaining a certificate of authority to commence business pursuant to § 542.7 of this Part.

§ 542.12 Service of process.

(a) *Registered office and registered agent.* Service of legal process upon a Federal association shall be made by delivering a copy personally to the president, secretary, or registered agent of the Federal association at its home office, which for purposes of this section shall constitute the registered office of the Federal association. A registered agent, appointed by the board of directors, may consist of either the president, vice president, secretary, assistant secretary or any director of the Federal association. Where the principal place of business is not the home office, the board of directors shall designate a registered agent at the home office. A listing of the registered agent and the address of the home office shall be obtainable at any Office of the Federal association and a current copy of the listing shall be sent to the Supervisory Ageny.

(b) *Out-of-state offices and service by mail.* Service of legal process upon a Federal association with offices in a state other than the state where the home office is located may be made by mailing such service of legal process, by certified mail, return receipt requested, to the president, secretary, or the registered agent at the home office. Offices of service corporations or agencies of the Federal association shall not constitute offices of the Federal association for purposes of this section, and service of process shall be made upon such other entities as is provided for by the laws of the state where such entity is located.

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 85-22611 Filed 9-24-85; 8:45 am]

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12 CFR Parts 563, 563c, and 563g

[No. 85-822]

Securities Offerings

September 13, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is proposing to adopt regulations governing certain offers or sales of securities issued by an institution ("issuer"), where (1) the institution is an "insured institution" as that term is defined in § 561.1 of the Board's Insurance Regulations, (2) the institution is a federally-chartered insured institution in organization, or (3) the institution is a state-chartered institution and is approved for insurance of accounts by the Corporation within one year of an offer or sale of the institution's securities. The proposed rules would provide that an issuer's offer or sale of securities shall be made only through the use of an offering circular which has been filed with and declared effective by the Corporation. Exemptions would be available for offerings (1) made prior to the effective date of any final rules, (2) of securities and transactions exempt from registration under certain sections of the Securities Act of 1933 ("Securities Act"), (3) of certain collateralized debt securities in minimum denominations of $100,000 or more, (4) complying with the Board's regulations on retail repurchase agreements, except where the issuer has a net-worth deficiency, (5) in conversions from mutual to stock form other than in a supervisory case, (6) in certain non-public offerings, and (7) of securities distributed exclusively abroad to foreign nationals. The offering circular would be required to comply with certain items of Form OC and Form PS under the Board's Conversion Regulations and with all of the items of the registration form that the issuer could use if it were required to register the securities under the Securities Act. The Board also is proposing to amend its

regulations governing mutual capital certificates, outside borrowings, and subordinated debt to eliminate offering-circular requirements that would be rendered unnecessary by the proposed regulations, eliminate the minimum-denomination requirements for outside borrowing and subordinated debt securities, and permit an insured institution or an affiliate to offer or sell its securities in the offices of the insured institution under specified circumstances. Finally, the Board proposed to amend its retail-repurchase-agreement regulations to clarify the offering-circular requirements.

The proposal is a modified version of an earlier proposal which is being withdrawn. The principal modifications: (1) Delete the first proposal's exemptions for certain exchange offerings, intrastate offerings, and offerings to employees, officers or directors pursuant to certain stock plans; (2) provide an exemption for certain collateralized debt securities issued in minimum denominations of $100,000 or more; (3) require issuers in a public offering to register under the Securities Exchange Act of 1934 ("Exchange Act") and not deregister for one year; (4) clarify that the exemption for a non-public offering is only available upon compliance with the Board's requirements; (5) revise the first proposal's exemption for a non-public offering, from sales to not more than 15 persons to sales to not more than 35 sophisticated investors; (6) provide a procedure for shelf-registration; and (7) add provisions for enforcement which provide for the Corporation to direct a rescission offer.

The purpose of the proposed regulations is to establish uniform rules for securities offerings applicable to all insured institutions and thereby reduce the risk that securities offerings of insured institutions would have an adverse effect on the safety and soundness of such institutions or the FSLIC fund.

DATE: Comments must be received by November 18, 1984.

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

FOR FURTHER INFORMATION CONTACT: John P. Harootunian, (202-377-6415), Deputy Director for Securities, Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION:

A. Background: Board Regulation of Securities Offerings

By Resolution No. 83-126, dated March 2, 1983 (48 FR 10684, March 14, 1983), the Board proposed regulations for securities offerings ("first proposal"). On the same day, by Resolution No. 83-127 (48 FR 10612, March 14, 1983), the Board also adopted regulations under its new chartering authority which require *de novo* federally-chartered stock institutions to comply with the proposed securities regulation or such final regulation as is adopted by the Board.

Upon further consideration, the Board is withdrawing the first proposal in favor of the modified proposal set forth herein. The Board believes that modifications are appropriate in response to the comments received on the first proposal, as discussed below, and in light of the Board's experience with filing relating to securities offerings by *de novo* federally-chartered stock institutions.

The modified proposal, like the first proposal, would be applicable to institutions the accounts of which are insured by the FSLIC ("insured institutions"), federally-chartered stock savings and loan associations and savings banks in organization, and state-chartered savings and loan associations and savings banks approved for insurance of accounts by the Corporation within one year of an offer or sale of the institution's securities.

Pursuant to section 3(a)(5) of the Securities Act, securities issues by savings and loan associations and similar institutions "supervised and examined by State or Federal authority having supervision over . . . such institution[s]" are exempt from the registration requirements of the Securities Act. However, because the section 3(a)(5) exemption from securities registration is limited to savings and loan associations and similar institutions that are regulated by a federal or state authority (which is similar to the registration exemption for commercial banks under section 3(a)(2) of the Securities Act), a principal ground for the exemption is that the focus of regulation of the securities activities of financial institutions supervised, examined, and insured by a federal authority should be such authority rather than the Securities and Exchange Commission ("Commission"). Because the Board has supervisory and examination authority over insured institutions, it is the Board's responsibility to regulate the securities activities of those institutions when it finds such regulation to be necessary or appropriate for the protection of the investing public and the FSLIC fund.

While securities issued by insured institutions are exempt from the Securities Act registration requirements, the offer and sale of those securities are subject to certain of the antifraud provisions of the Securities Act and the Exchange Act. Although the antifraud provisions are by their terms prohibitions against certain types of conduct, their practical effect is to prescribe that an issuer make full and fair disclosure of all information material to an investment decision in connection with the offer and sale of securities. Generally, an issuer's compliance with disclosure regulations will reduce the risk of securities fraud and of potential liability.

For an insured institution, a material violation of the federal securities laws' antifraud provisions would constitute an unsafe and unsound practice. In addition, the safety and soundness of the thrift industry is dependent upon its access to capital and the rational free-market allocation of capital among individual insured institutions. The use of inadequate or misleading disclosure by individual insured institutions in connection with the offer and sale of securities could have a significant adverse effect on the capabilities of other insured institutions to raise capital, could result in an irrational allocation of capital within the industry, and could lead to illiquid and disorderly markets for the securites of insured institutions. Therefore, the Board has the responsibility of regulating the securities activities of insured institutions when it determines that such regulation is necessary or appropriate for the preservation of the safety and soundness of insured institutions. Further, the Board has the responsibility of regulating the securities activities of insured institutions when it determines that such regulation is necessry or appropriate to ensure that they are able to perform their functions as providers of housing finance. Finally, the Board has the responsibility of regulating the securities activities of all insured institutions with a class of securities registered under the Exchange Act when it determines that such regulation is necessary or appropriate in the public interest for the protection of investors and to ensure fair dealing in the securities of such insured institutions.

The Board has long found it appropriate to regulate the offer and sale of debt securities by all insured institutions. See, 12 CFR 563.8 (f), (g), and (h), 12 CFR 563.8-1(d), and 12 CFR 563.8-4. The Board also has regulated

the offer and sale of equity securities by insured institutions converting from the mutual to the stock form of organization. See, 12 CFR Part 563b. However, the Board has not regulated the post-conversion offer and sale of equity securities by insured institutions. One reason that regulation has not been extended to this area has been the absence until recently of many institutions organized in stock form. Moreover, many of the stock institutions were converted from mutual to stock form under the Board's rules which apply to converted institutions the periodic reporting requirements of the Exchange Act. Therefore, the Board's rules ensured to some extent that disclosure made by competing insured institutions in post-conversion public offerings of equity securities should be comparable. In addition, the approximately 356 institutions that have converted to stock form under the Board's rules have in most cases not been in the stock form long enough to contemplate post-conversion primary offerings of equity securities and, therefore, the subject of the regulation of post-conversion public offerings has not before been viewed as one necessary for regulatory action. The Board also has not regulated the offer and sale of equity or debt securities by state-chartered stock institutions in organization or the post-organization offer and sale of equity securities by state-chartered stock insured institutions. The principal reasons that regulation had not been extended to these activities were that (1) the thrift industry had been substantially all mutual in form, (2) the Board did not have the power to charter *de novo* federal stock institutions until 1982, and, therefore, there were previously no securities regulations for initial equity offerings of federally-chartered institutions in organization, and (3) the Board did not regulate the post-conversion offer and sale of equity securities by federally-chartered stock institutions, which offerings had previously been very limited in number. However, there have been significant developments in the past few years.

First, the thrift industry is no longer substantially all in mutual form. The continued increased in the number of insured institutions organized in the stock form is expected to result in a continued increase in the number of securities offerings by such insured institutions. As of July 31, 1985, the number of insured institutions in stock form has increased to approximately one-third of the total number of insured institutions, as follows:

Charter	Stock	Mutual	Total
Federal	353	1,384	1,737
State	701	820	1,521
Total	1,054	2,204	3,258

Second, the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 92-320, amended section 5(a) of the Home Owners' Loan Act of 1933 ("HOLA") (12 U.S.C. 1464(a)) to authorize the Board, under such rules and regulations as it may prescribe, to provide for the organization, examination, operation, regulation, and chartering of *de novo* federal stock savings and loan associations and savings banks. Previously, the Board's *de novo* chartering authority was limited to federal mutual savings and loan associations and federal stock charters could be issued only to existing insured institutions that had converted from the mutual to the stock form or, pursuant to Section 404 of the Depository Institutions Deregulation and Monetary Control Act of 1980, had converted from state stock charter to federal stock charter. The Board's new *de novo* stock chartering authority is more than simply an additional power. It reflects a demonstrable shift of the savings and loan industry from the mutual to the stock form of organization. This shift is also visible in the Board's highly successful stock conversion program, under which 356 mutual institutions have converted to the stock form. Because of the expanded powers granted to federal savings and loan institutions by the Garn-St Germain Depository Institutions Act of 1982, the Board has received and approved a significant number of applications for *de novo* federal stock charters and anticipates that the number will continue to increase. As was the case in the first proposal, the offer and sale of securities by a federally-chartered stock institution in organization is required to comply with the regulations proposed today or such final regulation as is adopted by the Board.

Third, the deregulation of the thrift industry has resulted in an increase in competition on many levels. One is for deposits and another is for capital. The Board anticipates that there will continue to be increasingly intense competition for capital in the public and private markets by (1) federally-chartered stock institutions in organization, (2) state-chartered stock institutions in organization which seek insurance of accounts by the FSLIC, (3) state and federally-chartered mutual insured institutions converting to the stock form, (4) state chartered stock insured institutions seeking to issue additional securities; (5) seasoned converted state-chartered and federally-chartered stock insured institutions seeking to issue additional securities; and (6) non-diversified savings and loan holding companies seeking to issue additional securities.

Because of these significant developments, the Board believes that it is in the interest of the Board, as the primary regulator of federally-chartered institutions, and in the interest of the FSLIC, as the insurer of insured institutions, that all insured institutions compete for capital on a equal basis with full and fair disclosure of all material information; that the disclosure of insured institutions be uniform and comparable both on a intra-industry and an inter-industry basis; and that the public and private markets for the securities of insured institutions of their holding companies be liquid and orderly. Equality of competition, comparability of disclosure, and orderly markets may all be fostered by uniform disclosure requirements. In addition, the establishment for all insured institutions of regulations governing disclosure in connection with the offer and sale of securities would serve as a significant benefit to insured institutions by providing ascertainable guides to the extent and nature of the disclosure mandated by the antifraud provisions of the federal securities laws.

The Board believes that these proposed regulations would reduce the risk that securities offerings would have an adverse effect on the safety and soundness of insured institutions or the operations of the FSLIC, since such regulations would:

(1) Set standards for disclosure which should reduce the risk of securities fraud and of potential liability for insured institutions and, therefore, the FSLIC's insurance risk exposure; and

(2) promote the strength and depth of the markets for the securities of insured institutions by seeking to ensure that (a) all insured institutions provide full and fair disclosure to prospective investors, (b) the disclosure by insured institutions is uniform and comparable on an intra-industry and inter-industry basis, and (c) the public and private markets for the securities of insured institutions are liquid and orderly.

Further, the Board believes that the proposed regulations are necessary and appropriate in the public interest for the protection of investors and to ensure fair dealing in the securities of insured institutions, since such regulations will establish uniform and rational

disclosure requirements for the securities offerings of insured institutions.

B. Summary and Discussion of Comments Received on the First Proposal

The Board received twelve public comments in response to the first proposal. Five of the comments were received from savings and loan associations and four were received from law firms. Of the remainder, one was from a state Savings and Loan Division, one was from an investment banking firm, and one was from a trade association. Five commenters generally endorsed the first proposal, two were generally opposed to the first proposal, four opposed the applicability of the securities regulations to state-chartered insured institutions, and one objected to certain other provisions.

1. Comments Regarding Authority

The two commenters that were generally opposed to the first proposal argued that the antifraud provisions of the federal securities laws and the potential liabilities for fraud make Board disclosure requirements unnecessary. Further, it was argued that close Board regulation of insured institutions protects investors and that the exemption from registration under the Securities Act indicates to the commenters a legislative intention to exempt securities offerings by thrifts from any offering-circular requirements. In the alternative, one commenter suggested that the Board require only a brief simplified disclosure statement, omitting the accounting requirements applicable in other public offerings. Another commenter suggested that the Board should extend the Board's antifraud rule for borrowings under 12 CFR 563.8(g) to include equity offerings and should adopt a statement of policy to promote greater awareness by insured institutions of their responsibilities with respect to the antifraud provisions of the federal securities laws.

The four commenters who opposed applying the regulations to securities offerings by state-chartered insured institutions argued that the appropriate state agency responsible for chartering such institutions should have the sole authority to determine the nature and extent to which securities offerings by such institutions should be regulated. While the Board may have the authority to regulate the securities offerings of the institutions it charters, it was contended, the Board has no authority to regulate the securities offerings of state-chartered insured institutions, since neither the Securities Act, the Exchange Act, nor other statutes granting the Board jurisdiction, expressly grant to the Board general rulemaking authority with regard to the securities offerings of state-chartered institutions. Further, it was argued that state-chartered institutions would be at a disadvantage since they, unlike federally-charatered institutions, would have to satisfy both state and federal disclosure standards.

The Board does not agree with those who contend that the Board does not have the authority to regulate securities offerings by insured institutions, particularly state-chartered insured institutions. The Board believes that it possesses the authority to issue such a regulation. The Board's authority to adopt the securities-offering regulation is based on its statutory authority to ensure the safety and soundness of insured institutions and, under section 403(b) of the National Housing Act ("NHA") (12 U.S.C. 1726(b)), to approve or disapprove the issuance of securities by insured institutions. Further, the Board's chartering authority, Federal Home Loan Bank Act authority, and Exchange Act authority provide additional statutory authority for the present proposed regulation.

First, as to federally-chartered institutions, the Board has the authority to regulate the securities offerings of those institutions it charters. Under § 5(a) of the HOLA (12 U.S.C. 1464(a)), the Board is authorized to prescribe rules and regulations "to provide for organization, incorporation, examination, operation and regulation of associations to be known as Federal savings and loan associations, or Federal savings banks, and to issue charters therefore, giving primary consideration to the best practices of thrift institutions in the United States." Like savings and loan associations, banks also have an exemption from registration under the Securities Act, but national banks that are regulated by the Comptroller of the Currency have long been subject to the securities-offering rules established by the Comptroller. Those regulations were not adopted pursuant to any express grant of authority under the Securities Act, but pursuant to "the general authority of the national banking laws." See 12 CFR Part 16. Also, state banking and savings and loan agencies regulate to varying degrees securities offerings by financial institutions that the state has chartered. The Board does not agree with those commenters who contend that the exemption from registration under the Securities Act was intended a a *de facto* exemption for securities offerings of thrift institutions from any and all types of securities-offering requirements and has found no support in the legislative history for the commenters' position.

The exemption from registration under the Securities Act for securities issued by savings institutions is based, in part, upon the fact that at the time the Securities Act was enacted, virtually all thrifts were in mutual form, where "share interest" in an institution arose from a depositor relationship. While the statute or the legislative history makes no specific mention of who should regulate securities offerings by savings institutions, the language of the exemption provides that such exemption is only available to those savings institutions which are supervised and examined by state or federal authority. Therefore, the Board believes that the exemption is based on a determination that the oversight of such offerings should be the responsibility of both the appropriate state and federal regulatory agencies.

The Board is not proposing to preempt state regulation of securities offerings by federally-chartered institutions. States would be free to continue to develop their own standards of disclosure, which could be more or less comprehensive than those proposed by the Board. In addition, under the current proposal, each state would continue to be free to determine whether to exempt securities offerings by federally-chartered institutions or to subject such institutions to the same requirements for qualification and review by the state as would apply to state-chartered institution. As is customary, where an offering of securities is subject to concurrent regulation of the offering materials by both state and federal authorities, the filing and disclosure requirements of each would be required to be satisfied.

Second, as to all insured institutions which have a class of securities registered under the Exchange Act, which includes both federally-chartered institutions and state-chartered institutions, the Board has the authority under section 12(i) of the Exchange Act to regulate registration, reporting, proxy solicitation, tender offers, and certain other securities activities. The Board also has the authority to regulate the securities offerings of such insured institutions pursuant to the Board's Exchange Act authority to require additional reports and filings. Under the Exchange Act, the Board can adopt regulations that are different from those issued by the Commission, provided they are necessary or appropriate in the public interest, for the protection of

investors, to ensure fair dealing in the securities, and the reasons therefor are published in the Federal Register. The legislative history of the 1974 amendment to section 12(i) of the Exchange Act states that the amendment "transfers responsibility for regulation of securities issued by institutions insured by the Federal Savings and Loan Insurance Corporation from the Securities and Exchange Commission to the Federal Home Loan Bank Board." *See* 1974 U.S. Code Cong. & Ad. News 6119, 6121.

Since the Board already regulates the disclosure documents of state-chartered institutions filed under the Exchange Act, the filing of offering materials should not involve an unreasonable burden. The Board currently receives no notice of the terms and conditions of proposed equity offerings, and no copies of preliminary or final offering circulars for equity offerings. The Board believes that the nature, terms, and conditions of an offering and the disclosures included in the related offering materials may require that certain additional disclosures be included in other Exchange Act filings made with the Board. Also, it has been the Board's experience that investors generally assume that, since the currently required disclosure documents are filed with an reviewed by the Board, the Board naturally should have on file and should have reviewed such an institution's offering materials, the most important document considered by a potential investor. However, this is not now the case. Further, the Board is concerned that in an effort to increase net worth and to keep the expenses of a securities offering to a minimum, insured institutions may be tempted to use offering circulars which may not satisfy the standards for disclosure. While this may work to the short-term benefit of the institution, it increases the institution's potential liability and, therefore, also the potential exposure of the FSLIC. With regard to insured institutions which have a class of securities registered under the Exchange Act, the Board believes that the proposed securities regulation, including the offering-circular requirements, for the reasons discussed, are necessary and appropriate, in the public interest, for the protection of investors, and to ensure fair dealing in the securities of such insured institutions. The instant proposal, which includes offering-circular filing and disclosure requirements, is therefore within the Board's authority under the Exchange Act.

Third, the Board's general authority to regulate the securities offerings of state-chartered insured institutions which do not have a class of equity securities registered under the Exchange Act, is based on its responsibility to ensure their safety and soundness and on the conditions for insurance of accounts. With regard to the latter, section 403(b) of the NHA requires, as a condition to obtaining insurance of accounts, that institutions sign an agreement that they will not issue securities which guarantee a definite return or which have a definitie maturity except with specific approval of the Corporation, or issue any securities the form of which has not been approved by the Corporation. The terms and conditions of an institution's securities is a factor which must be considered in determining whether to grant insurance of accounts. In addition, under 12 CFR 563.1, the Board's regulations currently provide that no insured institution shall issue any security that has not been approved in writing by the Corporation. The Board's staff has long held that such an approval relates to the issuance of the security and is not limited to an approval of the certificate evidencing the security. The Board believes that the regulation of securities offerings is an appropriate condition for granting insurance of accounts and for continued insurance of accounts. Further, the securities regulation would clarify the procedure for obtaining the required Board approval which is a condition of the insurance agreement. Securities issued in connection with an offering circular declared effective by the Board would be deemed to have been approved for purposes of § 563.1. By Resolution No. 73–317, dated February 27, 1973, the Board delegated authority to approve or disapprove certificates to the Principal Supervisory Agent. With regard to both federally-chartered and state-chartered insured institutions, the Board has for many years regulated debt offerings. *See* 12 CFR 563.8 and 563.8–1. The Board's authority to regulate offerings of debt securities has never been challenged. Further, the Board's long-recognized authority to regulate offerings of debt securities supports the Board's authority to regulate equity offerings.

In terms of safety and soundness, the Board has a firm legislative mandate. Section 402(a) of the NHA (12 U.S.C. 1725(a)) empowers the Board, as the operating head of the FSLIC, to prescribe rules and regulations "for carrying out the purposes of this [Act]." Since the proposed securities regulation is designed to maintain safe, sound, and economical home financing, as well as to protect the FSLIC fund from undue risk, the rule carries out the purposes of the NHA and so represents a permissible exercise of regulatory authority under section 402(a). Moreover, under section 407 the Board has authority to terminate insurance coverage entirely (12 U.S.C. 1730(b)) and to initiate cease-and-desist proceedings pursuant to "rules and regulations" promulgated by the Board (12 U.S.C. 1730(m)) in order to prevent "unsafe or unsound practices" that threaten the integrity of the FSLIC fund. These powers encompass the less drastic power to prevent unsafe or unsound practices through regulations such as the proposed securities rule.

In this connection, the Board believes that state-chartered institutions which are not subject to Exchange Act reporting and disclosure requirements and have little or no history of preparing disclosure documents may be subjected to a risk of claims of inadequate securities disclosure and potential liability and, therefore, of an adverse effect on the safety and soundness of such institutions and the FSLIC fund. Therefore, the Board believes that there is a pressing need for Board regulation of securities offerings by these institutions. Unless the Board receives prior notice of the terms, conditions, and disclosure to be used in an offering of securities, it can not make a determination of the risks involved for the institution or take the necessary actions to ensure the continued safety and soundness of the institution. Although one commenter suggested that the Board should not apply any disclosure requirements to state-chartered insured institutions until it has more evidence of fraudulent securities offering by such institutions, it has been the Board's experience that deregulation, the increase in the investment authority and the rapid growth of certain insured institutions, particularly those that are state-chartered, and the increase in the frequency and types of securities being offered, are increasing the risks for investors, the likelihood of securities fraud, and the necessity for Board oversight at this time. The Board also does not believe that it is prudent or necessary to wait for a series of securities frauds resulting in insolvencies that would involve significant cost to the FSLIC before considering regulations which may avoid such problems.

A material violation of the federal securities laws would constitute an unsafe and unsound practice by an insured institution, since such violations

can expose insured institutions to significant civil liability and substantial legal expenses that can jeopardize financial stability and hamper needed access to capital in the future. By requiring full and fair disclosure, the proposed securities-offering regulation would increase compliance with the antifraud provisions and lessen the likelihood of costly civil judgments against insured institutions which could result in significant reduction in the net worth of insured institutions, and potential, insolvency, with a corresponding expense to the FSLIC. In addition, the securities regulation would provide the Board with prior notice of the terms of proposed securities offerings which may not be in the best interest of the safety and soundness of insured institutions and the FSLIC fund.

Moreover, even apart from the possibility of liability under the antifraud provisions, the lack of standardized information about the securities of insured institutions may hamper marketability for such securities. The disclosure of inadequate or misleading information by an insured institution in the offer or sale of securities could have a significant adverse effect on the ability of other insured institutions to raise capital and could lead generally to illiquid and disorderly markets for securities issued by insured institutions. Because the soundness of many insured institutions depends upon free access to capital markets, restricting that access may threaten the safety and soundness of the thrift industry as a whole and have an adverse effect on the operations of the FSLIC by increasing the FSLIC's insurance risk exposure.

Finally, the Federal Home Loan Bank Act ("Bank Act") (12 U.S.C. 1421 *et seq.*) has among its paramount purposes the development and maintenance of a system of sound and economical home financing. The proposed securities regulation, by enhancing the capital-raising capabilities of insured institutions, should contribute materially to this goal. The Board is therefore empowered to adopt regulations, such as the proposal under consideration, pursuant to Section 17 of the Bank Act which expressly grants the Board the "power to adopt, amend, and require the observance of such rules, regulations, and orders as shall be necessary from time to time for carrying out the purposes of [this Act]." 12 U.S.C. 1437(a). As a matter of administrative practice, the Board has often cited its authority under the Bank Act as support for regulations governing the deposit-insurance system administered by the FSLIC. This practice is supported by the close interrelationship between the Bank Act and the NHA, including their common purpose and similar design.

The Board is aware, as discussed by one commenter, that the Federal Deposit Insurance Corporation ("FDIC") previously proposed a regulation to establish offering-circular requirements for state-chartered FDIC-insured banks which are not members of the Federal Reserve System. It was originally published for comment on May 27, 1974 and reissued for comment on May 27, 1977 (42 FR 27955). While the FDIC stated that it was the responsibility of all insured state non-member banks to comply with the disclosure requirements of the federal securities laws in the offer and sale of securities, the FDIC published a withdrawal of the proposed rule on July 6, 1979 (44 FR 39469), because of its stated concern that the proposed rule may not adequately reflect recent developments and standards applicable under the federal securities laws and because adequate guidance as to the proper format and content is available through regulations promulgated by other federal regulatory agencies. The FDIC also noted that adequate offering materials can be prepared without formal regulation and that the withdrawal of the proposal was in keeping with the FDIC's policy favoring the shortening and simplification of regulatory requirements. In addition, the FDIC concurrently published a statement of policy on July 6, 1979 (44 FR 39381), for the purpose of promoting greater awareness by insured state nonmember banks of their responsibilities with respect to the antifraud provisions of the federal securities laws. The statement of policy also specified certain information that the FDIC believed should be in offering circulars and referred banks wishing additional guidance in the preparation of offering circulars to 12 CFR Part 16 of the regulations of the Comptroller of the Currency.

The Board notes that the FDIC withdrew the proposed rule and issued a statement of policy principally because of its concern about the adequacy of the proposed disclosure standards, and not because of a concern about its authority to regulate the offerings of FDIC-insured institutions. Unlike the banking agencies which have a tradition of developing their own rules and forms for securities disclosure, the Board has, pursuant to 12 CFR Part 563d, generally incorporated the well-known rules and forms of the Commission under the Exchange Act with certain additional information relating to the description of business for certain filings for FSLIC-insured institutions (Item 7 of Form PS under 12 CFR Part 563b). Since the Board believes that its experience with this approach for Exchange Act filings has worked efficiently to keep the disclosure standards for insured institutions comparable with those imposed upon other issuers, the Board is proposing to continue to follow this approach for disclosure requirements for offering circulars. Finally, the Board does not believe that the extension of the Board's antifraud rule for borrowings under 12 CFR 563.8(g) to include equity offerings and the adoption of a statement of policy to promote a greater awareness of disclosure responsibilities with respect to the antifraud provisions, as suggested by one commenter, would alone be adequate to reduce to an acceptable level those risks with which the Board is concerned.

In summary, the Board has the statutory authority to regulate the securities offerings of insured institutions. The Board's authority to charter federal institutions, its authority to regulate the disclosure of institutions which have securities registered under the Exchange Act, the responsibility to reduce the risk that securities offerings of insured institutions would have an adverse effect on the safety and soundness of insured institutions or the operations of the FSLIC, the responsibility to develop and maintain a system of sound and economical home financing, and the statutory authority to approve the issuance of securities by insured institutions, clearly provide the Board with authority to establish requirements for offering circulars by insured institutions. Further, the Board believes that the increasing number of stock institutions and the deregulation that has occurred with respect to the types of activities in which savings institutions are permitted to engage have increased the potential risks to investors and, therefore, make the proposed regulation both necessary and appropriate at this time. In addition, as has been the Board's experience with the regulation of offerings of debt securities and Exchange Act filings by insured institutions, the Board believes that the regulation of equity offerings by insured institutions will complement and facilitate the Board's administration and enforcement of other regulations and statutes under the Board's jurisdiction and, in connection with information produced through the Board's examination process, may alert the Board to potential problems which would permit early action to prevent failures, which are clearly not in the

interest of investors, depositors, the public, or the FSLIC.

2. Other Comments

One commenter contended that it was inconsistent for the Board to prescribe the method of disclosure for a securities offering by a state-chartered insured institution when not even the Commission, which has authority to enforce the antifraud provisions of the Securities Act and the Exchange Act, has such power. Further, it was argued that a Board securities regulation would actually increase the potential liability for insured institutions by providing additional grounds for private litigants to recover from such institutions and from officers and directors who would be required to sign Form OC filed with the Board.

The Board does not find either of these arguments persuasive. First, the Commission's authority to enforce the antifraud provisions of the federal securities law is not inconsistent with a Board-adopted securities regulation which would be applicable to the equity offerings of state-chartered insured institutions. The Board's present regulations include disclosure requirements for both Exchange Act filings and public offerings of debt securities. Rather than creating an inconsistency, the proposed securities regulation would eliminate an inconsistency, since equity offerings by insured institutions would be subject to the same filing and disclosure requirements as those for debt offerings by insured institutions.

Second, the Board does not believe that the proposed securities regulation would increase liability. The securities regulation would set standards for disclosure which if complied with would reduce the risk of securities fraud and of potential liability for insured institutions. It currently is not the Board's intention to create any private right of action under the proposed securities regulation. However, it is anticipated that any issuer in compliance with the Board's securities regulations would assert such compliance as a defense in litigation brought by a private party alleging a violation of the antifraud provisions of the federal securities laws.

The same commenter argued against disclosure requirements for equity offerings of state-chartered insured institutions on the ground that administrative review does not necessarily improve the quality of disclosure and that the Commission has reduced the administrative burden by permitting issurers to integrate or incorporate Exchange Act filings in a prospectus. While the Board agrees that the administrative review of offering materials can not ensure that all matters which should be disclosed are in fact disclosed in all cases, the Board's experience with the review of Exchange Act filings, offering materials for debt securities, and offering materials for equity securities sold in connection with conversions from the mutual to stock form of organization and in connection with the organization of *de novo* federally-chartered stock institutions, has indicated that Board review significantly improves the likelihood that the disclosure documents of insured institutions will satisfy the antifraud standards of the federal securities laws. While the proposed securities regulation requires an offering circular to be filed under cover of the Board's Form OC and to include certain additional information appropriate for insured institutions, the Board notes that the basic information requirements incorporate the item requirements of the appropriate form that an issure would be required to use for a registration statement under the Securities Act. Therefore, an issuer filing offering materials with the Board would be permitted to incorporate by reference from Exchange Act filings to the same extent that any issuer may in a filing with the Commission.

In the first proposal, the Board specifically requested comments on the following: (1) Whether insured institutions should be permitted to offer and sell their securities to the public at their offices, (2) whether a minimum denomination should be established for the direct offer and sale of such securities, and (3) what safeguards, if any, should be imposed on insured institutions engaged in the direct sale of such securities. Two commenters agreed that an institution should be permitted to offer and sell its securities at its offices. However, they argued that there should be no minimum-denomination requirements for the sale of securities and that the need for any safeguards should be determined by an institution's management. Upon further consideration, the Board believes that there may be merit in allowing sales at offices, without minimum-denomination requirements, but remains concerned that there be adequate safeguards for securities offered and sold at an institution's offices. (*See* later discussion.) The Board therefore is again proposing to allow security sales at institution offices, and requesting public comments on the appropriateness of minimum-denomination requirements and the proposed safeguards on such offers and sales.

It was suggested by one commenter that the Board should consider the need for a shelf-registration rule which would permit certain offerings to be made on a continuous or delayed basis in the future. It was also suggested by the same commenter that the Board should retain an exemption for debt securities issued in minimum denominations of $100,000 or more. The Board agrees that a shelf-registration rule would be desirable and has so provided in this proposal. (*See* later discussion.) However, while the Board believes that there is a reasonable basis on which to exempt debt securities issued in denominations of $100,000 or more which are fully collateralized by interests in mortgage notes secured by real property, the Board does not believe it is appropriate to exempt debt securities which are not fully collateralized, since such securities are more likely to have higher risks and, therefore, a greater potential for fraud and liability for an insured institution and the FSLIC.

One commenter suggested that the Board clarify the information requirements to indicate that all of the information required by Schedule A to the Securities Act is required to be disclosed in an offering circular filed with the Board. Another commenter suggested that the Board either clarify or revise the word "commenced" for the purposes of the exemption under the first proposal's § 563g.3(a), for offerings "commenced" prior to the effective date of Part 563g by an issuer other than a *de novo* federally-chartered stock institution in organization. It was also suggested that the Board provide for an effective date upon the adoption of the securities regulation that would provide institutions planning a public offering with adequate notice. The Baord generally agrees with the described suggestions and believes that the provisions in this new proposal resolve each of these commenters' concerns.

C. Summary of the Proposal

1. Forms and Regulations

In adopting the Securities Act, Congress charged the Commission with the responsibility of developing regulations that would define and ensure full and fair disclosure. The disclosure rules set forth in the Board's Conversion Regulations and in its financial-statement regulations are modeled after the rules and regulations of the Commission. As set forth in greater detail below, the Board proposes to require insured institutions to observe many of the forms and regulations of the

Commission under the Securities Act, as modified where appropriate for insured institutions by the Board's regulations, in the preparation of disclosure documents used in the public offer and sale of securities. This is not proposed by the Board in the belief that the forms and regulations of the Commission approach perfection; they undergo constant revision by the Commission itself. Rather, it is proposed because such forms and regulations require the disclosure of information which is considered to be material to an investment decision, they are recognized in the capital markets, and it would be difficult for insured institutions to compete for capital in those markets if their offering documents were not comparable with those of other companies also seeking capital. In addition, the disclosures of insured institutions should be comparable to those of savings and loan holding companies, which register their securities with the Commission. Further, insured institutions that did not closely observe such forms and regulations would be susceptible to a greater risk of possible liability under the antifraud provisions of the federal securities laws by the very fact that they deviated from long-established and universally recognized disclosure practices. Finally, in recognition of the importance of the Commission's disclosure standard, the Commission's forms appear to be the basis for disclosure in underwritten offerings and, therefore, compliance would not be burdensome.

The Board also proposes to adopt, for non-public offerings of securities by insured institutions, substantially all the requirements of Regulation D of the Commission under the Securities Act, 12 CFR 230.501 *et seq.* The Board is proposing this action as a means to differentiate a public offering from a non-public offering, *i.e.*, if an offering by an insured institution would qualify as an exempt offering under Regulation D if it were undertaken by a corporation the securities of which were subject to the registration requirements of the Securities Act, the offering would be exempt from the Board's public-offering rules.

2. Non-Exempt Public Offerings

Under proposed § 563g.2, unless the offering is exempt, no insured institution, which includes a federally-chartered stock institution in organization and a state-chartered institution which is granted approval of insurance of accounts by the Corporation within one year of an offer or sale of the institution's securities, shall offer or sell, directly or indirectly, a security issued by it unless the offer or sale is made through an offering circular that has been filed with and declared effective by the FSLIC.

Proposed § 563g.7 would require the offering circular to comply with all of the requirements of Schedule A under the Securities Act and the registration form of the Commission that the issuer would satisfy the eligibility requirements to use if the issuer were required to register its securities under the Securities Act, with appropriate modifications from the form and Regulation S–K of the Commission to comply with the Board's regulations governing the non-financial statement portion of offering circulars found in Forms PS and OC under the Conversion Regulations. The financial statements would be required to conform to the Board's offering-circular accounting requirements, Subpart A of Part 563c, and, to the extent they are not inconsistent, the account requirements of Regulation S–X of the Commission and the financial information requirements of Regulation S–K.

Under proposed § 563g.8(a), an offering circular, or an amendment declared effective by the Corporation, could not be used more than nine months after the effective date unless the information contained in the offering circular was as of a date not more than 16 months prior to such use. Proposed § 563g.8(c) would prohibit the use of an offering circular subsequent to any material change in an issuer's business operations or financial condition until an amendment had been filed and declared effective. Proposed § 563g.5(b)(3) would provide a means of filing "stickered" offering circulars to reflect non-material changes.

Under proposed § 563g.6, an offering circular of an insured institution would be deemed automatically effective upon the expiration of 20 days after filing, unless the issuer included a "delaying amendment," which would delay the 20-day period for effectiveness until the filing was declared effective. If it appeared that an offering circular were incomplete or inaccurate in any material respect, the Corporation could declare the offering circular not effective until an appropriate amendment were filed.

Miscellaneous proposed regulations under Part 563g would govern matters such as communications deemed an offer (§ 563g.2(b)), the use of a preliminary offering circular (§ 563g.2(c)), filing and signature requirements § 563g.5), escrow requirements (§ 563g.9), withdrawal or abandonment (§ 563g.11), public disclosure and confidential treatment (§ 563g.13), waiver (§ 563g.14), and requests for interpretive advice or waiver (§ 563g.15). Proposed § 563g.10 would establish the Board's antifraud rule for securities offerings, which would be identical with Rule 10b–5 adopted by the Commission under § 10 of the Exchange Act. Proposed § 563g.12 would require the filing of a post-sale report with the Principal Supervisory Agent and the Corporate and Securities Division of the Office of General Counsel.

3. Exempt Public Offerings

Proposed § 563g.3 would exempt from the offering-circular requirements the following offers and sales of securities:

(a) Offerings made prior to the date Part 563g becomes effective: provided, that (1) such offering is accompanied or preceded by an offering document, (2) such offering does not continue for more than 60 days after the effective date of Part 563g, and (3) the issuer is not a *de novo* federally-chartered institution in organization;

(b) Offerings complying with the requirements for retail repurchase agreements of § 563.8–4, except where the issuer has a net-worth deficiency under that section;

(c) Offerings exempt from registration under either section 3(a) or section 4 of the Securities Act by reason of an exemption other than section 3(a)(5) (for regulated savings and loan associations), 3(a)(9) (for certain exchange offerings), 3(a)(11) (for intrastate offerings), or 4(2) (for non-public offerings) of the Securities Act;

(d) Offerings made in connection with a conversion from the mutual to the stock form of organization pursuant to Part 563b, except for supervisory conversions undertaken pursuant to Subpart C of Part 563b;

(e) Non-public offerings that satisfy the requirements of proposed § 563g.4;

(f) Offerings of debt securities issued in denominations of $100,000 or more, which are fully collateralized by interests in mortgage notes secured by real property; and

(g) Offerings of securities to be distributed exclusively abroad to foreign nationals under certain conditions.

The first proposal's exemption for offers or sales of securities to the issuer's employees, officers, or directors, under certain stock plans, has been eliminated. Unless another exemption is available, the Board believes that it is necessary to regulate the offer or sale of securities to an issuer's employees, officers, or directors, because of the likelihood that certain of such persons would not be able to obtain all of the

necessary information about an issuer and its securities to make an informed investment decision. *See, Securities and Exchange Commission* v. *Continental Tobacco Company of South Carolina,* 436 F.2d 137 (5th Cir., 1972). Since retail repurchase agreements are already subject to extensive disclosure regulations that were drafted in view of the nature of the securities, particularly their secured status and their short maturity, the Board is not inclined at this time to bring retail repurchase agreements under the proposed securities offering regulations unless the issuing institution has a net-worth deficiency as defined in § 563.8–4. The Board also does not believe it necessary to regulate offerings that are exempt from registration under the Securities Act by reason of an exemption other than section 3(a)(5), 3(a)(9), 3(a)(11), or 4(2). Conversion stock offerings would continue to be subject to the Conversion Regulations. The Board notes, however, that offering circulars for conversion stock and offering circulars for equity securities of non-converting institutions engaged in a public offering pursuant to these proposed rules would be comparable because of the requirements of proposed § 563g.7 that public offering circulars comply with applicable items of Forms PS and OC of the Conversion Regulations. As provided in 12 CFR § 563b.30, securities offered or sold in connection with a supervisory conversion would continue to be required to satisfy the requirements for a non-public offering under proposed 12 CFR Part 563g or such final regulation as is adopted by the Board. See, Board Resolution No. 83–149, dated March 17, 1983 (48 FR 15591, April 12, 1983).

This proposal would eliminate the first proposal's exemption for securities which are offered and sold intrastate and for securities which are exchanged by the issuer with its existing security holders exclusively, without any payment. The securities offering regulation as first proposed exempted securities offerings which are exempt from registration under the Securities Act by reason of an exemption other than section 3(a)(5) of the Securities Act, the exemption for securities issued by a regulated thrift institution. While the exemption for thrift securities is conditioned on agency regulation, the other exemptions are not similarly conditioned. One of these other exemptions relates to intrastate offers and another to exchange offers. The intrastate exemption was based primarily on the existence of state blue sky laws which regulate such offerings. The exchange-offer exemption was based primarily on the ground that the amount of the investment is not being increased.

Although these two exemptions indicated an intent to exclude such offerings from the requirement of registration with the Commission, such offerings are not exempt from the antifraud provisions of the federal securities laws and, as a result, they could adversely affect a FSLIC-insured institution and increase the FSLIC's insurance risk exposure. If the two exemptions were retained, the Board would not receive any prior notice of the terms and conditions of such offerings, copies of any offering materials used, or an opportunity to raise any regulatory issues prior to the time a transaction is consummated. Without the exemptions, intrastate offers and exchange offers would have to satisfy either the disclosure requirements for a public offering or the requirements for a non-public offering. The Board is now proposing to use this latter approach.

Another change from the first proposal is a proposed exemption for debt securities issued by an insured institution in denominations of $100,000 or more, which are fully collateralized by interests in mortgage notes secured by real property. This provision would be consistent with a current exemption contained in the Board's debt regulations, although there is no comparable exemption under the Securities Act. (The Commission's Regulation D under the Securities Act does provide for an exemption from registration under the Securities Act for certain transactions involving non-public offerings to accredited investors, one category of which includes certain persons who purchase $150,000 or more of the securities where the amount purchased does not exceed 20 percent of the purchaser's net worth.) The Board's proposed exemption is based on the Board's experience with secured securities relating to housing finance and the assumption that a person purchasing such debt securities will be either an accredited investor or a sophisticated investor. Since such persons are generally able to make informed investment decisions and the debt securities will be fully collateralized by mortgage notes secured by real property, the Board at this time does not believe that a prior review of the related offering materials is necessary or appropriate. While the Board's current borrowing regulations also exempt uncollateralized debt securities issued in minimum denominations of $100,000 or more from offering-circular requirements, the proposed modification, like the first proposal, would require such offerings to comply with the Board's disclosure and offering-circular requirements.

The proposal includes an exemption for offers or sales of securities to be distributed exclusively abroad to foreign nationals, provided the offering is made subject to certain safeguards reasonably designed to preclude distribution of the securities within, or to nationals of, the United States. While such a provision was not included in the first proposal, the provision is consistent with the current exemption under § 563.8(f) for borrowings.

4. Exempt Non-Public Offerings

The Board is proposing in § 563g.4 to exempt from the offering-circular requirements offerings in which securities are not sold to more than 35 sophisticated investors and offerings which comply with the Commission's Regulation D under the Securities Act (except with regard to the Commissioner's notice requirement and resale-restriction provisions). Regulation D establishes requirements for offerings that qualify for an exemption from registration by reason of the small amount involved or the limited character of the public offering under section 3(b) of the Securities Act, or by reason of the non-public character of the offering under section 4(2) of the Securities Act. Under Rule 504 of Regulation D, securities aggregating less than $500,000 may be offered and sold by an institution the equity securities of which are not registered under the Exchange Act to an unlimited number of purchasers and no specific disclosure rules are required to be observed (except, of course, for the antifraud provisions of the Federal securities laws.). Rule 505 of Regulation D is limited to offers and sales of securities not exceeding $5,000,000 in any 12-month period. Rule 506 of Regulation D has no aggregate offering-price limitation. However, the two rules are similar except in regard to the specific disclosure requirements and the requirement that all purchasers in a Rule 506 transaction must be either accredited or sophisticated. Both rules prohibit sales to more than 35 investors who are not accredited investors. Accredited investors are defined in Rule 501(a) and the term includes certain institutions and organizations, officers, directors, or general partners of the issuer, and individuals with substantial net worth or income. Generally, offers and sales made pursuant to Regulation D may not involve any form of general solicitation or general advertising.

The Board does not propose in its securities offering regulations to require pre-sale filing for clearance of offering documents in an offering that meets the requirements on Regulation D. Rather, in proposed § 563g.12 it would require, as in a public sale of securities, the filing of a post-sale report that would include all of the information required in a public offering post-sale report, a statement of the factual and legal grounds for the claim of a non-public offering exemption under the Board's regulations, and copies of all offering materials. In addition, to ensure that a claimed non-public offering is not actually a step in a transaction leading to a public distribution of securities, the Board would require in § 563g.4 that the securities acquired in an exempt non-public offering could not be resold or otherwise disposed of for a period of two years following the sale without the prior written consent of the Corporation.

Under the Commission's rules, an issuer which does not comply with the notice provisions or the other requirements of the Commission's non-public offering rules may still claim an exemption from registration under the Securities Act on the basis that the transaction did not involve a public offering under section 4(2) of the Securities Act. As proposed by the Board, the exemption for a non-public offering would only be available upon compliance with the Board's requirements under § 563g.4, which requires that the Board be furnished with a written notice including the terms of the offering and the grounds for the exemption and a final sales report indicating whether the requirements for the exemption were satisfied.

The new proposal would eliminate the first proposal's exemption for a non-public offering in the case of sales to not more than 15 persons and, as described above, exempt sales to not more than 35 sophisticated investors under certain specified conditions. Under the first proposal, an exemption from the offering-circular requirements was provided for certain non-public offerings for securities that either satisfy the requirements of the Commission's Regulation D or involve a sale of securities to not more than 15 persons. While the 15-person exemption is similar to one provided under the Comptroller's offering requirements, the proposed substitute exemption for offers or sales to not more than 35 sophisticated investors is more consistent with the customary requirements for such offerings. Further, it would make the exemption more usable, since more purchases are allowed, while reducing the risk of securities fraud, since the purchasers must be sophisticated investors. The Regulation D exemption would continue to be the basis for an exemption. This proposal also provides for certain forms to be used for a notice of a non-public offering and a securities sale report.

As proposed, offerings of securities not exceeding $500,000 which comply with Rule 504 of Regulation D would be exempt from the offering-circular requirements of proposed § 563g.2. Like proposed § 563g.4(b), which has no dollar limitation, Rule 504 does not require that an offering circular be delivered to purchasers, provided that the other requirements of the exemption are met. Unlike proposed § 563g.4(b), however, Rule 504 allows offers and sales to an unlimited number of purchasers who are not otherwise sophisticated or accredited investors. The Board is specifically requesting comments as to the following: (1) whether both Rule 504 of Regulation D and proposed § 563g.4(b) should be independently available to issuers; and (2) whether either of these two exemptions should only be available under certain more limited conditions.

In addition, the Board is specifically requesting comments as to whether the offering-circular requirements should be applicable to the resales of securities by affiliates and certain shareholders. If in favor of such a requirement, commenters should address any conditions the Board should apply to the filing of such resale offering circulars.

5. Elimination of Minimum-Denomination Rule

The Board's regulations on outside borrowings (§ 563.8), subordinated debt (§ 563.8–1) and mutual capital certificates (§ 563.7–4) establish minimum denominations for those securities. On April 18, 1985, by Resolution 85–292 (50 FR 20552, May 17, 1985), the Board amended its borrowing regulations, 12 CFR 563.8, and its subordinated-debt regulations, 12 CFR 563.8–1, to revise its minimum-denomination requirements for certain offerings in order to require a $1,000 minimum denomination if the securities are not offered or sold at any offices of the institution or any of its affiliates. The Board, however, is now proposing to eliminate all minimum-denomination requirements for securities issued by insured institutions including borrowings, subordinated-debt securities and mutual capital certificates, as recommended by two commenters on the first proposal, for the following reasons: in a number of cases during the past two years, the Board has waived the minimum-denomination requirement for certain sales of subordinated-debt securities in institution offices on condition that the securities be sold in at least $2,500 minimum denominations and in compliance with the proposed safeguards on sales in institution offices, and there have been no adverse consequences; the lowering of the minimum denomination to $1,000 has not raised any problems to date; an exchange offer which involves amounts under $1,000 would be permitted; and the proposed safeguards on sales in institution offices make a minimum-denomination requirement unnecessary.

6. Prohibitions Against Sales in Institution Offices

The prohibition against the sale of debt securities and mutual capital certificates in the offices of issuing insured institutions or their affiliates arose out of two concerns. First, there generally was a perception that the sale of such securities in the offices of a depository institution would constitute an evasion of deposit rate control. Second, there was apprehension that some insured institutions would permit the sale of such securities to unsophisticated customers who perhaps could not reasonably be expected to fully comprehend the risks of the investment (particularly in investment in long-term securities) and who may mistakenly assume that the securities were insured. the Board does not believe that, assuming these concerns are valid, they must be addressed only through a flat prohibition of direct institutional sales.

It appears to the Board that concerns regarding the sale by insured institutions of securities to their customers could be resolved through the disclosure mechanism. The issuing institution would be required under the proposed regulations to provide customers with an offering circular prepared pursuant to proposed Part 563g, which would make full and fair disclosure of all information material to an investment decision, and would state in bold-face type on its cover that the security is not insured by the FSLIC. In addition, the Board is proposing in § 563g to adopt the following safeguards on direct institutional sales activities to prevent possible abuses: (a) No commissions would be permitted to be paid to any employee or other person; (b) no offers or sales would be permitted to be made at a teller counter; (c) offers and sales would be permitted to be made only by regular, full-time employees; (d) no unsolicited telephone

calls or visits would be permitted to be made by the issuing institution to any person in connection with the offer or sale of the securities; and (e) except for retail repurchase agreements issued in compliance with § 563.8–4, the issuing institution would be required to meet at the commencement of and during any offering its regulatory net-worth requirement. Proposed restrictions (a) through (d) above would also be extended to the offer and sale of retail repurchase agreements to the public.

In connection with this proposal, the Board again specifically asks: (1) Whether insured institutions should be permitted to offer and sell thier securities and the securities of affiliates to the public at their offices, (2) whether a minimum denomination should be established for the direct offer and sale of those securities, and (3) what safeguards, if any, should be imposed on insured institutions engaged in the direct sale of such securities.

7. One-year Registration Requirement

Under the new proposal, issuers in a public offering would be required to register their securities under the Exchange Act and not deregister for a one-year period. Following a public offering, there is a need for the Board and investors to receive information from the issuer, including disclosures of its financial condition and operations subsequent to the consummation of the offering. Under section 15(d) of the Exchange Act, each issuer that files a registration statement with the Commission which is declared effective must file periodic information and reports and not terminate such filing unless, after one fiscal year, its securities are held by less than three hundred persons. The Board currently requires converting institutions to register under the Exchange Act and not deregister for at least three years.

Requiring thrifts that are issuers in a public offering to make Exchange Act filings for at least one full fiscal year will involve additional expense and burden, but the Board believes the disadvantages would be outweighed by the benefits to investors and of reduced risk to the institution of later claims of securities fraud. The availability of subsequent information also makes more likely the development of a market for the securities.

8. Shelf Registration

By including a rule which provides for a procedure for shelf-registration for certain offerings to be made on a continuous or delayed basis in the future, the time and expense for insured institutions conducting public offerings would be substantially lowered and they would have greater flexibility to avail themselves of the most advantageous market conditions. The shelf-registration provision substantially incorporates the requirements of the Commission's Rule 415, under the Securities Act.

9. Rescission Offers

The proposal would provide for the Corporation to direct rescission offers in certain circumstances, such as if a securities offering were not made in compliance with the Board's securities regulation or if a state-chartered institution is approved for insurance of accounts by the Corporation within one year of the offer or sale of the institution's securities. Such a rescission offer could substantially reduce the risk of any potential liability for securities fraud which would have an adverse effect on the safety and soundness of such institution or the FSLIC fund. In connection with this proposal, the Board specifically requests comments regarding the provisions relating to such rescission offers.

10. Delegation

The proposal would provide for more expeditious action under the regulations by delegating the Board's authority under Part 563g to the General Counsel, or designee.

11. Offerings Made Prior to the Effective Date

De novo federally-chartered stock institutions in organization are required by the Board's chartering regulations, 12 CFR 552.2–1(e), to offer or sell their securities: (1) Only after receiving the Corporation's conditional approval of the application for federal charter and insurance of accounts and (2) pursuant to proposed Part 563g or such final regulation as may subsequently be adopted by the Board. Other insured institutions would not be subject to the offering requirements for equity securities unless the Board adopts final securities regulations but are urged to take all necessary measures to ensure that all matters which should be disclosed are disclosed and that any offering materials used would satisfy the antifraud provisions of the federal securities laws. In this connection, the Board encourages savings institutions to review the disclosures contained in offering circulars for equity offerings of converting institutions and *de novo* federally-chartered institutions in organization and for public offerings of debt securities, which have been declared effective by the Board. Copies of these documents may be obtained by contacting the Board's Information Services Section, at 1700 G Street, N.W., Washington, D.C. 20552.

12. Conforming Amendments

The Board is proposing to eliminate disclosure requirements from its regulations pertaining to outside borrowings (§ 563.8), subordinated debt (§ 563.8–1), and mutual capital certificates (§ 563.7–4), since disclosure would be regulated under proposed Part 563g. In addition, the Board is proposing conforming amendments for the retail repurchase agreement (§ 563.8–4) and accounting (§ 563c.1) regulations.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objective, and legal basis underlying the proposed rules.* These elements have been incorporated elsewhere in the supplementary information regarding the proposals.

2. *Small entities to which the proposed rules will apply.* The proposed rules would apply only to offers or sales of securities issued by an institution where (1) the institution is an "insured institution" defined in the Board's regulations, (2) the institution is a federally-chartered institution in organization, or (3) the institution is a state-chartered institution and is approved for insurance of accounts by the Corporation within one year after the offer or sale of the institution's securities.

3. *Impact of the proposed rules on small institutions.* Since the proposed rules would clarify the disclosure obligations of insured institutions in connection with the offer or sale of securities, insured institutions that may be considered small entities would be benefited. Moreover, the proposed rules would substantially reduce significant restrictions on the sale by insured institutions of debt securities and mutual capital certificates, which would benefit insured institutions that may be considered small entities.

4. *Overlapping or conflicting federal rules.* There are no federal rules that may duplicate, overlap, or conflict with the proposal.

5. *Alternatives to the proposed rules.* The proposed rules would clarify the requirements for information disclosure in connection with an insured institution's offering of securities. It is not possible to eliminate or significantly modify these requirements for small entities, since the disclosure

requirements are governed by the nature of the offering rather than by the identity or the size of the affected institution.

Regulatory Analysis

The elements of regulatory analysis for major proposed regulations required by Board Resolution No. 80-584 (September 11, 1980) have been incorporated into the supplementary information regarding the proposals.

List of Subjects in 12 CFR Parts 563, 563c, and 563g

Accounting, Savings and Loan Associations, Securities.

Accordingly, the Federal Home Loan Bank Board hereby propose to amend Parts 563 and 563c and to add a new Part 563g under Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

1. The statutory authority for Part 563 would read as follows:

Authority: Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 202, 96 Stat. 1469; sec. 409, 94 Stat. 160; secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); 1947 Reorg. Plan No. 3, 12 FR 4981, 3 CFR 1071 (1943–48 Comp.)

The statutory authority for Part 563c would continue to read as follows:

Authority: Secs. 402, 403, 407 of the National Housing Act, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726 and 1730); sec. 5 of the Home Owners' Loan Act of 1933, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 3(b), 12, 13, 14, and 23 of the Securities Exchange Act of 1934, 48 Stat. 882, 892, 894, 895, and 901, as amended (15 U.S.C. 78 c(b), m, n, and w); and Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071, unless otherwise noted.

PART 563—OPERATIONS

2. Amend § 563.7–4 by removing paragraphs (e), (f), and (h); and redesignating paragraphs (g), (i), (j), (k), and (l) as paragraphs (e), (f), (g), (h), and (i), respectively.

3. Amend § 563.8 by removing paragraphs (f), (g), and (h); and redesignating paragraph (i) as paragraph (f).

4. Amend § 563.8–1(d) by removing subparagraph (1)(v) and redesignating subparagraph (1)(vi) as (1)(v).

5. Amend § 563.8–4 by revising paragraph (b)(5), as follows:

§ 563.8–4 Transfer and repurchase of government securities.

* * * * *

(b) * * *

(5) *Disclosure.* An institution issuing repurchase agreements to the public shall provide each prospective repurchase agreement purchaser with an offering document which shall contain full and accurate disclosure of all material information regarding the repurchase agreement and the issuing institution. Any material change in any of the material representations set forth in the offering document shall be reflected in a revised offering document that shall be provided to purchasers before any renewal or automatic renewal of a repurchase agreement may be effected. An institution that has a net-worth deficiency under paragraph (b)(7) of this section shall be subject to the requirements of Part 563g of this Subchapter, except that the following financial statements may be substituted for those required to be included in an offering circular required under Part 563g:

(i) The institution's audited statements of condition and operations for its last fiscal year prepared in accordance with the requirements of § 563c.1 of this Subchapter:

(ii) On a comparative basis, the institution's latest unaudited statement of condition for the quarter ending within 135 days of any sale, renewal, or automatic renewal of a repurchase agreement, and an unaudited statement of operations for the period then ended, prepared in accordance with the requirements of § 563c.1; and

(iii) The institution's latest monthly financial report filed with the Corporation.

* * * * *

PART 563c—ACCOUNTING REQUIREMENTS

6. Amend § 563c.1 by revising paragraph (a)(2), as follows:

Subpart A—Form and Content of Financial Statements in Offering Circulars

§ 563c.1 Application of this subpart.

(a) * * *

(2) Any offering circular or non-public offering materials required to be used in connection with an offer or sale of securities under Part 563g of this Subchapter.

* * * * *

7. Add a new Part 563g, as follows:

PART 563g—SECURITIES OFFERINGS

Sec.

Authority: Secs. 402, 403 and 407 of the National Housing Act, 48 Stat. 1256, 1257 and 1260, as amended, 12 U.S.C. 1725, 1726 and 1730; sec. 5 of the Home Owners' Loan Act of 1933, 48 Stat. 132, as amended, 12 U.S.C. 1464; secs. 3(b), 12, 13, 14, and 23 of the Securities Exchange Act of 1934, 48 Stat. 882, 892, 894, 895, and 901, as amended (15) U.S.C. 78c(b), 781, m, n, and w, 78d–1); the Federal Home Loan Bank Act, 12 U.S.C. § 1421 *et seq.*; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

§ 563g.1 Definitions.

(a) For purposes of this Part, the following definitions apply:

(1) "Accredited investors" means the same as in the Commission Rule 501(a) (17 CFR 230.501(a)) under the Securities Act, and includes any insured institution.

(2) "Beneficial owner" means the same as in the Commission Rule 13d–3 (17 CFR 240.13d–3) under the Exchange Act.

(3) "Business combination" means the same as in Commission Rule 501(d) (12 CFR 230.501(d)) under the Securities Act.

(4) "Commission" means the Securities and Exchange Commission.

(5) "Exchange Act" means the Securities Exchange Act of 1934 (15 U.S.C. §§ 78a–78jj).

(6) "Filing date" means the date on which any documents are actually received during business hours by the Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

(7) "Insured institution" means the same as in § 561.1 of this Subchapter, and includes a federally-chartered insured institution in organization under Part 552 of this Chapter, and a state-chartered institution which is granted conditional approval of insurance of

accounts by the Corporation within one year of an offer or sale of the institution's securities.

(8) "Issuer" means an insured institution which issues or proposes to issue any security.

(9) "Offer" includes "offer to sell" and "offer for sale" and means the same as in § 563b.2(a)(22) of this Subchapter.

(10) "Person" means the same as in § 563b.2(a)(24) of this Subchapter, and includes an insured institution.

(11) "Purchase" and "buy" means the same as in § 563b.2(a)(26) of this Subchapter.

(12) "Sale" and "sell" includes every contract to sell or otherwise dispose of a security or interest in a security for value.

(13) "Securities Act" means the Securities Act of 1933 (15 U.S.C. 77a–77aa).

(14) "Security" means the same as in § 561.41 of this Subchapter.

(15) "Underwriter" means the same as in § 563b.3(a)(36) of this Subchapter.

(b) A term not defined in this Part but defined in another part of this Subchapter, when used in this Part, shall have the meanings given in such other part, unless the context otherwise requires.

(c) When used in any rules, regulations, or forms of the Commission referred to in this Part, the term "Commission" shall be deemed to refer to the Corporation or the Board, the term "registrant" shall be deemed to refer to an issuer defined in this Part, and the term "registration statement" shall be deemed to refer to an offering circular filed under this Part, unless the context otherwise requires.

§ 563g.2 Offering-circular requirements.

(a) *General.* No insured institution shall offer or sell, directly or indirectly, any security issued by it unless:

(1) The offer or sale is accompanied or preceded by an offering circular which includes the information required by this Part and which has been filed and declared effective pursuant to this Part; or

(2) An exemption is available under this Part.

(b) *Communications not deemed an offer.* The following communications shall not be deemed an offer under this Part:

(1) Prior to filing an offering circular, any notice of a proposed offering which satisfies the requirements of Commission Rule 135 (17 CFR 230.135) under the Secretaries Act; and

(2) Subsequent to filing an offering circular, any notice, circular, advertisement, letter, or other communication published or transmitted to any person which satisfies the requirements of Commission Rule 134 (17 CFR 230.134) under the Securities Act.

(c) *Preliminary offering circular.* Notwithstanding paragraph (a) of this section, a preliminary offering circular may be used for an offer of any security prior to the effective date of the offering circular if:

(1) The preliminary offering circular has been filed pursuant to this Part;

(2) The preliminary offering circular includes the information required by this Part, except for the omission of information relating to offering price, discounts or commissions, amount of proceeds, conversion rates, call prices, or other matters dependent on the offering price; and

(3) The offering circular declared effective by the Corporation is furnished to the purchaser prior to the sale of any such security.

§ 563g.3 Exemptions

The offering-circular requirements of § 563g.2 of this Part shall not apply to an issuer's offer or sale of securities:

(a) Made prior to the date this Part becomes effective: *Provided,* that (1) the offer or sale was accompanied or preceded by an offering document, (2) the offer or sale does not continue for more than 60 days after the effective date of Part 563g, and (3) the issuer is not a *de novo* federally-chartered institution in organization;

(b) Complying with the requirements for retail repurchase agreements of § 563.8–4 of this Subchapter, except where the issuer has a net-worth deficiency under that section;

(c) Exempt from registration under either section 3(a) of section 4 of the Securities Act only by reason of an exemption other than section 3(a)(5) (for regulated savings and loan associations), 3(a)(9) (for certain exchange offerings), 3(a)(11) (for intrastate offerings), or 4(2) (for non-public offerings) of the Securities Act;

(d) In a conversion from the mutual to the stock form of organization pursuant to Part 563b of this Subchapter, except for a supervisory conversion undertaken pursuant to Subpart C of Part 563b of this Subchapter;

(e) In a non-public offering which satisfies the requirements of § 563g.4 of this Part;

(f) That are debt securities issued in denominations of $100,000 or more, which are fully collateralized by interests in mortgage notes secured by real property; or

(g) Distributed exclusively aboard to foreign nationals: *Provided,* that (1) the offering is made subject to safeguards reasonably designed to preclude distribution or redistribution of the securities within, or to nationals of, the United States, and (2) such safeguards include, without limitation, measures that would be sufficient to ensure that registration of the securities would not be required if the securities were not exempt under the Securities Act.

§ 563g.4 Non-public offerings.

Any offer or sale by an issuer of its securities in a non-public offering is exempt from the offering-circular requriements of § 563g.2. To qualify as a non-public offering, the offering must conform to either paragraph (a) or (b) of this section and the requirements of paragraphs (c), (d), and (e) of this section.

(a) *Regulation D.* The offer and sale of all securities in the transaction satisfies the Commission's Regulation D (17 CFR 230.501–230.506), except for the notice requirements of Commission Rule 503 (7 CFR 230.503) and the limitations on resale in Commission Rule 502(d) (17 CFR 230.502(d).

(b) *Sales to 35 persons.* The offer and sale of all securities in the transaction satisfies each of the following conditions:

(1) Sales of the security are not made to more than 35 persons during the offering period, as determined under the integration provisions of Commission Rule 502(a) (17 CFR 230.502(a)). The number of purchasers referred to above is exclusive of any officer, director or affiliate of the issuer. For purposes of this paragraph (b), a husband and wife (together with any custodian or trustee acting for the account of their minor children) are counted as one person and a partnership, corporation or other organization which was not specifically formed for the purpose of purchasing the security offered in reliance upon this exemption, is counted as one person.

(2) All purchasers either have a pre-existing personal or business relationship with the issuer or any of its officers, directors or controlling persons, or by reason of their business or financial experience or the business or financial experience of their professional advisors who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent of the issuer, directly or indirectly, could reasonably be assumed to have the capacity to protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or a trust

account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security.

(4) The offer and sale of the security is not accomplished by the publication of any advertisement.

(c) *Notice.* A notice shall be filed with the Corporation not later than 10 days prior to the time any security is proposed to be offered or sold in reliance on the exemption provided for a non-public offering, which shall include all of the information required by the Notice Form set forth at § 563g.21 of this Part and shall include the following:

(1) The name, address, and docket number of the issuer.

(2) The title, number, aggregate and per-unit offering price of the securities to be offered;

(3) The number of persons to whom the securities are to be offered; and

(4) A detailed statement of the factual and legal grounds for the exemption claimed.

(d) *Issuance or termination.* Within 10 days after the issuance of securities or termination of an offer of securities in a non-public offering, the issuer shall file with the Corporation a report describing the results of the offer and sale of the securities as required by § 563g.12(b) of this Part.

(e) *Limitation on resale.* Securities acquired in a transaction under this exemption shall not be resold or otherwise disposed of for a period of two years without the prior written consent of the Corporation.

(1) The issuer shall exercise reasonable care to ensure that the purchasers of the securities are not purchasing for resale or distribution, which reasonable care shall include, but not be limited to, the following:

(i) Reasonable inquiry to determine if the purchaser is acquiring the securities for himself or for other persons;

(ii) Written disclosure to each purchaser prior to sale that the securities cannot be resold or otherwise disposed for a period of two year withouts the prior written consent of the Corporation; and

(iii) Placement of a legend on the certificate or other document that evidences the securities, which states: "The securities evidenced by this certificate are restricted as to transfer for a period of two years from the date of this certificate pursuant to the rules and regulations of the Federal Savings and Loan Insurance Corporation and may not be sold or otherwise disposed of without the prior written consent of the Federal Savings and Loan Insurance Corporation."

(2) The determination of the period that securities have been held after acquisition for the purposes of this section shall be made as provided in Commission Rule 144(d) (17 CFR 230.144(d)).

(3) Where securities of the issuer are exchanged for other securities in any business combination, securities of the issuer which are restricted under this section may be exchanged for other securities which are similarly restricted and have the legend required by paragraph (e)(1)(iii) of this section, and the holding periods may run consecutively.

§ 563g.5 Filing and signature requirements.

(a) *Procedures.* An offering circular, amendment, notice, report, or other document required by this Part shall, unless othewise indicated, be filed in accordance with the requirements of § 563b.8(e) (1), (3) and (4), (f) through (q) and (s), of this Subchapter.

(b) *Number of copies.* (1) Unless otherwise required, any filing under this Part shall include 10 copies of the document to be filed with the Corporation, as follows:

(i) Seven copies, which shall include one manually signed copy with exhibits, three conformed copies with exhibits, and three conformed copies without exhibits, to the Corporate and Securities Division, Office of General Counsel; and

(ii) Three copies, which shall include one manually signed copy with exhibits and two conformed copies without exhibits, to the Principal Supervisory Agent.

(2) Within five days after the effective date of an offering circular or the commencement of a public offering after the effective date, whichever occurs later, 25 copies of the offering circular used shall be filed with the Corporation, as follows: 22 copies to the Corporate and Securities Division, Office of General Counsel, and three copies to the Principal Supervisory Agent.

(3) After the effective date of an offering circular, an offering circular which varies from the form previously filed shall not be used, unless it includes only non-material supplemental or additional information and until 10 copies have been filed with the Corporation in the manner required.

(c) *Signature.* (1) Any offering circular, amendment, exhibit, or consent filed with the Corporation pursuant to this Part shall include an attached manually signed signature page which authorizes the filing and has been signed by:

(i) The Issuer, by its duly authorized representative;

(ii) The Issuer's principal executive officer;

(iii) The Issuer's principal financial officer;

(iv) The Issuer's principal accounting officer; and

(v) At least a majority of the issuer's directors.

(2) Any other document filed pursuant to this Part shall be signed by a person authorized to do so.

(3) At least two copies of every document filed pursuant to this Part shall be manually signed, and every copy of a document filed shall:

(i) Have the name of each person who signs typed or printed beneath the signature;

(ii) State the capacity or capacities in which the signature is provided;

(iii) Provide the name of each director of the issuer, if a majority of directors is required to sign the document; and

(iv) With regard to any copies not manually signed, bear typed or printed signatures.

§ 563g.6 Effective date.

An offering circular filed by an insured institution shall automatically be declared effective by the Corporation on the twentieth day after filing or on such earlier date as the Corporation may determine for good cause shown: *Provided,* that:

(a) If any amendment is filed prior to the effective date, the offering circular shall be deemed to have been filed when such amendment was filed;

(b) The period until automatic effectiveness under § 563g.6 shall be stated at the botton of the facing page of the Form OC or any amendment;

(c) The effectiveness will be delayed if a duly authorized amendment, telegram confirmed in writing, or letter states that the effectiveness date is delayed until a further amendment is filed specifically stating that the offering circular will become effective in accordance with § 563g.6; and

(d) If it appears to the Corporation at any time that the offering circular is incomplete or inaccurate in any material respect, the Corporation may determine to declare the offering circular not effective until a materially complete and accurate amendment is filed.

§ 563g.7 Form, content, and accounting.

(a) *Form and content.* Any offering circular or amendment filed pursuant to this Part shall:

(1) Be filed under cover of Form OC, which is under Part 563b of this Subchapter;

(2) Include all of the information required by Schedule A to the Securities Act;

(3) Comply with the requirements of Items 3 and 4 of Form OC and the requirements of all items of the form for registration (17 CFR Part 239) that the issuer would be eligible to use were it required to register the securities under the Securities Act;

(4) Comply with all item requirements of the Form S–1 (17 CFR Part 239) for registration under the Securities Act, if the institution issuing the securities is not in compliance with the Corporation's regulatory net-worth requirements during the time the offering is made;

(5) Where a form specifies that the information required by an item in the Commission's Regulation S–K (17 CFR Part 229) should be furnished, include the information as modified by an corresponding item in Form PS, which is under Part 563b of this Subchapter, and all of the information required by Item 7 of such Form PS;

(6) Include after the facing page of the Form OC a cross-reference sheet listing each item requirement of the form for registration under the Securities Act and indicate for each item the applicable heading or subheading in the offering circular under which the required information is disclosed;

(7) Include in Part II of the Form OC the applicable undertakings required by the form for registration under the Securities Act;

(8) Include in Part II of Form OC the undertaking provided in paragraph (8)(i) of this section for underwritten offerings or the undertaking provided in paragraph (8)(ii) of this section for offerings not underwritten:

(i) "The issuer hereby undertakes, in connection with any distribution of the Offering Circular, to have a preliminary offering circular including the information required by this Part distributed to all persons expected to be mailed confirmations of sale not less than 48 hours prior to the time such confirmations are expected to be mailed."

(ii) "The issuer hereby undertakes, in connection with any distribution of the Offering Circular, to deliver an effective offering circular to all persons to whom the securities are to be sold at least 48 hours prior to the acceptance or conformation of sale to such persons, or to send such a circular to such persons under circumstances that it would normally be received by them 48 hours prior to the acceptance or confirmation of the sale.";

(9) Include as an additional exhibit in Part II of the Form OC, for a securities offering of a Federally-chartered institution in organization, a copy of the application for permission to organize and, for a state-chartered institution in organization, a copy of the application for insurance of accounts; and

(10) Include such information which the Corporation by interpretion or otherwise has deemed necessary.

(b) *Accounting requirements.* To be declared effective, an offering circular or amendment shall satisfy the accounting requirements in Subpart A of Part 563c of this Subchapter and, to the extent they are not inconsistent, the accounting rules in the Commission's Regulation S–X (17 CFR Part 210) and the financial information requirements in the Commission's Regulation S–K (17 CFR Part 229).

§ 563g.8 Use of offering circular.

(a) An offering circular or amendment declared effective by the Corporation shall not be used more than nine months after the effective date, unless the information contained therein is as of a date not more than 16 months prior to such use.

(b) An offering circular filed under § 563g.5(b)(3) of this Part shall not extend the period for which an effective offering circular or amendment may be used under paragraphs (c) of this section.

(c) No offering circular shall be used and no offer or sale of securities subject to the offering-circular requirements of this Part shall be made subsequent to any material change in an issuer's business operations or financial condition, until the offering circular has been amended to include information as to the material changes and the amended offering circular has been filed with and declared effective by the Corporation.

§ 563.9 Escrow requirement.

(a) Any funds received in an offering pursuant to this Part shall be held in a federally-insured escrow or similar separate account until the issuance of the securities or termination of the offer of the securities.

(b) If an offering of securities pursuant to this Part is not completed within the term of the proposed offering period, any funds collected shall be promptly refunded.

§ 563g.10 Manipulative and deceptive devices.

In any offer, purchase, or sale in connection with an issuer's offering of its securities, exempt or not exempt under this Part, no person, directly or indirectly, shall:

(a) Employ any device, scheme, or artifice to defraud,

(b) Make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(c) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

§ 563g.11 Withdrawal or abandonment.

(a) Any offering circular, amendment, or exhibit may be withdrawn prior to the effective date. A withdrawal shall be signed and state fully the grounds upon which it is made. Any documents withdrawn will not be removed from the files of the Corporation, but will be marked "Withdrawn upon the request of the issuer on (date)."

(b) When an offering circular or amendment has been on file with the Corporation for a period of nine months and has not become effective the Corporation may, in its discretion, determine whether the filing has been abandoned, after notifying the issuer that the filing is out of date and must either be amended to comply with the applicable requirements of this Part or be withdrawn within 30 days after the date of such notice. Where a filing is abandoned, the documents will not be removed from the files of the Corporation, but will be marked "Declared abandoned by the FSLIC on (date)."

§ 563g.12 Securities sale report.

(a) Within 10 days after the issuance of securities or temination of an offer of securities pursuant to this Part, the issuer shall file a report with the Corporation describing the results of the offer and sale of the securities, which shall include all of the information required by the Securities Sale Report Form set forth at § 563g.22 of this Part and shall include the following:

(1) The name, address, and docket number of the issuer;

(2) The title, number, aggregate and per-unit offering price of the securities sold;

(3) The aggregate and per-unit dollar amounts of actual itemized expenses, discounts or commissions, and other fees;

(4) The aggregate and per-unit dollar amounts of the net proceeds raised; and

(5) The number of purchasers of each class of securities sold and the number of owners of record of each class of the issuer's equity securities after the

issuance of the securities or termination of the offer.

(b) Within 10 days after the issuance of securities or termination of an offer of securities which is claimed to be exempt from filing as a non-public offering, the issuer shall file a report with the Corporation describing the results of the offer and sale of the securities, which shall include:

(1) All of the information required by paragraph (a) of this section;

(2) A detailed statement of the factual and legal grounds for the exemption claimed; and

(3) Copies of all offering materials used listed and attached as exhibits.

§ 563g.13 Public disclosure and confidential treatment.

(a) Any offering circular, amendment, exhibit, notice, or report filed pursuant to this Part will be publicly available. Any other related documents will be tended in accordance with the provisions of the Freedom of Information Act (5 U.S.C 552), the Privacy Act of 1974 (5 U.S.C. 552a), and Parts 505 and 505a of this Chapter.

(b) Any requests for confidential treatment of information in a document required to be filed under this Part shall be made as required under Commission Rule 24b–2 (17 CFR 240.24b–2) under the Exchange Act.

§ 563g.14 Waiver.

(a) The Corporation may waive any requirements of this Part, or any required information:

(1) Determined to be unnecessary by the Corporation;

(2) In connection with a transaction approved by the Corporation for supervisory reasons, or

(3) Where a provision of this Part conflicts with a requirement of applicable state law.

(b) Any condition, stipulation or provision binding any person acquiring a security issued by an insured institution which seeks to waive compliance with any provision of this Part shall be void, unless approved by the Corporation.

§ 563g.15 Requests for interpretive advice or waiver.

Any requests to the Corporation for interpretive advice or a waiver with respect to any provision of this Part shall satisfy the following requirements:

(a) Three copies of the request, including any attachments, shall be filed with the Office of General Counsel, Corporate and Securities Division;

(b) The provisions of this Part to which the request relates, the participants in the proposed transaction, and the reasons for the request, shall be specifically identified or described; and

(c) The request shall include a legal opinion as to each legal issue raised and an accounting opinion as to each accounting issue raised.

§ 563g.16 Delayed or continuous offering and sale of securities.

Any offer or sale of securities under § 563g.2 of this Part may be made on a continuous or delayed basis in the future, if:

(a) The securities would satisfy all of the eligibility requirements of the Commission's Rule 415, 17 CFR 230.415; and

(b) The institution issuing the securities is in compliance with the Corporation's regulatory net-worth requirements during the time the offering is made.

§ 563g.17 Direct sales of securities at an office.

Securities of an insured institution or an affiliate shall only be offered or sold at an office of an insured institution or an affiliate, if:

(a) No commissions are paid to any employee or other person;

(b) No offers or sales are made by tellers or at the teller counter;

(c) Offers and sales are made only by regular, full-time employees;

(d) No unsolicited telephone calls or visits are made by the issuing insured institution to any person in connection with any offers or sales; and

(e) The institution issuing the securities is in compliance with the Corporation's regulatory net-worth requirements during the time the offering is made, except that such compliance is not required for repurchase agreements issued in compliance with § 563.8–4 of this Part.

§ 563g.18 Exchange Act registration requirement.

Each insured institution that files an offering circular which becomes effective pursuant to this Part shall:

(a) Register the securities pursuant to section 12 of the Exchange Act promptly upon issuance of such securities, unless the class of securities is currently registered; and

(b) Not deregister the securities under section 12 of the Exchange Act except in accordance with the rules under the Exchange Act and until 120 days after one full fiscal year following the fiscal year during which the securities were issued.

§ 563g.19 Approval of the security.

Any securities of an insured institution which are not exempt under this Part and are offered or sold pursuant to an offering circular which becomes effective under this Part, are deemed to be approved as to form and terms for purposes of § 561.1 of this Subchapter.

§ 563g.20 Rescission offers.

(a) The Corporation may direct an issuer to make a rescission offer in compliance with paragraph (c) of this section, where the Corporation determines that the issuer has offered or sold securities in violation of § 563g.2 or § 563g.10 of this Part or has violated any of the provisions of this Part.

(b) The Corporation shall direct a state-chartered institution to make a rescission offer in compliance with paragraph (c) of this section, where the institution is granted approval of insurance of accounts by the Corporation within one year of an offer or sale of securities by the institution. The rescission offer shall be made after the Corporation's conditional approval of insurance of accounts and shall expire prior to the effective date of insurance of accounts.

(c) A rescission offer under this section shall:

(1) Be accompanied or preceded by an offering circular which has been filed and declared effective pursuant to this Part;

(2) Grant the right to rescind for a period of 20 days from the mailing date of the offering circular, unless such other period is directed by the Corporation;

(3) Offer to promptly return the consideration paid for the security with interest computed at the judgment rate in the state of the institution's home office, less the amount of any income received from the security, upon the tender of the security, and offer to promptly pay an amount equal to the measure of damages under § 11 of the Securities Act, as if that provision applied to the transaction, if the security is no longer owned; and

(4) Be made under terms and conditions which are fair and reasonable.

(d) Within 10 days of the receipt of an order or directive under this section, the issuer may submit in writing a statment of its grounds for objection, along with any supporting documentation. Where the issuer claims an exemption under this Part or assets other legal grounds for objection, a reasoned legal opinion should be provided. Within 10 days of the receipt of a written submission which is complete, the Corporation will notify the issuer whether the directive to offer rescission has been upheld, modified or withdrawn.

§ 563g.21 Form for notice of a non-public offering.

Federal Home Loan Bank Board

1700 G Street, NW.
Washington, D.C. 20552

Notice of Non-Public Offering Pursuant to Rule 563g–4

FHLBB No. _____
Issuer's Name: _____
Address: _____

If in organization, state the date of the conditional approval of insurance of accounts and the Board Resolution No.:

State the title, number, aggregate and per-unit offering price of the securities to be offered:

State the number of persons to whom the securities are to be offered:

State the factual and legal grounds for the exemption claimed (attach additional pages if necessary):

Person to Contact: _____
Telephone No.: _____

The issuer has duly caused this Notice to be signed on its behalf by the undersigned person.

Date of Notice: _____
Issuer: _____
Signature: _____
Name: _____
Title: _____

Instruction: Print the name and title of the signing representative under his signatures. Ten copies of the Notice should be filed, including two copies manually signed, as required under 12 CFR 563g.5.

Attention

Intentional misstatements or omissions of fact constitute violations of Federal law (18 U.S.C. 1001).

§ 563g.22 Form for securities sale report.

Federal Home Loan Bank Board

1700 G Street, N.W.
Washington, D.C. 20552

Securities Sale Report Pursuant to Rule 563g.12

FHLBB No. _____
Issuer's Name: _____
Address: _____

If in organization, state the date of certification of insurance of accounts:

State the title, number, aggregate and per-unit offering price of the securities sold:

State the aggregate and per-unit dollar amounts of the net proceeds raised:

State the number of purchasers of each class of securities sold and the number of owners of record of each class of the issuer's equity securities at the close or termination of the offering:

For a non-public offering, also state the factual and legal grounds for the exemption claimed (attach additional pages if necessary):

For a non-public offering, copies of all offering materials used should be listed and attached as exhibits:

Person to Contact: _____
Telephone No.: _____

The issuer has duly caused this securities sale report to be signed on its behalf by the undersigned person.

Date of securities sale report: _____
Issuer: _____
Signature: _____
Name: _____
Title: _____

Instruction: Print the name and title of the signing representative under his signatures. Ten copies of the securities sale report should be filed, including two copies manually signed, as required under 12 CFR 563g.5.

Attention

Intentional misstatements or omissions of fact constitute violations of Federal law (See 18 U.S.C. 1001).

§ 563g.23 Delegation of authority.

The General Counsel, or designee, is authorized to act on or exercise the Corporation's authority pursuant to this Part.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85–22812 Filed 9–24–85; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85–AWP–33]

Proposed Alteration of Oxnard, California, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend the existing control zone at Oxnard, California. The extension of the control zone is required to contain the Standard Instrument Approach Procedures proposed for Camarillo Airport, Camarillo, California. This proposal will change the published title of the control zone from Oxnard Ventura County Airport, California, to Oxnard, California. This action is necessary to ensure aircraft operating under Instrument Flight Rules (IFR) would have exclusive use of that airspace when visibility is less than 3 miles, thereby enhancing the safety of such operations.

DATE: Comments must be received on or before November 15, 1985.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, AWP–530, Docket No. 85–AWP–33,P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007.

The official docket may be examined in the Office of the Western-Pacific Regional Counsel, Room 6W14, at 15000 Aviation Boulevard, Hawthorne, California.

An informal docket may be examined during normal business hours at the Airspace and Procedures Branch, Room 6E4, at the above address.

FOR FURTHER INFORMATION CONTACT: Curtis Alms, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Hawthorne, California 90261; telephone (213) 536–6649.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this docket must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85–AWP–33." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination at the address listed above, both before and after the closing date for comments. A report summarizing each substantive public

contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch , 15000 Aviation Boulevard, Hawthorne, California 90261. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide additional controlled airspace to ensure that aircraft conducting VOR Runway 26 IFR operations at Camarillo Airport are segregated from aircraft conducting Visual Flight Rules (VFR) operations when the visibility is less than 3 miles, thereby enhancing the safety of such operations. The current control zone is titled Oxnard Ventura County Airport, California, and the control zone serves more than one airport. This proposal will change the title to read Oxnard, California. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the FAR as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows

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

2. Section 71.171 is amended as follows:

Oxnard, CA—[Revised]

"Within a 5-mile radius of Oxnard Ventura County Airport (lat. 34°12'02" N., long. 119°12'10" W.), beginning at lat. 34°07'40" N., long. 119°12'35" W.; to lat. 34°14'30" N., long. 119°07'40" W.; then extending beyond the 5-mile radius circle to lat. 34°14'30" N., long. 118°59'39" W.; to lat. W.; 34°10'30" N., long 118°59'30" W.; to lat. 34°10'30" N., 119°07'40" W.; then counterclockwise via the 5-mile radius circle of NAS Point Mugu (lat. 34°07'05" N., long. 119°07'20" W.); to the point of beginning. This control zone shall be effective during the specified dates and times established in advance by a Notice to Airmen. The effective date and time will, thereafter, be continuously published in the *Airport/Facility Directory.*"

Issued in Los Angeles, California on September 13, 1985.

B. Keith Potts,

Acting Director,β Western-Pacific Region.

[FR Doc. 85-22827 Filed 9-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AWP-34]

Proposed Alteration of Ke-ahole Kona, Hawaii, Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter and redefine the control zone and transition area at Ke-ahole Kona, Hawaii. The realignment of the controlled airspace is required to contain all IFR operations at Keahole Airport, Hawaii. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions. This action will also change the title of the control zone and transition area to reflect the name of the associated community of Kailua-Kona, Hawaii, and correct the spelling of Keahole Airport.

DATE: Comments must be received on or before October 30, 1985.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, AWP-530, Docket No. 85-AWP-34, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007.

The official docket may be examined in the Office of the Western-Pacific Regional Counsel, Room 6W14, at 15000 Aviation Boulevard, Hawthorne, California.

An informal docket may be examined during normal business hours at the Airspace and Procedures Branch, Room 6E4, at the above address.

FOR FURTHER INFORMATION CONTACT: Curtis Alms, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Hawthorne, California 90261; telephone (213) 536-6649.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this docket must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AWP-34." All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination at the address listed above, both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and

Procedures Branch, AWP-530, 15000 Aviation Boulevard, Hawthorne, California 90261, or by calling (213) 536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide realignment of Ke-ahole Kona, Hawaii, Control Zone and Transition Area. This action is necessary to provide sufficient controlled airspace to ensure aircraft operating under Instrument Flight Rules (IFR) would have exclusive use of that airspace when visibility is less than three miles; thereby, enhancing the safety of such operations. Keahole Airport is associated with the community of Kailua-Kona, Hawaii, and this action will also change the title of the control zone and transition area to reflect this correction. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

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

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the FAR as follows:

PART 71—[AMENDED]

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

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

2. Section 71.171 is amended as follows:

Kailua-Kona, HI—[Revised]

Within a 5-mile radius of Keahole Airport (lat. 19°44'08" N., long. 156°02'56" W.); thence beginning at lat. 19°40'20" N., long. 156°00'30" W.; to lat. 19°38'00" N., long. 156°00'35" W.; to lat. 19°38'40" N., long. 156°06'20" W.; to lat. 19°41'10" N., long. 156°06'00" W.; thence clockwise via the 5-mile radius circle to lat. 19°43'50" N., long. 156°07'20" W.; to lat. 19°55'50" N., long. 156°06'20" W.; to lat. 19°55'0" N., long. 155°57'00" W.; to lat. 19°43'25" N., long. 155°58'25" W.; thence clockwise via the 5-mile radius circle to the point of beginning. This control zone is effective from 0600 to 2000 hours, local time, daily. The effective date and time will, thereafter, be continuously published in the *Flight Information Publication Supplement Pacific, Australasia, and Antartica.*

3. Section 71.181 is amended as follows:

Kailua-Kona, HI—[Revised]

That airspace extending upward from 700 feet above the surface beginning at lat. 19°37'28" N., long. 155°59'30" W.; to lat. 19°29'00" N., long. 156°00'30" W.; to lat. 19°29'45" N., long. 156°08'50" W.; to lat. 19°38'30" N., long. 156°08'01" W.; thence clockwise via the 8.5-mile radius circle of Keahole Airport (lat. 19°44'08" N., long. 156°02'56" W.) to the point of beginning.

Issued in Los Angeles, California on September 13, 1985.

B. Keith Potts,

Acting Director, Western-Pacific Region.

[FR Doc. 85-22628 Filed 9-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 84-AWA-30]

Proposed Establishment of Restricted Areas; Lompoc and Santa Maria, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish restricted airspace at Lompoc and Santa Maria, CA, to encompass Space Shuttle vehicle launch, recovery, and flight training operations. Space Shuttle activities in the proposed area may create an unsafe environment for the shuttle vehicle and other aircraft because of the limitations on the ability of the shuttle vehicle, or aircraft simulating the shuttle vehicle's flight characteristics, to see and avoid other aircraft. The proposed restricted area would segregate nonparticipating aircraft during actual and simulated shuttle vehicle operations.

DATE: Comments must be received on or before November 12, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 84-AWA-30, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-AWA-30." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on

the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

Background

On January 22, 1985, the FAA published an Advance Notice of Proposed Rulemaking (ANPRM) announcing proposed restricted area airspace over Lompoc, CA, and Santa Maria, CA (50 FR 2827). The advance notice proposed that restricted airspace over Lompoc, CA, and Santa Maria, CA, be established for Space Shuttle vehicle training operations. The notice also informed the public of an informal airspace meeting which was held in Lompoc, CA, on March 5, 1985, to discuss the restricted area proposal.

Comments

Interested parties has numerous comments and objections relating to the proposed restricted area airspace. During the comment period a total of 15 written comments were received from both aviation nonaviation groups objecting to the proposal. Approximately 135 persons attended the informal airspace meeting on March 5 concerning the proposed restricted area airspace. In attendance were the Lompoc Airport fixed-based operator, Aircraft Owners and Pilots Association (AOPA), Lompoc Valley Chamber of Commerce, Lompoc Valley Pilot is Association, Santa Barbara County Board of Supervisors, and numerous other aviation and nonaviation interested citizens.

Approximately 35 persons commented during the meeting and all were in opposition to the proposal. The areas of concern centered on the following:

1. The Lompoc Airport would be closed during Space Shuttle launch and recovery periods because of restricted airspace.
2. The Lompoc Airport would also be closed during Space Shuttle training periods because of restricted airspace.
3. Lompoc Airport would suffer economic damage due to fewer aircraft using the airport.
4. The city and community would suffer economic damage due to a reduction of airport availability and utility.
5. Lompoc Airport expansion plans would be curtailed.
6. Local farmers and crop dusters would suffer economic loss since crop dusting activity would be curtailed or halted during periods of shuttle operations and training.
7. Loss of instrument flight rules departure procedures and the VOR/DME approach would adversely impact the Lompoc Airport.
8. The floor of restricted airspace at 3,000 feet MSL over mountainous terrain will afford less than 2,000 obstruction clearance in areas of turbulence and wind shear will adversely affect flight safety.

Due to the above objections, the Department of Defense (DOD) and the National Aeronautics and Space Administration (NASA) have significantly revised the original proposal as stated in the advance notice. The FAA believes that the revised proposal will provide for an adequate, safe and efficient environmental to accommodate Space Shuttle vehicle operations, training, and support aircraft activities, while ensuring safety and minimum impact on other users.

The Proposals

The FAA is considering amendments to § 71.151 and § 73.25 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to establish new Restricted Areas R–2539 A, B, C and D near Lompoc and Santa Maria, CA. All of the proposed restricted areas will also be added to the Continental Control Area. In response to public comment, DOD and NASA have submitted a revised proposal to the FAA requesting restricted area airspace near Vandenberg AFB, Lompoc, CA, contain Space Shuttle vehicle operations, training, and support aircraft activities. A total of 11 Space Shuttle vehicle launch and recoveries are scheduled to be conducted at Vandenberg AFB during the next five years. Each of these shuttle launches and recoveries would result in the Lompoc Airport being closed to the flying public for a brief period. Even though the proposed restricted area R–2539D would extend vertically from 100 feet AGL to infinity, it is not anticipated that it would have a significant adverse effect upon aerial access to Lompoc Airport or the conduct of flight activities in the vicinity, because the airspace would be activated only very infrequently. When it is active, the periods of activation would extend only from four hours prior to the scheduled launch of an orbital mission to one-half hour after lift off of the shuttle vehicle (or recovery of the vehicle at the launch site in the event of an aborted departure), and from one hour prior to a scheduled shuttle vehicle recovery until one-half hour after landing. Agricultural dispensing flight operations would not be entirely curtailed of Lompoc when R–2539D is activated because many of those activities can be accomplished below 100 feet AGL.

R–2539C would only be activated during airborne simulation of shuttle vehicle launch and recovery operations. The area would extend vertically from 1,500 feet MSL to infinity. NASA reports that they plan to conduct astronaut training to Vandenberg AFB in units of two to three days each once every other month. Each day of training includes two flights, each one lasting approximately two and one-half hours. Since the floor of the restricted area airspace would be 1,500 feet MSL, ingress/egress routes would be available at Lompoc Airport and normal flight operations would be conducted without any substantial adverse effect upon these operations.

R–2539B would be activated only in support of actual space shuttle launch/recovery operations, or Space Shuttle training aircraft flights. The floor of the restricted area airspace would be 5,000 feet MSL and would provide sufficient obstruction clearance over mountainous terrain in the Lompoc area.

R–2539A would also only be activated in support of the actual Space Shuttle launch/recovery operations or Space Shuttle training flights. The floor of the restricted area airspace would be 9,000 feet MSL and would cause no adverse effect to aircraft operations at the Lompoc or Santa Maria Airports.

The FAA believes that the revised proposal will not significantly impact aircraft operations in the Lompoc area and will provide for a safe and efficient use of the airspace by all users. In addition, DOD and NASA have agreed to the following measures to minimize any impact on the efficient and safe flying environment in the Lompoc area if the proposal is adopted:

1. A letter of agreement between Vandenberg AFB RAPCON and the Lompoc Airport operators would be developed to specify restricted area activation procedures.

2. A remote VHF site on or near the Lompoc Airport will be installed so as to provide aircraft on the ground at Lompoc Airport with direct communications to Vandenberg AFB RAPCON. This equipment is expected to be installed prior to the first Shuttle launch, which is scheduled for March 1986.

3. A VHF ATIS would be installed at Vandenberg AFB to enhance pilot awareness of restricted area status.

4. Charting of the restricted areas would clearly indicate hours of operation and Vandenberg AFB RAPCON frequencies to preclude transient pilots from avoiding the airport on the basis that it lies within restricted airspace continuously. Sections 71.123 and 73.25 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

Regulatory Evaluation

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In the ANPRM published in January 1985, the FAA did not include a draft regulatory evaluation but committed to such an evaluation if necessary in consideration of the comments received. Many of the comments received in response to the ANPRM did claim that there would be an economic impact, primarily as the result of a continuous restricted area over the Lompoc Airport with a floor of 100 feet AGL. That proposal has not been included in this notice. The 100 foot AGL area would be activated for only a few hours over a period of five years. The three remaining areas would be activated for shuttle operations and training only as necessary, at minimum altitudes of 1,500 feet MSL, 5,000 feet MSL, and 9,000 feet MSL. As a result, the areas proposed in this notice would not have the impacts on aeronautical, agricultural, and business activity of the previous proposal. The economic impact of the current proposal would be minimal, and, accordingly, no economic evaluation has been prepared. For the same reason, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area and Restricted areas.

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as follows:

PART 71—[AMENDED]

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

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

2. Section 71.151 is amended as follows:

R-2539A USAF Space Shuttle Operations, Vandenberg AFB, CA [New]

R-2539B USAF Space Shuttle Operations, Vandenberg AFB, CA [New]

R-2539C USAF Space Shuttle Operations, Vandenberg AFB, CA [New]

R-2539D USAF Space Shuttle Operations, Vandenberg AFB, CA [New]

PART 73—[AMENDED]

3. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

4. Section 73.25 is amended as follows:

R-2539A USAF Space Shuttle Operations, Vandenberg AFB, CA [New]

Boundaries: Beginning at Lat. 35°00'00" N., long. 120°42'00" W.; to lat. 35°03'00" N., long. 120°39'00" W.; to Lat. 34°48'00" N., long. 120°18'00" W.; to Lat. 34°37'00" N., long. 120°16'00" W.; to Lat. 34°46'00" N., long. 120°27'00" W.; to Lat. 34°50'00" N., long. 120°32'00" W.; to Lat. 34°54'00" N., long. 120°33'00" W.; to the point of beginning.

Altitudes: 9,000 feet MSL to unlimited.

Times of use: Intermittent, activated by NOTAM.

Controlling agency: FAA, Los Angeles ARTCC.

Using agency: USAF, Western Space and Missile Center (WSMC)/SE, Vandenberg AFB, CA.

Remarks: Activation authorized only in support of actual Space Shuttle launch/recovery operations, or Space Shuttle Training aircraft flights.

R-2539B USAF Space Shuttle Operations, Vandenberg AFB, CA [New]

Boundaries: Beginning at Lat. 34°46'00" N., long. 120°27'00" W.; to Lat. 34°37'00" N., long. 120°16'00" W.; to Lat. 34°30'00" N., long. 120°15'30" W.; to Lat. 34°36'20" N., long. 120°27'20" W.; to Lat. 34°40'00" N., long. 120°25'00" W.; to Lat. 34°42'00" N., long. 120°30'00" W.; to the point of beginning.

Altitudes: 5,000 feet MSL to unlimited.

Times of use: Intermittent, activated by NOTAM.

Controlling agency: FAA, Los Angeles ARTCC.

Using agency: USAF, Western Space and Missile Center (WSMC)/SE, Vandenberg AFB, CA.

Remarks: Activation authorized only in support of actual Space Shuttle launch/recovery operations, or Space Shuttle training aircraft flights.

R-2539C USAF Space Shuttle Operations, Vandenberg AFB, CA [New]

Boundaries: Beginning at to lat. 34°42'00" N., long. 120°30'00" W.; to Lat. 34°40'00" N., long. 120°25'00" W.; to lat. 34°36'20" N., long. 120°27'20" W.; to lat. 34°35'45" N., long. 120°28'10" W.; to lat. 34°38'35" N., long. 120°31'20" W.; to the point of beginning.

Altitudes: 1,500 feet MSL to unlimited.

Times of use: Intermittent, activated by NOTAM.

Controlling agency: FAA, Los Angeles ARTCC.

Using agency: USAF, Western Space and Missile Center (WSMC)/SE, Vandenberg AFB, CA.

Remarks: Activation authorized only in support of actual Space Shuttle training aircraft flights.

R-2539D USAF Space Shuttle Operations, Vandenberg AFB, CA [New]

Boundaries: Beginning at lat. 34°42'00" N., long. 120°30'00" W.; to lat. 34°40'00" N., long. 120°25'00" W.; to lat. 34°36'020" N., long. 120°27'20" W.; to lat. 34°35'45" N., long. 120°28'10" W.; to lat. 34°38'35" N., long. 120°31'20" W.; to the point of beginning.

Altitudes: 100 feet AGL to unlimited.

Times of use: Intermittent, activated by NOTAM.

Controlling agency: FAA, Los Angeles ARTCC.

Using agency: USAF, Western Space and Missile Center (WSMC)/SE, Vandenberg AFB, CA.

Remarks: Activation authorized only during actual Space Shuttle recovery operations, and those launches identifying Vandenberg as a potential return to launch site locations.

Issued in Washington, DC, on September 17, 1985.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-22833 Filed 9-24-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 33

Enforcement of Nondiscrimination on the basis of Handicap in Department of Labor Programs; Correction

AGENCY: Office of the Secretary, Labor.

ACTION: Proposed rule: reopening of comment period; correction.

SUMMARY: This document corrects four items contained in the notice to reopen the comment period for proposed regulations implementing the 1978 amendment to section 504 of the Rehabilitation Act of 1973, as amended, in programs or activities conducted by the Department of Labor. The notice to reopen the comment period was published September 10, 1985 (50 FR 36885).

FOR FURTHER INFORMATION CONTACT: Noelia Fernandez, Equal Opportunity Specialist, Telephone (202) 523-7002 (VOICE) or 523-7090 (TTY).

SUPPLEMENTARY INFORMATION: The following corrections shall be made on page 36885:

(1) In the second column, first paragraph, fourth line, the room number to which comments should be addressed is N-4123.

(2) The same change should be made in the second column, second paragraph, second line.

(3) In the second column, third paragraph, the contact person is corrected to read Noelia Fernandez, Equal Opportunity Specialist.

(4) In the second column, third paragraph, sixth line, the voice telephone number is corrected to read 523-7002.

Signed at Washington, D.C., this 20th day of September, 1985.

William J. Harris,

Director, Office of Civil Rights.

[FR Doc. 85-22873 Filed 9-24-85; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Public Comment Period and Opportunity for Public Hearing on Proposed Amendment to the Colorado Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and hearing on the substantive adequacy of a program amendment submitted by the State of Colorado as a modification to its permanent regulatory program (hereinafter referred to as the Colorado program), which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By letter dated August 28, 1985, Colorado submitted revisions to 2 CCR 407-2, 5.03.02(1) to clarify that conducting surface coal mining and reclamation operations without a valid permit or engaging in coal exploration operations without approval constitutes a condition or practice that causes or can be expected to cause significant imminent environmental harm. The State also proposes to revise 2 CCR 407-2, 5.04.5(2) to establish a minimum civil penalty of $1,750 for conducting such unapproved or unpermitted operations.

This notice sets forth the times and locations that the Colorado program and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing.

DATES: Written comments from the public not received by 4:00 p.m. on October 25, 1985 will not be considered in the decision process. A public hearing on the proposal will be held at 7:00 p.m. on October 15, 1985. Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Hagen at the OSM Albuquerque Field Office by the close of business on or before October 10, 1985. If no one expresses an interest in participating in the hearing by this date, the hearing will not be held. If only one person has so contacted Mr. Hagen, a public meeting, rather than a hearing, may be held; the results of the meeting will be included in the administrative record.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, Attn: Colorado Administrative Record, 219 Central Avenue, N.W., Albuquerque, New Mexico 87102.

Copies of the proposed modifications to the program, the Colorado program, and the administrative record on the Colorado program are available for public review and copying at the OSM office and the State regulatory authority office listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed program amendment by contacting the OSM Albuquerque Field Office.

Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue, N.W., Albuquerque, New Mexico 87102, Telephone: (505) 766-1486

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5124, Washington, DC 20240, Telephone: (202) 343-4855

Colorado Mined Land Reclamation Division, Department of Natural Resources, Centennial Building, Room 423, 1313 Sherman Street, Denver, Colorado 80203, Telephone: (303) 866-3567

A public hearing on the proposal will be held at 7:00 p.m. on October 15, 1985 at the OSM Western Technical Center, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW., Albuquerque, New Mexico 87102, Telephone: (505) 766-1492.

SUPPLEMENTARY INFORMATION: On February 29, 1980, Colorado submitted its proposed permanent regulatory program to the Secretary of the Interior. On December 15, 1980, following a review in accordance with 30 CFR Part 732, the Secretary approved the program subject to the correction of 45 minor deficiences. Information pertinent to the general background and revisions to the permanent program submission, as well as the Secretary's findings, the disposition of comments and an explanation of the initial conditions of approval can be found in the December 15, 1980 **Federal Register** (45 FR 82173-82214).

Since then, the Colorado program has been amended several times, removing all but six conditions.

On August 28, 1985, Colorado submitted two proposed regulatory revisions. The State regulation at 2 CCR 407-2, 5.03.2(1) would be revised to clarify that Colorado has the authority to issue cessation orders for all unpermitted surface coal mining and reclamation operations and all unapproved coal exploration operations. The State rule at 2 CCR 407-2, 5.04.5(2) would be revised to impose a minimum $1,750 civil penalty on persons responsible for such operations.

In accordance with the provisions of 30 CFR 731.17, OSM is now seeking

comments on whether the revisions and materials satisfy the criteria for approval of State program amendments found at 30 CFR 732.15 and 732.17. With respect to Colorado's enforcement provisions, OSM must find that the State program, as proposed to be amended, incorporates sanctions no less stringent than those set forth in the Federal requirements. With respect to Colorado's penalty provisions, OSM must find that the State program, as proposed to be amended, incorporates penalties no less stringent than those set forth under the Federal requirements and that it contains the same or similar procedural requirements. If the Director determines that the proposed modifications satisfy the criteria, the amendment will be approved, and 30 CFR Part 906 modified accordingly.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 1291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules 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 906

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

Dated: September 16, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85-22844 Filed 9-24-85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 906

Public Comment Period and Opportunity for Public Hearing on Proposed Amendment to the Colorado Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and hearing on the substantive adequacy of a program amendment submitted by the State of Colorado to satisfy one of the conditions placed on the approval of its permanent regulatory program (hereinafter referred to as the Colorado program) by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By letter dated June 13, 1985, Colorado submitted the final revised version of its inspection report form, as approved by the Colorado Mined Land Reclamation Board on May 23, 1985, to satisfy the requirement of 30 CFR 906.11(ss) that the State amend its program to require that inspection reports be adequate to enforce the requirements of and carry out the terms and purposes of the State program.

This notice sets forth the times and locations that the Colorado program and the proposed amendment will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing.

DATES: Written comments from the public not received by 4:00 p.m. on October 25, 1985 will not necessarily be considered in the decision process. A public hearing on the proposal will be held at 7:00 p.m. on October 15, 1985. Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Hagen at the OSM Albuquerque Field Office by the close of business on or before October 10, 1985. If no one expresses an interest in participating in the hearing by this date, the hearing will not be held. If only one person has so contacted Mr. Hagen, a public meeting, rather than an hearing, may be held; the results of the meeting will be included in the administrative record.

ADDRESSES: . Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office Attn: Colorado Administrative Record, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

Copies of the proposed modifications to the program, the Colorado program, the administrative record on the Colorado program are available for public review and copying at the OSM office and the State regulatory authority office listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed program amendment by contacting the OSM Albuquerque Field Office.

Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue, NW., Albuquerque, New Mexico 87102, Telephone: (505) 766-1486

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5124, Washington, D.C. 20240, Telephone: (202) 343-4855

Colorado Mined Land Reclamation Division, Department of Natural Resources, Centennial Building, Room 423, 1313 Sherman Street, Denver, Colorado 80203, Telephone: (303) 866-3567

A public hearing on the proposal will be held at the OSM Western Technical Center, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW., Albuquerque, New Mexico 87102, Telephone: (505) 766-1492.

SUPPLEMENTARY INFORMATION: On February 29, 1980, Colorado submitted its proposed permanent regulatory program to the Secretary of the Interior. On December 15, 1990, following a review in accordance with 30 CFR Part 732, the Secretary approved the program subject to the correction of 45 minor deficiencies. Information pertinent to the general background and revisions to the permanent program submission, as well as the Secretary's findings, the disposition of comments and an explanation of the initial conditions of approval can be found in the December 15, 1980 **Federal Register** (45 FR 82173-82214).

Since then, the Colorado program has been amended several times, removing all but six conditions. As codified at 30 CFR 906.11(ss), one of the remaining conditions results from the Secretary's finding that the Colorado rule at 2 CCR 407-2, 5.02.2(4) is inconsistent with the Federal rule at 30 CFR 840.11(d)(3) [since recodified as 30 CFR 840.11(e)(3)] because the State rule does not expressly require that inspection reports be adequate to enforce the requirements

of the approved State program (Finding D.1.(f)(vii), 45 FR 82186, December 15, 1980).

The State rule requires only that inspection forms be approved by the Mined Land Reclamation Board.

By letter dated March 21, 1985, Colorado notified OSM that it had developed a new inspection report form to satisfy the condition, and that a regulation change was unnecessary. By letter dated May 31, 1985, OSM requested that the State submit this form as a proposed program amendment. Colorado did so by letter of June 13, 1985, noting that the Mined Land Reclamation Board had approved the form on May 23, 1985, as required by the State regulation.

In accordance with the provisions of 30 CFR 731.17, OSM is now seeking comments on whether the revised inspection report form satisfies the criteria for approval of State program amendments found at 30 CFR 732.15 and 732.17 and the requirements of the condition placed on the Secretary's approval of the Colorado program at 30 CFR 906.11(ss). If the Secretary determines that the form satisfies the criteria, the amendment will be approved, and 30 CFR Part 906 modified accordingly. If the Secretary does approve the proposed amendment, the inspection report form would become part of the approved program and could be changed only through the program amendment process.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules 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 906

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

Dated: September 16, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85-22845 Filed 9-24-85; 8:45 am]

BILLING CODE 4310-05-M

VETERANS ADMINISTRATION

38 CFR Part 21

Subsistence Allowance Payment Rates

AGENCY: Veterans Administration.

ACTION: Proposed rule.

SUMMARY: The Veterans Administration is publishing for public comment, regulations to implement the increase in subsistence allowance paid under 38 U.S.C. chapter 31. The amount of monthly subsistence allowance paid to veterans in a vocational rehabilitation program under chapter 31 is increased by 10 percent effective October 1, 1984 under Pub. L. 98-543. In addition the provisions of 38 CFR 21.260(b) are changed to clarify that payment of subsistence allowance for a veteran being provided nonpay work experience in a Federal agency may be made on less than a full-time basis. The regulatory change contained herein will better acquaint eligible veterans, educational facilities and the public at large with the way this provision will be implemented.

DATES: Comments must be received on or before October 25, 1985. It is proposed that these regulatory changes be made effective October 1, 1984, the date on which the provision of law upon which these regulatory changes are based became effective.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding these changes to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC, 20420. All written comments received will be available for public inspection in room 132, Veterans Services Unit, at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until November 8, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Karen Boies (202) 389-2886.

SUPPLEMENTARY INFORMATION: The proposed regulation does not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. The proposal will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant effect on the economy.

The Administrator hereby certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the proposed rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that, the proposed changes simply make the regulation consistent with recent statutory changes. Thus, no regulatory burdens are imposed on small entities by these changes.

The Catalog of Federal Domestic Assistance Number is 64.116.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 9, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—[AMENDED]

38 CFR Part 21, VOCATIONAL REHABILITATION AND EDUCATION, is amended by revising paragraph (b) of § 21.260 to read as follows:

§ 21.260 Subsistence allowance.

* * * * *

(b) *Rate of payment.* Subsistence allowance is paid at the following rates effective October 1, 1984.

Type of program	Monthly rate of subsistence allowance			
	No dependents	One dependent	Two dependents	Additional amount for each dependent over two
Institutional: [1]				
Full-time	$310	$384	$452	$33
¾ time	233	288	339	25
½	155	193	227	17
Nonpay on-job training in a Federal agency; training in the home; vocational course in a rehabilitation facility or sheltered workshop; independent instructor: Full-time only	310	384	452	33
Nonpay work experience in a Federal agency:				
Full-time	310	384	452	33
¾ time	233	288	339	25
½ time	155	193	227	17
Farm cooperative; apprenticeship or other on-job training: [2] Full-time only	271	327	377	24
Combination (institutional and OJT) (Full-time only):				
Institutional greater than ½ time	310	384	452	33
OJT greater than ½ time [2]	271	327	377	24
Non-farm cooperative (Full-time only):				
Institutional	310	384	452	33
On-job	271	327	377	24
Improvement of rehabilitation potential: Full-time only	310	384	452	33
Independent living; Extended evaluation:				
Full-time	310	384	452	33
¾ time	233	288	339	25
½ time	155	193	227	17
¼ time	78	96	113	9

[1] Measurement of rate of pursuit (§§ 21.4270-21.4275).
[2] For on-job training, subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective. (38 U.S.C. 1508(b), Pub. L. 98-543) (October 1, 1984)

* * * * *

[FR Doc. 85-22862 Filed 9-24-85; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AMO45PA; A-3-FRL-2902-9]

Extension of Public Comment Period; Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of public comment period.

SUMMARY: EPA is today approving a thirty-day extension to the public comment period pertaining to the deletion of the odor emission regulations from the Pennsylvania State Implementation Plan. EPA has received numerous comments and several requests to extend the public comment period. The public comment period is being extended until October 11, 1985.

FOR FURTHER INFORMATION CONTACT: Donna Abrams, Environmental Engineer, U.S. Environmental Protection Agency, Region III, 3AM11, 841 Chestnut Building, 8th Floor, Philadelphia, Pennsylvania 19107, (215) 597-9134.

SUPPLEMENTARY INFORMATION: EPA published a Notice of Proposed Rulemaking at 50 FR 32451 on August 12, 1985, in order to withdraw its former approval of State and local odor emission control regulations as part of the Pennsylvania State Implementation Plan (SIP). As a result of this Notice, EPA has received numerous comments and several requests to extend the public comment period. We believe sufficient interest in this proposed rulemaking exists to justify such an extension. Therefore, EPA has decided to extend the public comment period until October 11, 1985.

Authority: 42 U.S.C. 7401-7642.

Dated: September 12, 1985.

James M. Seif,

Regional Administrator.

[FR Doc. 85-22910 Filed 9-24-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 65

[A-3-FRL-2902-5]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposal Approval of an Administrative Order Issued by the Pennsylvania Department of Environmental Resources to Boyertown Casket Company

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking; invitation for public comment.

SUMMARY: EPA has proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources (PADER) to Boyertown Casket Company. The Order requires the company to bring air emissions from its burial casket manufacturing facilities located in Boyertown, Berks County, Pennsylvania into compliance with certain regulations contained in the federally-approved Pennsylvania State Implementation Plan (SIP) for the control of ozone. Compliance shall be achieved by September 30, 1986 utilizing low solvent technology (LST) or should LST be abandoned, compliance shall be achieved by April 21, 1987 utilizing either add-on controls or alternative emission reduction limitations subject to PADER and EPA review and approval.

Because the Order has been issued to a major source and permits delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before October 25, 1985.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at the EPA Region III address above during normal business hours.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., Environmental Engineer, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Telephone: (215) 597–6553.

SUPPLEMENTARY INFORMATION: Boyertown Casket Company (the Company) operates a burial casket manufacturing facility in Boyertown, Berks County, Pennsylvania. The Order under consideration addresses emissions from the casket surface coating processes, which are subject to § 129.52, Table 1, extreme performance coatings of Title 25 of the Pennsylvania Code. The regulation limits the emissions of Volatile Organic Compounds (VOCs), and is part of the federally-approved Pennsylvania State Implementation Plan for the control of ozone. The Order requires final compliance with the regulation by September 30, 1986 through the use of low solvent technology (LST), or should LST be abandoned, compliance shall be achieved by April 21, 1987 through the use of either add-on controls or alternative emission reduction limitations subject to PADER and EPA review and approval. Failure by Boyertown Casket to receive full PADER and EPA approval of alternative emission reduction limitations (a "bubble") will not relieve the Company of its obligation to achieve full compliance by April 21, 1987.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection of the Act.

EPA's review indicates that the burial casket manufacturing facility is a major source of VOC emissions. The facility is located in the Northeast Pennsylvania-Upper Delaware Valley Interstate (New Jersey-Pennsylvania) Air Quality Control Region essentially a non-attainment area for the National Ambient Air Quality Standard for ozone, excluding the attainment counties of Bradford, Sullivan, and Tioga. The facility as presently constructed is unable to comply with regulations limiting emission of VOCs codified at § 129.52 of Title 25 of the Pennsylvania Code, part of the federally-approved State Implementation Plan, because low solvent coatings are still being developed. The Order requires compliance by September 30, 1986 utilizing LST, or should LST be abandoned, compliance shall be achieved by April 21, 1987 utilizing either add-on controls or alternative emission reduction limitations subject to PADER and EPA review and approval. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. No public comments or requests for public hearing were received by the State. The Order contains expeditious increments of progress towards compliance and emission monitoring and reporting requirements and provides for interim emission reduction requirements as required by section 113(d)(6) of the Clean Air Act. These requirements are sufficient to avoid any imminent and substantial endangerment to health within the meaning of section 113(d)(7) of the Clean Air Act. The Company has made substantial progress in meeting the required increments of progress as defined in the Order. The Company has completed research and development of LST and evaluation of product quality and commercial acceptance, consistent with the first two increments of progress dates for the development of LST set forth in the Order. The third increment date required completion of equipment evaluation and submittal of a plan approval application to PADER by July 31, 1985. The Company has completed its equipment evaluation and intends to submit its application to PADER by September 30, 1985, which is acceptable to the State. The Company's delay in submitting its application should not have an effect on its meeting the next January 1, 1986 increment completion date that requires the issuance of a purchase order for LST equipment.

Pennsylvania has determined that the Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so. The Order notifies Boyertown Casket Company of its liability for noncompliance penalties under section 120 of the Clean Air Act, 42 U.S.C. 7420.

If the Order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded.

If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any noncompliance penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2) (B) or (C). All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: September 18, 1985.

Stanley Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 85–22866 Filed 9–24–85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[A-3-FRL-2902-6]

State and Federal Administrative Orders Permitting a Delay in Compliance with State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Pennsylvania Department of Environmental Resources to Fruehauf Corporation

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking; invitation for public comment.

SUMMARY: EPA has proposed under parallel processing procedures to approve a Delayed Compliance Order (the "Order") issued by the Pennsylvania Department of Environmental Resources (PA DER) to Fruehauf Corporation. The Order requries the company to bring volatile organic compound (VOC) emissions from its semi-trailer manufacturing facility located in Lower Swatara Township, Dauphin County, Pennsylvania, a nonattainment area for ozone, into compliance with certain regulations contained in the federally-approved Pennsylvania State Implementation Plan (SIP) for the control of ozone. The Order requires final compliance with the regulation by April 21, 1986 through the use of low solvent technology (LST) or by April 21, 1987 should LST be abandoned and add-on controls installed. Because the Order has been issued to a major source and permits delay in compliance with

provisions of the SIP, it must be approved by EPA before it become effective as a Delayed Compliance Order pursuant to the clean Air Act (the"Act"). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before October 25, 1985.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at the EPA Region III address above during normal business hours.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., Environmental Engineer, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Telephone: (215) 597–6553.

SUPPLEMENTARY INFORMATION: On September 12, 1985 the Pennsylvania Department of Environmental Resources (PA DER) entered into a Consent Order and Agreement constituting a Delay Compliance Order (DCO) with the Fruehauf Corporation. The State Order is now subject to public comment and other State procedural requirements before it becomes a final State action. Under the parallel processing procedures for public comment on this Order, EPA will work closely with the PA DER as it finalizes this Order through the State process. EPA Region III will consult with all other appropriate EPA offices as the Order is being developed and during the States and Federal rulemaking process to ensure that all issues are identified before final adoption by the State. If the PA DER or EPA obtain no information that would require significant change to the Order, it will be finally adopted by the PA DER and submitted to EPA for final approval. Only after Pennsylvania's submission of the final order would EPA take final action approving the Order. If the significant changes are made to the Order during the State rulemaking proceeding, EPA will proposed appropriate action on the resulting final Order.

Fruehauf Corporation operates a semi-trailer manufacturing facility in Lower Swatara Towhnship, Dauphin County, Pennsylvania. The Order under consideration addresses paint spray operations at the semi-trailer manufacturing facility which are subject to § 129.52 of Title 25 of the Pennsylvania Code. The regulations limit the emissions of Volatile Organic Compounds (VOC), and are part of the federally-approved Pennsylvania State Implementation Plan. The Order requires final compliance with the regulation by April 21, 1988 through the use of low solvent technology (LST) or by April 21, 1987 should LST be abandoned and add-on controls installed.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Act. EPA has reviewed the Order and has determined that the Order appears to satisfy the requirements of this subsection of the Act.

EPA's review indicates that the semi-trailer manufacturing facility is a major source of VOC emissions, a precursor of ozone. The facility as presently constructed is unable to comply with regulations limiting emissions of VOCs, which are codified at § 129.52 of Title 25 of the Pennsylvania Code, because low solvent coatings are still being developed. The Order requires compliance by April 21, 1987 should LST be abandoned and add-on controls installed.

Through a public notice, dated August 8, 1985, the PA DER has provided an opportunity for public comment and hearing on the Order. However, the issuance of the Order by PA DER is an appealable action under the State Air Pollution Control Act. The appeal period extends for 30-days following the date of publication of the Notice of Action in the *Pennsylvania Bulletin*. This publication has not yet occurred.

The Order contains requirements for expeditious increments of progress towards compliance and emission monitoring and reporting requirements and provides for interim emission reduction requirements as required by section 113(d)(6) of the Clean Air Act. These requirements are sufficient to avoid any imminent and substantial endangerment to health within the meaning of section 113(d)(7) of the Clean Air Act. Based on 1984 Pennsylvania Emissions Data System (PEDS) information, the Company has made substantial progress to date in achieving compliance through LST. Out of a total number of forty-one (41) different coatings, thirteen (13) are identified as noncompliance coatings. More substantially, of the total 1984 Fruehauf VOC emissions of 221.23 tons, only 7.2% or 15.92 tons are attributable to noncompliance coatings.

The system of emissions reduction required during the period covered by this Order is the best practicable system in light of the ultimate emission reductions required for compliance with the SIP. This interim system provides significant emissions reduction in a manner which permits the company to move toward the use of additional LST or facility alterations to install add-on controls.

The Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so and the Order, therefore, meets the requirements of section 113(d)(7)(B). The Order notifies Fruehauf Corporation of its potential liability for noncompliance penalties under section 120 of the Clean Air Act, 42. U.S.C. 7420 as required by section 113(d)(1)(E) of the Act.

If the Order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded.

If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA will approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order, which will be codified at 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: September 18, 1985.

Stanley Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 85–22865 Filed 9–24–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 271

[SW-7-FRL-2902-8]

Missouri; Final Authorizataion of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Tentative Determination on Application of State of Missouri for Final Authorization, Public Hearing and Public Comment Period.

SUMMARY: The State of Missouri has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Missouri's application and has made the tentative decision that Missouri's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to Missouri to operate its hazardous waste program in lieu of the Federal program subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984. (Pub. L. 98-616, Nov. 8, 1984) (HSWA)

Missouri's application for final authorization is available for public review and comment and a public hearing will be held to solicit comments on the application. In making its final decision, EPA will consider all public comments on the application and the measures taken by the State to address the EPA concerns.

DATES: A public hearing is scheduled for October 28, 1985 at 2:00 p.m. Missouri will participate in the public hearing held by EPA on this subject. All comments on Missouri's final authorization application must be received by the close of business on October 28, 1985.

ADDRESSES: Copies of Missouri's final authorization application are available during regular business hours at the following addresses for inspection:

Missouri Department of Natural Resources, Waste Management Program, 117 E. Dunlkin, Jefferson City, Missouri 65102, (314) 751-3241

U.S. EPA Headquarters Library PM, 211A, 401 M Street SW., Washington, D.C. 20460, (202) 382-5928

U.S EPA Region VII Library, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 236-2828

Written comments should be sent to:

Chet McLaughlin, Chief, State Programs Section, RCRA Branch, U.S. EPA, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101

EPA will hold the Public Hearing on October 28, 1985 at 2:00 p.m. in Room 750 of the Truman Office Building, 301 West High St., Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Chet McLaughlin, Chief, State Programs Section, RCRA Branch, U.S. EPA, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, 913-236-2852.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. Two types of authorization may be granted. The first type, known as "interim authorization," is a temporary authorization which is granted if EPA determines that State program is "substantially equivalent" to the Federal program (Section 3006(c), 42 U.S.C. 6926). EPA's implementing regulations at 40 CFR 271.121-271.137 established a phased approach to interim authorization: Phase I, covering the EPA regulations in 40 CFR Parts 260-263 and 265 (universe of hazardous wastes, generator standards, transporter standards and standards for interim status facilities) and Phase II, covering the EPA regulations in 40 CFR Parts 124, 264, and 270 (procedures and standards for permitting hazardous waste management facilities).

Phase II, in turn, has three components. Phase IIA covers general permitting procedures and technical standards for containers and tanks. Phase IIB covers incinerator facilities; and Phase IIC addresses landfills, surface impoundments, waste piles and land treatment facilities. By statute, all interim authorizations expire on January 31, 1986. Responsibility for the hazardous waste program returns (reverts) to EPA on that date if the State has not received final authorization.

The second type of authorization is a "final" (permanent) authorization that is granted by EPA if the Agency finds that the State program: (1) Is "equivalent" to the Federal program, (2) is consistent with the Federal program and other State programs, and (3) provides for adequate enforcement (Section 3006(b), 42 U.S.C. 6926). States need not have obtained interim authorization in order to qualify for final authorization. EPA regulations for final authorization appear at 40 CFR 271.1-271.23.

B. Missouri

The State of Missouri received Phase I interm authorization on November 8, 1983. Missouri submitted a draft application for final authorization to EPA on April 26, 1985. Following the State's public hearing (on June 6, 1985) to solicit comments on its intention to apply for final authorization, Missouri submitted its official application for final authorization on July 19, 1985.

Missouri did not include jurisdiction over Indian Lands in the scope of its final authorization application because there are no Indian Lands in Missouri.

EPA has reviewed Missouri's official application and has tentatively determined that the State's program meets all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization to Missouri.

In accordance with section 3006 of RCRA and 40 CFR 271.20(d), the Agency will hold a public hearing on its tentative decision on October 28, 1985 at 2:00 p.m. in Room 750 of the Truman Office Building, 301 W. High Street, Jefferson City, Missouri 65101. The public may also submit written comments on EPA's tentative determination until October 28, 1985. Copies of Missouri's application are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

In making its final decision, EPA will consider all public comments on the tentative determination and the measures taken by the State to address these concerns. Issues raised by those comments may be the basis for a decision to deny final authorization to Missouri. EPA expects to make a final decision on whether or not to approve/deny Missouri's program by December 2, 1985 and will give notice of it in the **Federal Register.** The notice will include a summary of the reasons for the final determination and a response to all major comments.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA) amending RCRA, a State with final authorization administered its hazardous waste program entirely in lieu of the U.S. EPA. The Federal requirements no longer applied to the authorized State, and the U.S. EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified timeframes. However, until new Federal requirements were adopted as State law, they did not take effect in the authorized State.

In contrast, under the newly enacted section 3006(g) of RCRA, 42 U.S.C. 6926(g), the new requirements and prohibitions imposed by the HSWA take

effect in authorized States at the same time they take effect in non-authorized States. The U.S. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until the State is granted authorization to do so. Thus, while States must still adopt HSWA related provisions, the HSWA applies in authorized States in the interim.

As a result of the HSWA, there will be a dual State/Federal regulatory program in Missouri after final authorization. To the extent the authorized State program is unaffected by the HSWA, the State program will operate in lieu of the Federal program. If the HSWA related requirements are more stringent than Missouri's, the U.S. EPA will administer and enforce those portions of the HSWA in Missouri until the State receives authorization to do so. Among others things, this may entail the issuance of Federal RCRA permits for those areas in which the State is not yet authorized.

Once Missouri is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal program. Until that time, the State will assist the U.S. EPA's implementation of the HSWA under a Cooperative Agreement.

Any State requirement that is more stringent than a HSWA provisions also remains in effect; thus, regulated handlers must comply with the more stringent State requirements. Missouri is not being authorized for any requirements implementing the HSWA.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

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

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C., 6912(a), 6926, and 6974(b). EPA Delegations 7.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian Lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: September 20, 1985.

William Rice,

Acting Regional Administrator.

[FR Doc. 85-22867 Filed 9-24-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3900

Oil Shale Management; Withdrawal of Proposed Rulemaking

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Withdrawal of Proposed Rulemaking.

SUMMARY: A proposed rulemaking providing procedures for the management of federally owned oil shale resources was published in the **Federal Register** on February 11, 1983 (48 FR 6510), with a 150-day comment period. During that comment period, comments were received from 47 sources, all of which were carefully reviewed. At the time of the publication of the proposed oil shale rulemaking, there appeared to be a substantial interest on the part of the petroleum industry in the development of oil shale resources on Federal and non-Federal lands. In the period since the publication of the proposed rulemaking, market conditions have changed dramatically and there appears to be little or no interest in the development of oil shale resources, with minimal site activity on both Federal and non-Federal lands. This apparent lack of interest in the development of oil shale resources reduces the urgent need for development of regulations for a competitive leasing system for oil shale resources located on Federal lands. Therefore, the Department of the Interior hereby withdraws the proposed rulemaking of February 11, 1983.

EFFECTIVE DATE: The withdrawal of the proposed rulemaking is effective on September 25, 1985.

ADDRESS: Any suggestions or inquiries should be sent to: Director (650), Bureau of Land Management, Room 3608, Main Interior Bldg., 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Owen, (202) 343-4636

or

Robert C. Bruce, (202) 343-8735

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

September 17, 1985.

[FR Doc. 85-22914 Filed 9-24-85; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 50950-5150]

Tanner Crab Off Alaska

AGENCY: National Marine Fisheries Services (NMFS) NOAA, Commerce.

ACTION: Notice of initial fishing season dates and request for public comment.

SUMMARY: NOAA issues this notice to provide the initial 1985-1986 fishing season dates for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP) for registration area A (Southeastern), E (Prince William Sound), H (Cook Inlet), and J (Westward). Regulations governing this fishery require that the Secretary of Commerce publish the recommended initial fishing season dates for public comment. This action is intended to promote an orderly fishery that is consistent both with the needs of the industry that is consistent both with the needs of the industry and with conservation requirements.

DATE: Written comments must be received on or before October 21, 1985.

ADDRESSES: Comments should be mailed to Robert W. McVey, Director, Alaska Region (Regional Director), National Marine Fisheries Service (NMFS), P.O. Box 1668, Juneau, Alaska 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska. Copies of the regulatory impact review may be obtained from the address above.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin, Fishery Biologist, 907-586-7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP) was approved and initially implemented in December 1978 (43 FR 57149, December

6, 1978), and the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has approved and implemented nine amendments to the FMP. Amendment 9 (49 FR 35779, September 12, 1984) provides a framework procedure for establishing annual fishing seasons based on both biological and socioeconomic information.

The provisions of Amendment 9 allow the Council to recommend that the Regional Director make adjustments to previously specified opening or closing dates of any fishing season after considering specific factors listed in the FMP. The Secretary of Commerce (Secretary) will publish an initial notice in the **Federal Register** specifying the adjustments he considers necessary as soon as practicable after receiving the Council's recommendation. The notice will invite comments for a 30-day period from the interested public on the adjustments and whether they are consistent with the FMP. The Secretary will then publish a second notice within 45 days after the end of the comment period either approving, disapproving, or partially disapproving the season adjustments based on comments received and the consistency of the adjustments with the objectives of the FMP, the national standards of the Magnuson Act, and other applicable law.

Development of Fishing Dates

At the March 1984 meeting between the Council and the Alaska Board of Fisheries (Board), testimony was received from the fishing industry concerning the proposed season opening date changes. Both the Council and the Board adopted several identical opening date changes on the basis of the status of the crab stocks and socioeconomic factors affecting the crab fishing industry. The Council and Board met again in September 1984 and reaffirmed the opening date changes. Specific opening date changes were not considered for two of the registration areas—E and H. However, the Council requested the Regional Director to initiate action that would make all season opening dates established under the FMP consistent with those established for State of Alaska waters. On November 27, 1984, NOAA issued an emergency interim rule (49 FR 46549) to implement the season opening date changes for the 1984/85 Tanner crab fishery. This emergency rule expired on February 25, 1985, returning all of the season opening dates to those in effect during the 1983/84 season. With one exception, the Board and the Council, at their March 1985 meetings, did not change the season opening dates for the 1985/86 Tanner crab fishery from those implemented by emergency rule for the 1984/85 season. NOAA finds it necessary, therefore, to implement permanently the season opening dates that were temporarily implemented by the emergency interim rule by means of the framework procedure provided by Amendment 9.

An inconsistency also exists between State and Federal closing dates for the Yakutat District. The Regional Director intends to make these dates consistent. A discussion of the rationale for the changes in each Registration Area can be found in the emergency interim rule, and in the RIR prepared for this proposed rule.

At its March 1985 meeting the Council reviewed an additional season opening date change adopted by the Board for the Tanner crab fishery in the Western Aleutians District of Registration Area J. The Council recommended to the Regional Director that the current opening date of November 10 should be changed to November 1 in order to coincide with the State of Alaska's opening date for the king crab fishery. In the absence of the proposed change, Tanner crab caught incidentally by king crab fishermen must be returned to the water. The process of sorting and discarding Tanner crab would almost certainly result in some level of Tanner crab mortality and wastage. King crab fishermen would forego potential income from Tanner crab as well as suffer an increased labor burden due to the need to sort and discard. No biological or economic reasons were presented to justify the need to protect Tanner crab during the November 1–10 period. By changing the season opening date from November 10 to November 1, King crab fishermen can legally retain their Tanner crab, thus minimizing wastage and improving the economic efficiency of the fishery. In addition, the Council recognized that consistency of Federal and State regulations is necessary for the conservation and management of Tanner crab in order to avoid the following types of problems: (1) Burdens on State and Federal agencies in attempting to enforce seasons in the fishery conservation zone that are not concurrent with the adjacent territorial sea, (2) burdens on the State in funding and conducting dockside sampling programs, (3) incomparable data resulting from non-concurrent sampling periods, and (4) confusion in the fishing industry as to what areas may be fished during different seasons.

Also, in general, the crab fishing industry depends heavily on announced dates when planning its upcoming season schedule. Consistent dates, both in state waters and in the FCZ, make coordinated fishing and processing and fisheries management and enforcement more efficient and less costly.

Classification

This action is authorized by 50 CFR Part 671, and complies with Executive Order 12291. NOAA has prepared a regulatory impact review for this action (see ADDRESS for a copy).

The Administrator of NOAA previously determined that the rule for Amendment 9, which authorizes this action, would not have a significant economic impact upon a substantial number of small entities for the purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The General Counsel of the Department of Commerce certified to the Small Business Administration that the rule would not have a significant impact. The regulatory impact review prepared for this action supplements the analysis of Amendment 9. On the basis of these analyses the NOAA Administrator has made a preliminary determination that implementation of these seasons will not have significant economic impact on a substantial number of small enities. A summary of the socioeconomic analysis upon which this determination is based follows:

Adoption and implementation of these proposed season date changes would result in a variety of beneficial socioeconomic impacts. These would include improved prices due to better meat recovery, additional income from retaining otherwise discarded Tanner crab, improved efficiency from fishing in better weather, not having to sort and discard, and from improved catch rates. Although these benefits are not realistically quantifiable, they will all contribute in variable amounts to improved operating efficiency.

This action does not contain a collection of information for purposes of the Paperwork Reduction Act.

The Environmental Assessment (EA) prepared by NOAA for the emergency interim rule to implement the seasons for the 1984–85 Tanner crab fishery (49 FR 46549) addresses the seasons proposed in this action. The EA concludes that no significant impact on the human environment will result from implementation of the seasons. You may obtain a copy of the environmental assessment from the Regional Director (see ADDRESS for a copy).

List of Subjects in 50 CFR Part 671

Fisheries, Reporting and recordkeeping requirements.

Dated: September 20, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 671 is proposed to be amended as follows:

PART 671—TANNER CRAB OFF ALASKA

1. The authority citation for Part 671 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 671.21 [Amended]

2. Section 671.21 is amended by inserting a new title that reads: "Optimum yields and seasons," in the Table of Contents and in Subpart B.

3. In § 671.21, paragraph (a) is amended by inserting a new title and revising the entire paragraph to read as follows:

* * * * *

(a) *Optimum yields and season opening and closing dates.*

The optimum yield and season opening date for Tanner crab for each Federal registration area and district are set forth in Table 1. These specifications of optimum yield are effective for the fishing year beginning November 1 and ending on October 31. All season dates in this paragraph are inclusive. Time periods begin at 12:00 noon local time on the dates specified.

TABLE 1. OPTIMUM YIELDS (MILLIONS OF POUNDS) OF TANNER CRAB STOCKS AND FISHING SEASONS IN THE FISHING DISTRICTS OR REGISTRATION AREAS OFF ALASKA [1]

Registration area-district	Optimum yield	Season dates
A—Southeastern:		
Southeast	1.0 to 3.0	Feb. 10 to May 1.
Yakutat	0.1 to 1.0	Jan. 15 to May 1.
E—Prince William Sound.	1.5 to 3.5	
Western		Jan. 5 to May 31.
Eastern		
Hinchinbrook		
H—Cook Inlet	1.5 to 3.0	
Southern		Nov. 1 to April 30.
Central		Nov. 1 to May 31.
Kamishak Bay		
Barren Islands		
Outer		
Eastern		
J—Westward:		
Kodiak	11.0 to 33.0	Jan. 15 to Apr. 30 (Jan. 15 to May 15 for Semidi Island District.)
South Peninsula	2.0 to 6.0	Jan. 15 to May 15.
Chignik	0.5 to 5.0	
Eastern Aleutians.	0.1 to 2.0	Jan. 15 to June 15.
Western Aleutians.	0.1 to 2.0	Nov. 1 to June 15.
Bering Sea:		
(*Chionoecetes bairdi*).	5.0 to 26.5	Jan. 15 to June 15.
(*Chionoecetes opilio*).	20.0 to 130.0 [2]	Jan. 15 to Aug. 1.

[1] Catches of Tanner crab in a State of Alaska registration area or district will be considered part of the optimum yield specified for the contiguous Federal registration area or district of the same name.

[2] This range represents the domestic annual harvest.

* * * * *

4. Section 671.26 is amended by revising the section heading to read as follows:

§ 671.26 Procedures for establishing season dates, general gear restrictions, and registration areas.

5. In § 671.26, paragraphs (c)(2), (d)(2), (e)(2), and (f)(2) are removed; paragraphs (c)(3), (d)(3), and (f)(3) are redesignated as paragraphs (c)(2), (d)(2), and (f)(2); and paragraph (e)(1) is redesignated as paragraph (e) and the paragraph descriptors in paragraph (e) are redesignated (1), (2), (3), (4), (5), (6), and (7), accordingly.

[FR Doc. 85-22932 Filed 9-20-85; 4:57 pm]

BILLING CODE 3510-22-M

50 CFR Part 684

Bottomfish and Seamount Groundfish Fisheries; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: The Western Pacific Fishery Management Council will hold public hearings on management proposals for bottomfish and seamount groundfish fisheries. The hearings will cover two agenda items: (1) A draft plan which provides the framework for the management in the U.S. fishery conservation zone (FCZ) around Hawaii, American Samoa, Guam and the Hancock Seasmounts northwest of Hawaii; and (2) a proposal for access management in the FCZ of the Northwestern Hawaiian Islands.

DATES: See **"SUPPLEMENTARY INFORMATION"** for dates and locations of the hearings. All hearings will begin at 7:00 p.m. All written comments should be received by October 21, 1985.

ADDRESS: See **"SUPPLEMENTARY INFORMATION"** for locations of the hearings. Written comments should be sent to the Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, Hawaii 96813.

FOR FURTHER INFORMATION CONTACT: Kitty Simonds, Executive Director, Western Pacific Fishery Management Council 808-523-1368.

SUPPLEMENTARY INFORMATION: The hearings are scheduled as follows:

September 24, 1985—Satellite City Hall, 65-670 Farrington Highway, Waianae, Oahu, Hawaii

September 25, 1985—United Fishing Agency, 117 Ahui Street, Honolulu, Oahu, Hawaii

September 26, 1985—Lihue Neighborhood Center, 3353 Eono, Lihue, Kauai, Hawaii

October 1, 1985—First Hawaiian Bank, Conference Room, 74-5593 Palani Road, Kailua-Kona, Hawaii, Hawaii

October 2, 1985—Hawaii County Council Room, 25 Aupuni Street, Hilo, Hawaii, Hawaii

October 3, 1985—Maalaea Boat and Fishing Clubhouse, Maalaea, Maui, Hawaii

Dated: September 20, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-22872 Filed 9-20-85; 2:38 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 50, No. 186
Wednesday, September 25, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

September 20, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number (s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• *Agricultural Marketing Service*
Onions Grown in South Texas (Marketing Order No. 959)
Recordkeeping; On occasion; Monthly; Annually; Daily
Farms; Businesses or other for-profit; responses; 61 hours; not applicable under 3405(h)
Charles W. Porter (202) 447–2615

• *Statistical Reporting Service*
Supplemental Qualification Statement
On occasion
Individuals or households; 900 responses; 1,800 hours; not applicable under 3504(h)
Lee Sandberg (202) 447–6802

Revision

• *Farmers Home Administration*
7 CFR 1980–A, Guaranteed Loan Programs (General)
FmHA 449–14, 30, 35, 36, 1980–19, 41, 43, 44
On occasion
Businesses or other for-profit; 29,356 responses; 45,127 hours; not applicable under 3504(h)
Pandor Hadjy (202) 475–4017

• *Farmers Home Administration*
7 CFR 1980–F, Guaranteed Economic Emergency Loans
FmHA 1980–32
On occasion
Farms; Businesses or other for-profit; 13,290 responses; 24,134 hours; not applicable under 3504(h)
Pandor Hadjy (202) 475–4017

• *Farmers Home Administration*
7 CFR 1980–B, Guaranteed Farmer Program Loans
FmHA 449–11, 449–12, 1980–15, 1980–25, 1980–38
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; 27,190 responses; 42,045 hours; not applicable under 3504(h)
Pandor Hadjy (202) 475–4017

• *Food and Nutrition Service*
Monthly Report of Commodity Supplemental Food and Elderly Feeding Pilot Programs
FNS 153
Monthly; Quarterly
State or local governments; 156 responses; 998 hours; not applicable under 3504(h)
Linda L. Gray (703) 756–3710.

Donald E. Hulcher,
Acting Departmental Clearance Officer.
[FR Doc. 85–22911 Filed 9–24–85; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Toiyabe National Forest Grazing Advisory Board; Meeting

The Toiyabe National Forest Grazing Advisory Board will meet at 10:00 a.m. October 17, 1985 in the Austin Courthouse, Austin, Nevada. The purpose of this meeting is to discuss:

1. Allotment Management Planning.
2. Utilization of Range Betterment Fund.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Toiyabe National Forest, 1200 Franklin Way, Sparks, NV 89431. Telephone: (702) 784–5331. Written statements may be filed with the committee before or after the meeting.

Dated: September 17, 1985.

R.M. "Jim" Nelson,
Forest Supervisor.
[FR Doc. 85–22925 Filed 9–24–85; 8:45 am]
BILLING CODE 3410–11–M

Soil Conservation Service

Canoe Creek Watershed, Florida; Finding of No Significant Impact

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 the Canoe Creek Watershed, Escambia County, Florida.

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, State Conservationist, Soil Conservation Service, 401 SE. First Avenue, Room 248.

Gainesville, Florida 32601, telephone (904) 377–0946.

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, James W. Mitchell, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This project concerns a plan for watershed protection. The planned works of improvement include accelerated technical assistance and federal cost sharing for the installation of land treatment measures

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

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

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: September 17, 1985.

J.D. Rector,

Assistant State Conservationist.

[FR Doc. 85–22880 Filed 9–24–85; 8:45 am]

BILLING CODE 3410–16–M

Croy Creek Critical Area Treatment RC&D Measure, Idaho; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Stanley N. Hobson, State Conservationist, Soil Conservation Service, 304 North 8th Street, Rm. 345, Boise, Idaho 83702, telephone (208) 334–1601.

Notice

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 environmmental impact statement is not being prepared for the Croy Creek Critical Area Treatment RC&D Measure, Blaine County, Idaho.

The environmental assessment of this federally assisted action indicates that the measure will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Stanley N. Hobson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

Croy Creek Critical Area Treatment RC&D Measure will provide treatments to headcuts, a road crossing, and channel banks which have severe erosion and sedimentation problems. Planned treatments to control the severe erosion and sedimentation problems include a grade stabilization structure, an armored culvert outlet structure on existing road crossing and riprap on adjacent eroding channel banks.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Stanley N. Hobson. The FONSI has been sent to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the address on the previous page.

Implementation of the proposal will not be initiated 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. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

[FR Doc. 85–22924 Filed 9–24–85; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

South Dakota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 12:30 p.m. on October 18, 1985, at the Black Hills State College, Student Center, Room 315, Spearfish, South Dakota. The committee will review a draft report on the status of women in South Dakota, and hear reports on a memorandum on the Surface Transportation Act and disparte enforcement of Driving While Intoxicated laws in Lawrence County. Also, Ron Thize will make a presentation to the committee on civil rights concerns of Native Americans in South Dakota.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Francis Whitebird, or William Muldrow, Acting Director of the Rocky Mountain Regional Office, at (303) 844–2211, (TDD 303/844–3031).

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 19, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–22876 Filed 9–24–85; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–502]

Fuel Ethanol From Brazil; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminary determined that fuel ethanol from Brazil is being, or is likely to be, sold in the United States at less than fair value. We also have preliminarily determined that critical circumstances do not exist. We have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to suspend the liquidation of all entries of fuel ethanol from Brazil that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 2, 1985.

EFFECTIVE DATE: September 25, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Shimabukuro or David Johnston, 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) 377–5332 or 377–2239.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that fuel ethanol from Brazil is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The dumping margins range from 1 percent to 308 percent, and the weighted-average margins for the four respondents are shown in the "Suspension of Liquidation" section of this notice.

Case History

On February 25, 1985 we received a petition filed in proper form by the Ad Hoc Committee of Domestic Fuel Ethanol Producers on behalf of the domestic producers of fuel ethanol. We were informed, by letter dated March 15, 1985, that the Oil Chemical And Atomic Workers International Union (OCAW) joined the Ad Hoc Committee of Fuel Ethanol Producers as petitioners. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673), and that these imports are materially injuring, or threatening material injury to, a U.S. industry. The petitioners also alleged that sales in the home market were made at prices below the cost of production, and that "critical circumstances" exist.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We initiated the investigation on March 18, 1985 (50 FR 11748), and notified the ITC of our action.

On April 11, 1985, the ITC found that there is a reasonable indication that imports of fuel ethanol from Brazil are threatening material injury to a U.S. industry (U.S. ITC Pub. No. 1678, April 1985).

Based on information obtained in response to preliminary questionnaires, we presented questionnaires to Cooperative Central dos Produtores de Acucare de Acool do Estado de Sao Paulo (COPERSUCAR) and certain of its distiller members and related sugar cane growners and Matarazzo Trading Cia. de Exportacao e. Importacao (Matarazzo), formerly known as Comac Trading, because these companies knew that the merchandise was being sold for export to the United States.

Three independent trading houses, Companhia de Comercio Exterior (I.A.T.), Cotia Comercio Exportacao e. Importacao S.A. (Cotia), and S.A. Costa Pinto Exportacao e. Importacao (Costa Pinto), filed voluntary responses. The responses from Cotia and Costa Pinto were incomplete and, therefore, were not used. I.A.T.'s response, being complete, was used for purposes of the preliminary determination.

By letter dated June 12, 1985, the petitioners alleged that Interbras, the major trading company selling fuel ethanol to the United States, was reselling the merchandise in the United States at prices which did not cover its costs of acquisition from unrelated suppliers plus the costs incurred in selling the merchandise to the unrelated U.S. purchasers. After careful consideration we initiated an investigation of the facts relating to this allegation. Therefore, we presented Petrobras Comercio International S.A.—Interbras (Interbras) with a questionnaire on July 18, 1985.

Scope of Investigation

The product covered by this investigation is fuel grade ethyl alcohol (fuel ethanol), currently classifiable in the *Tariff Schedules of the United States* (TSUS) under dual item number 427.8800/901.50, as well as that entered under TSUS item numbers 430.10, 430.20, and 432.10.

We made comparisons on approximately 95 percent of sales of fuel ethanol to the United States during the period of investigation, September 1, 1984, through February 28, 1985.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with foreign market value as specified below.

United States Price

As provided for in section 772(b) of the Act, for sales by Matarazzo, Copersucar, and I.A.T., we based the United States price on purchase price because the fuel ehtanol was sold to unrelated purchases in the United States prior to its importation. We made deducation from the f.o.b. prices for wharfage, handling, inland freight and port charges, as appropriate.

Based on the allegation that Interbras was selling fuel ethanol at a loss (*i.e.* at prices which were lower than its costs of acquisition from unrelated suppliers after the deduction of all costs incurred in selling the merchandise in the United States), we analyzed Interbras prices and costs relative to all sales to the United States during the period of investigation. In order to determine whether Interbras recovered its acquisition costs we deducted all costs and expenses incurred in selling the merchandise by Interbras and its U.S. subsidiary, Internor, from the selling price to the first unrelated U.S. purchaser. We made deductions from the selling price, as appropriate, for brokerage, inspection, special customs duties, regular customs duties, general selling expenses, insurance, credit costs, storage and handling, commissions, and discounts incurred in the United States. We also deducted operating costs incurred in Brazil, an export tax, and ocean freight charges. Finally, we made an addition to the selling price to the first unrelated U.S. customer for payments received under the IPI export credit premium because these payments were directly related to the U.S. sales in question and because they effectively enchanged the net return to Interbras. Certain of the costs incurred by Interbras were denominated in cruzeiros. For purposes of converting cruzeiro denominated amounts to United States dollar equivalents, we used the certified exchange rate for the estimated date of acquisition to convert acquisition costs and operating expenses, and the certified rate for the date of exportation to convert the export tax, the IPI and ocean freight. We considered these rates as reflecting most accurately the actual costs incurred. All other charges were reported in U.S. dollars. Therefore, no currenty conversion was required.

Interbras claimed an offset for revenues from certain financial transactions. We disallowed these claims since the claims were related to the financing of intracompany transfers and not to the sales to unrelated customers.

Interbras claims that we should not deduct the special duty imposed on fuel ethanol imports from the U.S. price because the United States imposed this duty in contravention of the General Agreement on Tariffs and Trade

(GATT). Interbras further argues that the compensenation granted to Brazil under GATT rules in the form of U.S. tariff reduction on imports of corned beef from Brazil nullifies the cost to Brazil of the special duty.

We have preliminarily determined that this duty is a cost incurred by Interbras in selling the merchandise which has not been reduced by revenues received by Interbras under the compensation arrangement. Therefore, we have deducted the amount of the special duties levied relative to sales during the period of investigation.

Interbras argues that a discount given on certain U.S. sales should not be deducted because Interbras granted the discount in response to changed market conditions in the geographical area served by those sales. We have preliminarily determined that the discount results in a reduction of sales revenue, and, therefore, we have deducted the discount amount. Because Interbras did not specify which sales were subject to the discount, we deducted it from all sales prices to the customer receiving it.

Interbras argues that we should limit our analysis of its U.S. sales to the resales of fuel ethanol it acquired during the period of investigation. Virtually all of this fuel ethanol was sold during a later period. We have determined that the appropriate sales for consideration were those made during the period of investigation since those sales are the sales we would analyze if we were basing United States price on Interbras' sales.

Based on our analysis of all sales by Interbras in the U.S. during the period of investigation, we have preliminarily determined that a substantial portion of those sales were at prices which resulted in losses by Interbras relative to its acquisition costs. Therefore, for all Interbras U.S. sales during the period of investigation, we have based our comparisons on sales by Interbras and its related U.S. subsidiary, Internor. In accordance with section 772(c) of the Act, because all of the U.S. sales by Interbras were made after importation, we based United States price on exporter's sales price. We calculated the exporter's sales price on the basis of ex-tank prices with deductions and additions for the costs and payments indicated above in the discussion of the analysis of sales at less than acquisition costs. We deducted operational expenses incurred in Brazil, because they included freight and handling charges, which are normally deducted. These could not be segregated from indirect selling expenses which would not be deducted if reported separately.

In making our fair value comparisons, we converted cruzeiros to United States dollars using the certified foreign exchange rates on the date of purchase in accordance with § 353.56(a)(1) of the regulations for comparisons involving purchase price.

For comparisons involving exporter's sales price, we used the official exchange rate for the date of purchase since the use of that exchange rate is consistent with section 615 of the Tariff and Trade Act of 1984 (1984 Act). Therefore, we chose not to follow § 353.56(a)(2) of our regulations which predates the 1984 Act.

Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we based foreign market value for I.A.T on sales prices to third countries because I.A.T. had no home market sales of such or similar merchandise. We calculated third country prices on the basis of f.o.b. prices with deductions for inland freight, insurance and port charges incident to the exportation. We compared the selling prices to third countries to acquisition and selling costs to determine whether the sales were made at prices above cost. All prices were above cost for the merchandise. We made an adjustment for differences in commissions in the respective markets in accordance with section 353.15 of our regulations. We also made an adjustment for differences in physical characteristics of the merchandise in accordance with § 353.16 of our regulations.

For Matarazzo, in accordance with section 773(a)(2) of the Act, we based foreign market value on constructed value since, during the period of investigation, Matarazzo had no home market or third country sales. Constructed value was calculated on the basis of Matarazzo's acquisition cost plus the statutory minimums of 10 percent and 8 percent for general expenses and profit, respectively, since both were below the statutory minimums. There were no U.S. packing costs.

In accordance with section 773(a)(1)(A), we based Copersucar's foreign market value on home market selling prices since there were sufficient home market sales. Petitioners alleged that sales of fuel ethanol in the home market were at prices below the cost of producing fuel ethanol. We examined the production costs, which included all appropriate material and fabrication costs, selling, general, and administrative expenses. We found sufficient sales made at prices above the cost of production for purposes of determining fair value. The Department notes that the cost of production of fuel ethanol reflected by the distillers in their responses did not increase over the period of investigation at the general rate of inflation of the Brazilian economy. During verification, the Department will scrutinize these costs in order to insure that all cost elements are appropriately stated to reflect the effects of inflation in accordance with the Department policy for hyperinflationary economies.

We calculated the home market prices on the basis of the f.o.b. factory price. In accordance with § 353.15 of the Commerce Regulations (19 CFR 353.15), we made circumstance of sale adjustments for differences in credit expenses. We adjusted for taxes paid in the home market but not on export sales in accordance with section 772(d)(1)(C). For Interbras, in accordance with section 773(a)(1)(A), we based foreign market value on home market sales by its parent, Petrobras, because there was a viable home market. Interbras claimed that due to the nature of price controls in Brazil, the home market sales were inappropriate for use in determining foreign market value. We preliminarily determined that home market sales should be used since (1) the mere existence of price controls does not invalidate home market prices (Certain Carbon Steel Products from Brazil, 49 FR 28298), and (2) these home market sales were in the ordinary course of trade of fuel ethanol in Brazil since they are the only sales at this level of trade in Brazil. Prior to the final determination in this investigation, we will develop information concerning the mechanism of the particular price controls relating to sales of fuel ethanol by Petrobras.

We compared Petrobras' home market prices to its costs of acquisition plus expenses incurred in Brazil to determine whether the home market sales were made at prices below cost. Because Petrobras did not report its home market acquisition costs from unrelated suppliers, we accepted the reported acquisition prices from the Copersucar response for purposes of the preliminary determination. Because Petrobras reported no handling or selling expenses, we added the 10 percent minimum for general expenses set forth in section 773(e)(1)(B)(i) as the best information available for these expenses. We have requested additional data relating to home market cost. All home market sales were at prices above cost.

Therefore, we calculated home market prices on the basis of the ex-tank prices with an adjustment for a tax imposed

only on home market sales. We calculated foreign market value on the basis of home market sales made in the same month as the comparable U.S. sales.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

Preliminary Negative Determination of Critical Circumstances

The petitioner alleged that imports of fuel ethanol from Brazil present "critical circumstances." Under section 733(e)(1) of the Act, critical circumstances exist when (1) there is a history of dumping in the United States, or elsewhere, of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise, which is the subject of the investigation, at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there have been massive imports over a relatively short period, we normally consider the following factors: (1) Whether recent imports have increased significantly; (2) whether recent import penetration ratios have increased significantly; (3) whether the pattern of recent imports may be explained by seasonal factors; and (4) whether recent imports are significantly above average imports calculated over the last three years.

Based on our analysis of these factors, we have preliminarily determined that imports of fuel ethanol from Brazil were not massive over a relatively short period.

We, therefore, did not need to consider whether there is a history of dumping of fuel ethanol, or whether the person by whom or for whose account this product was imported knew or should have known that the exporters were selling this product at less than fair value.

We have determined, for the reasons described above, that "critical circumstances" do not exist with respect to fuel ethanol from Brazil.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of fuel ethanol from Brazil that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Petrobras Comercio International S.A. (Interbras)	119.02
Matarazzo Trading	23.15
I.A.T.	1.05
Cooperative Central dos Productores de Accure de Alcool de Stado de Sao Paulo (COPERSUCAR)	4.28
All others	37.00

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties and opportunity to comment on this preliminary determination at 10:00 a.m. on October 21, 1985, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 11, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of the publication of this notice publication, at the above address and in at least 10 copies.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

September 18, 1985.

[FR Doc. 85-22896 Filed 9-24-85; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of formal establishment of a laboratory accreditation program for laboratories that perform electromagnetic compatibility and telecommunications equipment testing.

SUMMARY: Under the National Voluntary Laboratory Accreditation Program (NVLAP), the National Bureau of Standards (NBS) announces the establishment of a laboratory accreditation program (LAP) for laboratories that perform electromagnetic compatibility and telecommunications equipment testing (Electromagnetics LAP). This notice includes the fees for this LAP. Laboratories that are interested in becoming accredited under the Electromagnetics LAP may request an application by contacting the Associate Manager, Laboratory Accreditation, National Bureau of Standards.

FOR FURTHER INFORMATION CONTACT: Harvey W. Berger, Associate Manager, Laboratory Accreditation, National Bureau of Standards, Admin A531, Gaithersburg, MD 20899, (301) 921-3431.

SUPPLEMENTARY INFORMATION:

Background

This notice is issued in accordance with § 7.17 of the NVLAP Procedures (15 CFR Part 7). Establishment of this LAP for laboratories that perform electromagnetic compatibility and telecommunications equipment testing follows a request letter from Retlif, Inc. Testing Laboratories, Ronkonkoma, New York. A **Federal Register** notice announcing the request for the

Electromagnetics LAP was published on February 8, 1985 (50 FR 5411–12). A public workshop was held at NBS on June 17, 1985, to provide interested parties an opportunity to participate in the development of technical requirements for accreditating laboratories under the Electromagnetics LAP.

The purpose of the LAP is to accredit and provide national recognition to laboratories capable of performing tests in accordance with the designated test methods. The scope of the Electromagnetics LAP includes 4 test methods for conducted emissions, radiated emissions, and terminal equipment compatibility using Federal Communications Commission standard methods. Pursuant to section 7.18 of the mentioned Procedures, other related standards and test methods may be added as long as those standards and test methods are covered by the scope of this LAP.

Application Process

Any testing laboratory interested in becoming accredited under this LAP should contact the Associate Manager, Laboratory Accredition, at the address shown above. The laboratory will be sent an application package including an application form with a test method selection list and fee schedule, and the Electromagnetics LAP Handbook, which describes the administrative, operational, and technical requirements for accreditation.

The fees for the Electromagnetics LAP are as follows:

a. One-time initiation fee for laboratories applying for this LAP for the first time	$650
b. Annual administrative charge (Prorated for laboratories participating in other LAPS)	875
c. Test method and proficiency testing charge:	
Minimum	1,025
Maximum	2,100

Dated: September 19, 1985.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 85–22894 Filed 9–24–85; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Permit: Institute of Marine Sciences

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Institute of Marine Sciences (P79E).

b. Address: University of California, Santa Cruz, CA 95064.

2. Type of Permit: Scientific research.

3. Name and Number of Marine Mammals: Pacific harbor porpoises (Phocoena phocoena) 340.

4. Type of Take: The animals will be taken by radio-tagging (10), roto-tagging (30), and harassment (300).

5. Location of Activity: California.

6. Period of Activity: 3 years.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C., 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731

Dated: September 18, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–22875 Filed 9–24–85; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Import Control Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

September 20, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 26, 1985. For further information contact Jane Corwin, International Trade Specialist Office of Textiles and Apparel, U.S. Department of Commerce (202) 377–4212.

Background

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand, the United States Government has decided to control imports of cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459, and 630–659, as a group, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1985, at a level of 83,132,782 square yards equivalent which includes available swing. The group level has not been adjusted to account for any merchandise exported on and after January 1, 1985. During the January-July 1985 period such goods have amounted to 64,337,169 square yards equivalent in those categories and will be charged. Further charges will be made when the data become available.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 20, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 21, 1984 by the Chairman of the Committee for the implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Thailand.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United Sates and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on September 26, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 330–359, 431–459, and 630–659, as a group, produced or manufactured in Thailand and exporterd during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985, in excess of 83,132,782 square yards equivalent.[1]

Textile products in the group, other than those in Categories 331, 334/335, 336/339, 340, 341, 347/348, 445/446, 631, 634/635, 641, 645/646 and 647/648, which have been exported before January 1, 1985 shall not be suject to this group limit.

Textile products in the group, other than those already controlled, which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Walter C. Lenahan,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85–22895 Filed 9–24–85; 8:45 am]
BILLING CODE 3510-DR-M

[1] The level has not been adjusted to reflect any imports exported after December 31, 1984. Imports in the group during the January–July period have amounted to 64,337,169 square yards equivalent.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1985; Correction of Additions and Deletions

In FR Doc. 85–21925, appearing on page 37396 in the issue of Friday, September 13, 1985, make the following correction:

In the second column on page 37397, delete Pillow, Bed, 7210–01–035–3342.

C. W. Fletcher,
Executive Director.

[FR Doc. 85–22923 Filed 9–24–85; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF ENERGY

Procurement and Assistance Management Directorate; Restricted Eligibility for Grant Award; Howard University

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of restricted eligibility for grant award.

SUMMARY: DOE announces that it intends to award a grant of $30,000 for one year in accordance with the DOE Financial Assistance Regulations 600.7(b) and section 211(d) of Pub. L. 95–619, and Executive Order 12320 to Howard University providing support in the Development of a Black College Satellite and Telecommunications Network (SATNET).

Procurement Request Number: 01–85MI10075.000.

Project Scope: The purpose of this award is to assist and stimulate the Howard University Black College Satellite and Telecomunications Network (SATNET). This endeavor is to provide a nationwide information system that will assist campus-based researchers to become aware of, to understand and to seek assistance from available sources, until now unknown, in their research and development activities in energy sciences and technologies. The DOE is interested in broadening the base of energy research and enhancing cross-fertilization of researcher's efforts. The DOE has determined that the award of the grant on a restricted eligibility basis is appropriate.

For further information contact: James P. Beiriger, MA–452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–1024.

Issued in Washington, D.C., on September 19, 1985.

Ben Goldman,
Director, Contracts Operations, Division "A", Office of Procurement Operations.

[FR Doc. 85–22952 Filed 9–24–85; 8:45 am]
BILLING CODE 6450-01-M

Procurement and Assistance Management Directorate; Restriction of Eligibility for Grant Award; Laser Institute of America

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b) it intends to award on a restricted eligibility basis a Grant providing partial support to the Laser Institute of America in support of data collection that will constitute a Laser History Archive. The Grant is valued at $60,000 and is for a twenty-seven month period.

Procurement Request Number: 01–85DP20144.000.

Project Scope: The objective of this Grant is to support the Laser Institute of America, Laser History Project in data collection that will constitute a Laser History Archive to insure the preservation of related historical records. The project, initiated in 1983, has actively been involved in accumulating oral history, written reminiscences and biographical-bibliographical data. The DOE partial support will permit continuation of historical research and completion of the Archive. As the DOE is vitally involved in Laser Research, it has been determined that award of this Grant on a restricted eligibility basis is appropriate. For further information contact: James P. Beiriger, MA–452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue SW.,

Washington, D.C. 20585, Telephone (202) 252–1024.

Issued in Washington, D.C., on September 19, 1985.

Ben Goldman,

Contracts Operations, Division "A" Office of Procurement Operations.

[FR Doc. 85–22950 Filed 9–24–85; 8:45 am]

BILLING CODE 6450–01–M

Procurement and Assistance Management Directorate; Restriction of Eligibility for Grant Award; National Academy of Sciences

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that, pursuant to 10 CFR 600.7(b), it intends to award on a restricted eligibility basis, a grant to the National Academy of Sciences in partial support of the Committee on Chemical Engineering Frontiers survey of intellectual frontiers in chemical and process engineering. The DOE support under this grant will be $130,000 over a 24 month period.

Procurement Request No.: 01–85FE60847.000.

Project Scope: The National Academy of Sciences, through the Board on Chemical Sciences and Technology, the Committee on Chemical Engineering Frontiers will survey the array of intellectual frontiers that have developed or are emerging in chemical and process engineering and the opportunities they present for meeting societal needs. As the DOE research mission is to ensure future access to clean and abundant sources of energy, dependent on advances in chemical processing and engineering, the DOE has determined that award to NAS on a restricted eligibility basis is appropriate.

For further information contact: James P. Beiriger, MA–452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–1024.

Issued in Washington, D.C., on September 19, 1985.

Ben Goldman,

Director, Contracts Operations, Division "A" Office of Procurement Operations.

[FR Doc. 85–22951 Filed 2–24–85; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Final Consent Order With O. B. Mobley, Jr.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final action on proposed consent order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed Consent Order between the Department of Energy (DOE) and O. B. Mobley, Jr. (Mobley) shall be made a final order of the DOE. The Consent Order resolves Mobley's civil liability for violations of the Mandatory Price Regulations in sales of crude oil from the Lewisville Smackover Unit during the period September 1, 1976 through March 6, 1978. Pursuant to the terms of the agreement, Mobley relinquishes its rights and claims to all monies deposited into the escrow account maintained by the Department of Treasury. This amount, $1,095,622.15, which includes interest, will be held pending distribution by the DOE.

The Consent Order is effective as a final order of the DOE upon publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Meyer Magence, Office of Special Counsel (RG–13), Economic Regulatory Administration, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–4945.

SUPPLEMENTARY INFORMATION:

I. Introduction

ERA issued a notice announcing a proposed Consent Order between the DOE and Mobley which would resolve Mobley's civil liability for violations of the Mandatory Price Regulations in sales of crude oil from the Lewisville Smackover Lime Unit during the period September 1, 1976 through March 6, 1978 (violation period).

For the violation period, Mobley applied 10 CFR 212.75 in calculating the base production control level of the Lewisville Unit. On March 16, 1978, Mobley was issued an Interpretation by DOE's Office of General Counsel, which was affirmed by the DOE's Office of Hearings and Appeals (OHA), stating that Mobley must apply 10 CFR 212.72, and not 10 CFR 212.75, to sales of crude oil produced from the Lewisville Unit. The DOE's interpretation was upheld by the District Court for the Western District of Louisiana, *Mobley* v. *DOE*, CI–78–1073 (1982). The effect of the improper application of § 212.75 was that Mobley charged higher than lawful prices for the crude oil produced and sold from that unit.

Although it applied § 212.75, rather than §212.72, Mobley on its own escrowed the difference between revenues received according to § 212.75 and those it would have received pursuant to § 212.72. While not conducting a complete audit of Mobley's compliance with the federal petroleum price regulations for the violation period, DOE has verified that Mobley escrowed the amount of the overcharges. This amount, plus interest, which totals $1,095,622.15, was subsequently transferred to the deposit fund escrow account in the Department of Treasury.

ERA's notice announcing the proposed Consent Order between DOE and Mobley, 50 FR 28114 (July 10, 1985), solicited written comments from the public relating to the terms and conditions of the settlement.

II. Comments Received

ERA received three comments, which addressed the question of the ultimate disposition of the funds paid by Mobley pursuant to the settlement, but did not question the basis of the settlement or the adequacy of the settlement amount. Comments were received from the following: Governor's Energy Office, State of Florida, State of Indiana, Attorneys General of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia.

The comments received did not relate to the issue of whether the Consent Order should be modified, rejected or adopted as a final order. All of the comments argued for disbursal of the monies to the states after refunds have been made to parties claiming actual injury.

During the period covered by this Consent Order the violations allegedly committed by Mobley related to the miscertification of its crude oil. Such violations resulted in cost increases that were distributed among all refiners by the entitlements program and the refiners could then pass the overcharges on to others. *See United States* v. *Exxon Corp.*, —F.2d—, Slip op. at 110–112 (TECA, July 1, 1985) (Nos. 91 *et seq.*).

The DOE's Office of Hearings and Appeals in a report to the District Court for the district of Kansas in *In re: The Department of Energy Stripper Well Litigation*, MDL No. 378, determined that where alleged crude oil violations involve such crude oil miscertifications, the resulting harm cannot be traced to specific customers. As explained by the DOE in an accompanying Statement of Restitutionary Policy.

Essentially, OHA concluded that direct purchasers (as such) generally did not absorb the overcharges because they were reimbursed by the entitlements programs. Tracing of overcharges is impossible in view

of the spreading effect of the entitlements program, the fungibility of refiner costs and the consequent ability of firms and OHA to determine which costs were passed through and which, if any, were retained, and the high proportion of cost passthrough, among other factors.

OHA's finding that it is impossible to trace crude oil cost increases that were equalized by the entitlements program, . . . is consistent with the conclusions to two district courts that have previously determined that the harm resulting from crude oil miscertifications cannot be traced. 50 FR 27400 (July 2, 1985).

DOE then examined the possible use of econometic modeling methods to estimate the extent to which overcharges were passed through at the various distribution levels within the industry. With regard to this indirect methodology, DOE concluded:

It is too inexact in determining injury to particular classes of claimants and yields no conclusions concerning the injury to individuals within any class. The governmental costs in resources and, more importantly, societal costs in years of continued litigation prior to distribution are unacceptably high. *Id.* at 27402.

Subpart V contemplates proceedings to identify injured persons (10 CFR 205.280). When it is impossible to determine which persons were ultimately injured, as in violations involving crude oil miscertifications, such proceedings are futile and, therefore, not appropriate. Accordingly, the funds received from Mobley pursuant to the Consent Order will not be the subject of a Subpart V petition and proceeding.

DOE's Statement of Policy also addressed the question of how to effect indirect restitution where refunds to individual injured claimants are not feasible. The policy statement provides that the ERA will retain the monies received in an escrow account for a reasonable time to allow Congress an opportunity to determine an appropriate disposition of the funds. If Congress does not enact legislation within a reasonable time, the DOE will transfer the funds to the general fund the U.S. Treasury. The Policy Statement explains that this is preferable to further *ad hoc* payments to the states because:

[T]he states, as a result of the decisions in *Exxon* and *Sutton*, will receive more than two billion dollars for use in certain federally-established energy programs. The Department of Energy, which is responsible for administering and overseeing most of these programs at the federal level, has concluded that the states, cannot make effective use of additional monies (beyond those appropriated by Congress and awarded by the *Exxon*, and *Sutton* courts) for these programs at this time. *supra*, at 27402.

Because of the terms of the settlement are consistent with the foregoing actions, ERA has determined to proceed with the finalization of the Consent Order.

III. Decision

Pursuant to 10 CFR 212.199], the Consent Order between Mobley and DOE is made a final order of the DOE on the date of the publication of this notice.

Issued in Washington, D.C., on September 10, 1985.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 85-22948 Filed 9-24-85; 8:45 am]

BILLING CODE 6450-01-M

Final Consent Order With Don E. Pratt Oil Operations

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final action on proposed consent order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed Consent Order between the Department of Energy (DOE) and Don E. Pratt, individually, and Don E. Pratt Oil Opeations (Pratt) shall be made a final order of the DOE. The Consent Order resolves Pratt's compliance with the federal petroleum price and allocation regulations for the period September 1973 through January 27, 1981. Pratt will pay to the DOE the aggregate amount of $890,000, plus installment interest. The monies would be depostited in suitable account pending distribution by DOE. The decisin to make the Pratt Consent Order final as modified was made after a reveiw of all written comments received.

The final Consent Order incorporates the following modifications:

(1) Inclusion of a record-keeping requirements that conforms to 10 CFR 210.1, ensuring the availability of data in the event that refund procedures were necessary;

(2) Application of a fixed installment interest rate consisting of the rate applicable during the period when the modified Consent Order was executed; and

(3) Inclusion of a provision that makes clear that the Consent Order does not affect suits involving other crude oil property operators.

Other modifications were made to the provisions regarding the release of sensitive commercial and financial information and DOE's reservation of a right to seek remedies for newly discovered regulatory violations.

The Consent Order as modified is effective as a final order of the DOE on the date the document was executed.

FOR FURTHER INFORMATION CONTACT: Meyer Magence, Office of Special Counsel (RG-13), Economic Regulatory Administration, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-4945.

SUPPLEMENTARY INFORMATION:

I. Introduction

ERA issued a notice announcing a proposed consent order between DOE and Pratt which would resolve matters relating to Pratt's compliance with the federal petroleum price and allocation regulations for the period September 1973 through January 27, 1981. 49 FR 50303 (December 27, 1984). The proposed consent order requires Pratt to pay the aggregate amount of $890,000, plus installment interest, for the settlement of alleged overcharges.

The company shall pay $17,500 on the first day of the first month following the effective date of the Consent Order and $17,500 on the first day of each month thereafter for thirty-five months. Each payment shall be applied to interest first and the balance to the outstanding principal amount. The remaining unpaid principal and interest shall be paid in one payment thirty days after the thirty-sixth payment. The notice solicited written comments from the public relating to the terms and conditions of the settlement.

II. Comments Received

ERA received three comments, which addressed the question of the ultimate disposition of the funds to be paid by Pratt pursuant to the settlement, but did not question the basis of the settlement or the adequacy of the settlement amount. Comments were received from the following: Attorney General of Texas, Controller, State of California, State of Indiana.

The comments received did not relate to the issue of whether the Consent Order should be modified, rejected or adopted as a final order. The Attorney General of Texas stated that, since ERA did not identify any injured persons, ERA should request the implementation of Subpart V proceedings. The State of Indiana, on the other hand, argued for disbursal of the monies to the states. The Controller of the State of California indicated a preference for a specific reference in the Consent Order to

Subpart V proceedings or payments to the states.

During the period covered by this Consent Order the violations allegedly committed by Pratt related to the miscertification of its crude oil. Such violations resulted in cost increases that were distributed among all refiners by the entitlements program and the refiners could then pass the overcharges on to others. *See United States* v. *Exxon Corp.*,—F.2d—, Slip op. at 110–112 (TECA, July 1, 1985) (Nos. 91 *et seq.*).

The DOE's Office of Hearings and Appeals in a report to the District Court for the District of Kansas in *In re: the Department of Energy Stripper Well Litigation*, MDL No. 378, determined that where alleged crude oil violations involve such crude oil miscertification, the resulting harm cannot be traced to specific customers. As explained by the DOE in an accompanying statement of Restitutionary Policy,

> Essentially, OHA concluded that direct purchasers (as such) generally did not absorb the overcharges because they were reimbursed by the entitlements programs. Tracing of overcharges is impossible in view of the spreading effect of the entitlements program, the fungibility of refiner costs and the consequent ability of firms and OHA to determine which costs were passed through and which, if any, were retained, and the high proportion of cost passthrough, among other factors.
>
> OHA's finding that it is impossible to trace crude oil cost increases that were equalized by the entiltements program, . . . is consistent with the conclusions of two district courts that have previously determined that the harm resulting from crude oil miscertifications cannot be traced. 50 *FR* 27400 (July 2, 1985).

DOE then examined the possible use of econometric modeling methods to estimate the extent to which overcharges were passed through at the various distribution levels within the industry. With regard to this indirect methodology, DOE concluded:

> It is too inexact in determining injury to particular classes of claimants and yields no conclusions concerning the injury to individuals within any class. The governmental costs in resources and, more importantly, societal costs in years of continued litigation prior to distribution are unacceptably high. *Id.* at 27402.

Superpart V contemplates proceedings to identify injured persons (10 CFR 205.280). When it is impossible to determine which persons were ultimately injured, as in violations involving crude oil miscertifications, such proceedings are futile, and, therefore, not appropriate. Accordingly, the funds received from Pratt pursuant to the Consent Order will not be the subject of a Subpart V petition and proceeding.

DOE's Statement of Policy also addressed the question of how to effect indirect restitution where refunds to individual injured claimants are not feasible. The policy statement provides that the ERA will retain the monies received in an escrow account for a reasonable time to allow Congress an opportunity to determine an appropriate disposition of the funds. If Congress does not enact legislation within a reasonable time, the DOE will transfer the funds to the general fund of the U.S. Treasury. The Policy Statement explains that this is preferable to further *ad hoc* payments to the state because:

> [T]he states, as a result of the decisions in *Exxon* and *Sutton*, will receive more than two billion dollars for use in certain federally-established energy programs. The Department of Energy, which is responsible for administering and overseeing most of these programs at the federal level, has concluded that the states cannot make effective use of additional monies (beyond those appropriated by Congress and awarded by the *Exxon* and *Sutton* courts) for these programs at this time. *supra*, at 27402.

Because the terms of the settlements are consistent with the foregoing action, ERA has determined to proceed with the finalization of the Consent Order.

III. Modifications to the Consent Order

The ERA is seeking to standardize its Consent Orders as much as possible and has modified the Pratt Consent Order pursuant to that goal. The preamble to the ERA's recent revision of its regulation, 50 F.R. 4957, 4960 (February 5, 1985), provides that firms with restitutionary payments subject to distribution must be required to maintain records to permit appropriate distribution of these payments. ERA and Pratt have agreed to modify the proposed Consent Order to require the firm to retain records in the event of subsequent direct restitutionary payments.

Another modification concerns the installment interest rate. Pursuant to ERA's interest policy, published at 46 F.R. 21412, 21414 (April 10, 1981), the interest rate applicable to a Consent Order may be fixed as of the date of its execution. Since the modified Consent Order was executed September 3, 1985, and the appropriate interest rate for the period from July 1, 1985 to September 30, 1985 is 10.44%, the installment interest rate applicable to this Consent Order is fixed at 10.44%.

A third modification makes clear that the Consent Order does not affect any action DOE may bring against a third-party crude oil property operator nor does the Consent Order afford Pratt any protection from any possible suit against it for contribution by such a third-party operator.

Because the above-mentioned modifications to the Consent Order do not affect the basic settlement amount or substantially alter the basis of the settlement, DOE has determined that the modifications do not require an opportunity to file additional comments.

IV. Decision

Pursuant to 10 CFR 205.199J, the Consent Order between Pratt and DOE as modified has made a final order of the DOE on September 3, 1985, the date the modified Consent Order was executed.

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

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 85–22949 Filed 9–24–85; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 6287–002 et al.]

Applications Filed with the Commission; Hydroelectric Applications (Rainsong Co. et al.)

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

a. Type of Application: Major License.

b. Project No.: 6287–002.

c. Date Filed: November 8, 1984.

d. Applicant: Rainsong Company.

e. Name of Project: Lena Creek.

f. Location: On Lena Creek, tributary to the Hamma Hamma River, in Jefferson and Mason Counties, Washington, and affecting lands within the Olympic National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. William L. Devine, P.O. Box 68, 8040 Mt. Baker Highway, Maple Falls, WA 98266.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 6-foot-high, 40-foot-long ogee-type reinforced-concrete dam having spillway crest elevation 1,550.0 feet; (2) a gated intake structure at the right (west) bank having a sluiceway; (3) a 3,000-foot-long, 42-inch-diameter underground pipeline; (4) a 3,500-foot-long, 42-inch-diameter underground steel penstock; (5) a powerhouse containing a

generating unit rated at 5,000-kW operated at a head of 825 feet and at a flow of 80 cfs; (6) a 160-foot-long tailrace; (7) a 4,160-v/34.5-kV switchyard; (8) a 32,280-foot-long underground 34.5-kV transmission line to a 34.5/115-kV substation: and (9) a 150-foot-long access road to the powerhouse and a 7,000-foot-long access road to the diversion. Applicant estimates that the average annual energy generation would be 23,400 MWh. Applicant estimates that the project construction cost in 1986 would be $7,352,380.

This application has been accepted for filing as of May 3, 1982, the submittal date of the Applicant's originally accepted exemption application pursuant to Snowbird, Ltd., 28 FERC ¶61,062 issued July 18, 1984.

k. Purpose of Project: Project energy would be sold.

l. This notice also consists of the following standard paragraphs: A9, B, C, D1.

m. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 60 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

2 a. Type of Application: Minor License.

b. Project No.: 6786–001.

c. Date Filed: November 29, 1984.

d. Applicant: Yankee Hydro Corporation.

e. Name of Project: Aurelius Avenue Dam.

f. Location: Owasco Lake Outlet in Cayuga County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Roger P. Swanson, Yankee Hydro Corporation, 66 East Fourth Street, P.O. Box 2027, Oswego, NY 13126.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 12-foot-high, 100-foot-long reinforced concrete gravity dam; with (2) new 1-foot-high flashboards; (3) a reservoir with a normal water surface area of 1.8 acres, a gross storage capacity of 10.92 acre-feet, and a normal water surface elevation of 580 feet MSL; (4) an intake structure; (5) a new concrete block powerhouse containing three generating units with a capacity of 120 kW each for a total installed capacity of 360 kW; (6) a new transmission line, 150 feet long; and (7) appurtenant facilities. The Applicant estimates that the average annual generation would be 1,500,000 kWh. The existing dam is owned by the City of Auburn, New York. This license application was filed pursuant to a preliminary permit, Project No. 6786–000, held by the Applicant.

k. Purpose of Project: Project power would be sold to the New York State Electric and Gas Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

3 a. Type of Application: Minor License.

b. Project No.: 7225–003.

c. Date Filed: November 16, 1984.

d. Applicant: Little Salmon River Estates, Inc.

e. Name of Project: Fall Creek.

f. Location: On Fall Creek, tributary to the Little Salmon River, in Adams County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, P.E., 750 Warm Springs Avenue, Boise, ID 83712.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed run-of-river project would affect lands of the U.S. under the jurisdication of the Bureau of Land Management and would consist of: (1) A 2-foot-high 15-foot-long reinforced-concrete weir; (2) a screened intake structure at the left (north) bank; (3) at 6,700-foot-long, 12.75-inch-diameter steel pipeline/penstock; (4) a powerhouse containing a generating unit rated at 1,091-kw operated at a static head of 1,480 feet and at a flow of 12.7 cfs; (5) a short tailrace to the Little Salmon River; (6) a 4,169-v/34.5-kV transformer; and (7) a 100-foot-long, 34.5-kV transmission line. Applicant estimates that the average annual energy generation would be 2,609,680 kWh. Applicant estimates that the 1985 total project construction cost would be $1,123,748.

This application has been accepted for filing as of April 15, 1983, the submittal date of the Applicant's originally accepted exemption application pursuant to Snowbird, Ltd., 28 FERC ¶ 61,062 issued July 18, 1984.

k. Purpose of Project: Project energy would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A9, B, C, and D1.

m. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. submission of a timely notice of intent allows an interested person to file the competing development application no later than 60 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

4 a. Type of Application: Preliminary Permit.

b. Project No.: 9051–000.

c. Date Filed: March 26, 1985.

d. Applicant: Benton Associates.

e. Name of Project: Benton.

f. Location: Big Muddy River in Franklin County, Illinois.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Joel Kirk Rector, 5041 South Boabab Drive, Salt Lake City, UT 84117.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers Rend Dam and would consist of: (1) A proposed penstock, 10 feet in diameter and 250 feet long; (2) a proposed powerhouse containing a single generating unit of 1,600 kW capacity; (3) a proposed tailrace, 25 feet wide and approximately 250 feet long; (4) a proposed transmission line, approximately ¾-mile long; and (5) appurtenant facilities. The estimated average annual generation of 5,000,000 kWh would be sold to Illinois Power Company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope under this Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $125,000.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 9150–000.

c. Date Filed: May 1, 1985.

d. Applicant: Tranquility Irrigation District.

e. Name of Project: Kaiser Creek.

f. Location: On Kaiser and Westfall Creeks in Fresno County, California; within Sierra National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Keith Miller, Manager, Tranquillity Irrigation District, P.O. Box 487, Tranquillity, CA 93668.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would consist of: (1) A 115-foot-high, 550-foot-long rockfill dam at elevation 5,310 feet on Kaiser Creek; (2) a 63-acre reservoir with a storage capacity of 2,700 acre-feet; (3) a 42-inch-diameter, 700-foot-long pipeline; (4) the Kaiser Creek Powerhouse #1 containing a single generating unit operating under a head of 140, with a total installed capacity of 630 kW; (5) a 20-foot-high, 82-foot-long diversion dam at elevation 5,170 feet on Kaiser Creek; (6) a 42-inch-diameter, 12,900-foot-long pipeline; (7) a 10-foot-high, 40-foot-long diversion dam at elevation 5,170 feet on Westfall Creek; (8) a 24-inch-diameter pipeline carrying water diverted from the Westfall Creek to the 42-inch-diameter pipeline; (9) the Kaiser Creek Powerhouse #2 containing a single generating unit operating under a head of 1,770 feet, with a total installed capacity of 7,900 kW and discharging into the existing Mammoth Pool Reservoir of Project No. 2085; (10) a surge tank; (11) an 11.4-mile-long, 11-kV transmission line transmitting power generated by Kaiser Creek Powerhouse No. 2 to Southern California Edison Company's (SCE) Big Creek No. 2 Powerhouse of FERC Project No. 120; (12) a 2.3-mile-long, 11-kV transmission line transmitting power generated by Kaiser Creek Powerhouse No. 1 to the 11-kV transmission line connecting Kaiser Creek, Powerhouse No. 2 with Big Creek No. 2 Powerhouse of FERC Project No. 120; and (13) appurtenant facilities. The power generated by the proposed project would be sold to SCE or another utility.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $350,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

6 a. Type of Application: Preliminary Permit.

b. Project No: 9162–000.

c. Date Filed: May 2, 1985.

d. Applicant: Torrey Associates.

e. Name of Project: Fremont/Poverty Flat Hydro Project.

f. Location: On Fremont River in Wayne County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–827(r).

h. Contact Person: Mr. Mike Graham, President, G.W.P., 484 East 300 North Manti, UT 84642.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would utilize an abandoned site owned by the Garkane Power Company and would consist of: (1) A new concrete diversion structure, about 5-feet high; (2) a new pipeline penstock, 40-inches in diameter and 6,750 feet-long; (3) a new powerhouse with an installed capacity of 500kw; (4) a tailrace to the Fremont River; (5) a new 2,000-foot-long transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,936,000 kwh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $43,000.

7 a. Type of Application: Preliminary Permit.

b. Project No: 9163–000.

c. Date Filed: May 2, 1985.

d. Applicant: Stuart Associates.

e. Name of Project: St. Lucie Lock & Dam Hydro (Structure 80).

f. Location: On the St. Lucie Canal in Martin County, Florida.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, Stuart Associates, 1350 New York Ave., #600, Washington, DC 20005.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers Lock & Dam and would consist of: (1) Renovation of an existing powerhouse, 20 feet by 50 feet that will contain one turbine-generator unit, with an installed capacity of 3,000 kW; (2) a proposed 60-inch-diameter penstock approximately 30 feet long; (3) a proposed tailrace approximately 50 feet long and 30 feet wide; (4) about 2,590 feet of 12.5-kV transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual energy generation would be about 13.5 GWh.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to the Florida Power and Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates that the cost of the studies under permit would be $125,000.

8 a. Type of Application: Preliminary Permit.

b. Project No.: 9166–000.

c. Date Filed: May 2, 1985.

d. Applicant: Moore Haven Associates.

e. Name of Project: Structure 77 (Moore Haven).

f. Location: On the Caloosatchee River in Glades County, Florida.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, Lorida Associates, 1350 New York Ave., #600, Washington, DC 20005.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would utilize the eixisting Corps of Engineers Lock and Dam and would consist of: (1) A new penstock, 40 feet in length and 6 feet in diameter; (2) a new powerhouse, 20 feet by 50 feet, housing one turbine-generator unit with an installed capacity of 3,000 kW; (3) a proposed tailrace, 50 feet long and 20 feet wide; (4) a propsed transmission line 300 feet long at 12.5–kV; and (5) appurtenant facilities. Applicant estimates that the average annual energy generation would be 10.0 GWh.

k. Purpose of Project: The Applicant anticipates that project energy will be

sold to the Florida Power and Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $125,000.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 9178-000.

c. Date Filed: May 8, 1985.

d. Applicant: Heber City Associates.

e. Name of Project: Timponogos Hydro Project..

f. Location: On Provo River in Wasatch County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Mike Graham, President, G.W.P., 484 East 300 North Manti, UT 84642.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would be located both on lands owned by the State of Utah and on Federal lands administered by the U.S. Bureau of Reclamation and would consist of: (1) An existing concrete diversion structure, about 10 feet high; (2) a canal, 8,950 feet long, 4 feet wide and 4 feet deep; (3) a new 40-inch diameter, 600-foot-long penstock; (4) a new powerhouse with an installed capacity of 800 kW; (5) a tailrace to the Provo River; (6) a new 2,000-foot-long transmission line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 5,760,000 KWh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit during which time Applicant would investigate project design alternatives, financial feasibility, environmental effect of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $43,000.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 9203-000.

c. Date Filed: May 20, 1985.

d. Applicant: Hyrum Associates.

e. Name of Project: Hyrum Hydro Project.

f. Location: On Little Bear River in Cache County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mike Graham, President, G.W.P., 484 East 300 North, Manti, Utah 84642.

i. Comment Date: Oct. 21, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation's Hyrum Dam and Reservoir and would consist of: (1) A 48-inch-diameter penstock utilizing the existing outlet works; (2) a new powerhouse with an installed capacity of 1,000 kW; (3) a tailrace; (4) a new 3,000-foot-long transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3,836,000 kWh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $17,000.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 9214-000.

c. Date Filed: May 20, 1985.

d. Applicant: Provo Associates.

e. Name of Project: Murdock Dam Hydro Project.

f. Location: On Provo River in Utah County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Mike Graham, President, G.W.P., 484 East 300 North, Manti, Utah 84642.

i. Comment Date: Oct. 21, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation's Murdock Dam and Reservoir and would consist of: (1) A 48-inch diameter penstock utilizing the existing outlet works; (2) a new powerhouse with an installed capacity of 300 KW; (3) a tailrace; (4) a new transmission line, about 1,000-feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,036,000 kWh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $7,000.

12 a. Type of Application: Preliminary Permit.

b. Project No.: 9220-000.

c. Date Filed: May 21, 1985.

d. Applicant: Newton Associates.

e. Name of Project: Newton Hydro Project.

f. Location: On Clarkston Creek in Cache County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mike Graham, President, G.W.P., 484 East 300 North, Manti, Utah 84642.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation's Newton Dam and Reservoir and would consist of: (1) A 36-inch-diameter penstock utilizing the existing outlet works; (2) a new powerhouse with an installed capacity of 600 kW; (3) a tailrace; (4) a new 3,000-foot-long transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,236,000 kWh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $27,000.

13 a. Type of Application: Preliminary Permit.

b. Project No.: 9236–000.

c. Date Filed: May 28, 1985.

d. Applicant: Gunnison Associates.

e. Name of Project: Gunnison Hydro Project.

f. Location: On San Pitch River in Sanpete County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mike Graham, President, G.W.P., 484 East 300 North, Manti, Utah 84642.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would utilize a dam and reservoir owned by the Gunnison Irrigation Company and would consist of: (1) An existing earthfill dam, about 45 feet high; (2) a reservoir with a total capacity of 18, 685 acre-feet; (3) a new 60-inch-diameter penstock; (4) a new powerhouse with an installed capacity of 500 kW; (5) a tailrace; (6) a new 3,000-foot-long transmission line; and (7) appurtenant facilities. The applicant estimates that the average annual energy output would be 3,036,000 kWh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $21,000.

14 a. Type of Application: Preliminary Permit.

b. Project N0.: 9254–000.

c. Date Filed: May 31, 1985.

d. Applicant: Herkimer County Associates.

e. Name of Project: Boyd Dam.

f. Location: On the West Canada Creek in Herkimer County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, Herkimer County Associates, 1350 New York Ave., #600, Washington, DC 20005.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 12-foot-high, 245-foot-long stone and timber gravity dam; (2) a reservoir with a surface area of 0.8 acre, a storage capacity of 20 acre-feet, and a normal water surface elevation of 420 feet m.s.l.; (3) two new steel intake gates; (4) two new 8-foot-diameter, 30-foot-long steel penstocks; (5) a new brick powerhouse containing one generating unit with a capacity of 1,000 kW; (6) a new 5-foot-long, 20-foot-wide tailrace; (7) a new transmission line, 75 feet long; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 6,600,000 kWh. The existing dam is owned by the Pennsylvania Egg Carton Company and the Herkimer Holding Corporation, Herkimer, New York.

k. Purpose of Project: Project power would be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to prepare an application for FERC license. Applicant estimates that the cost of the studies under the permit would be $125,000.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 9267–000.

c. Date Filed: June 3, 1985.

d. Applicant: Antimony Associates.

e. Name of Project: Otter Creek Hydro Project.

f. Location: On Otter Creek in Piute County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mike Graham, President, G.W.P. 484 East 300 North Manti, Ut 84642.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would utilize a dam and lands owned by the Otter Creek Irrigation Company and would consist of: (1) An earthfill dam, about 35 feet high; (2) a reservior having a total capacity of 18,685 acre-feet; (3) a new 48-inch-diameter penstock utilizing the existing outlet works; (4) a new powerhouse with an installed capacity of 250 kW; (5) a tailrace; (6) a new 11,046-foot-long transmission line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 896,000 kWh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under the permit would be $37,350.

16 a. Type of Application: Preliminary Permit.

b. Project No.: 9268–000.

c. Dated Filed: June 3, 1985.

d. Applicant: Minersville Associates.

e. Name of Project: Rocky Ford Hydro Project.

f. Location: On Beaver River in Beaver County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mike Graham, President, G.W.P.; 484 East 300 North, Manti, Utah 84642.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would utilize a dam and lands owned by the State of Utah and would consist of: (1) An existing earthfill dam; about 56 feet high; (2) a reservoir with a total capacity of 24,910 acre-feet; (3) a new 48-inch diameter penstock utilizing the existing outlet works; (4) a new powerhouse with an installed capacity of 250 kw; (5) a tailrace; (6) a new 26,826-foot-long transmission line; and

(7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,036,000 KWh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $32,000.

17 a. Type of Application: Preliminary Permit.

b. Project No.: 9323-000.

c. Date Filed: July 3, 1985.

d. Applicant: Malta Hydro Associates.

e. Name of Project: Sugar Loaf Dam.

f. Location: On Lake Fork, near Malta, in Lake County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Malta Hydro Associates, c/o Louis Rosenman, Esg., 1350 New York Avenue, #600, Washington, D.C. 20005 (202) 783-2100.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would utilize the outlet works of the existing U.S. Bureau of Reclamation's 12-foot-high, 3,200-foot-long Sugar Loaf Dam and would consist of: (1) A 72-inch-diameter, 850-foot-long penstock; (2) a 20-foot by 20-foot powerhouse containing a single turbine-generator unit with a rated capacity of 2.0 MW and producing an estimated average annual generation of 10 GWh; (3) a tailrace; and (4) a 1,500-foot-long, 12.5-kV transmission line. Project power would be sold to Public Service Company of Colorado.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $145,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C an D2.

18 a. Type of Application: Preliminary Permit.

b. Project No.: 9350-000.

c. Date Filed: July 15, 1985.

d. Applicant: Michiana Hydro Electric Power Corporation.

e. Name of Project: Holliday Hydropower.

f. Location: On the West Fork of the White River in Hamilton County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Charles S. Hayes, 1634 E. Jefferson Blvd., South Bend, IN 46617.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing concrete spillway dam approximately 200 feet long and 10 feet high, with two 20 feet wide Tainter gates located at the east end of the spillway; (2) an existing reservoir with negligible storage at pool elevation of 765 feet m.s.l.; (3) refurbishing of the existing 25 foot by 46 foot powerhouse and the two turbine/generator units, each rated at 192 kW, for a total installed capacity of 384 kW; (4) about 400 feet of new transmission line at 4,800 volts; and (5) appurtenant facilities. Applicant estimates that the average annual energy generation would be 2,335,000 kWh. The existing facility is owned by the Public Service Company of Indiana.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to the Public Service Company of Indiana.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $11,500.

19 a. Type of Application: Preliminary Permit.*

* This notice supersedes the Notice of Application for Preliminary Permit issued on August 2, 1985.

b. Project No.: 9242-000.

c. Date Filed: May 28, 1985.

d. Applicant: Old Station Power Company.

e. Name of Project: Rock Creek.

f. Location: On Rock Creek in Shasta County, California, within Shasta National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Louis J. Simpson, 2704 Hartnell Avenue, Suite C, Redding, CA 96002.

i. Comment Date: October 21, 1985.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 90-foot-long diversion dam at elevation 3,269 feet; (2) a 54-inch-diameter, 500-foot-long penstock; (3) a powerhouse with a total installed capacity of 3300 kW; and (4) a 12-kV, 1-mile-long transmission line connecting with an existing Pacific Gas and Electric Company (PG&E) transmission line.

k. Purpose of Project: A preliminary permit if issued, does not authorize construction. Applicant has requested an 18-month permit to conduct feasibility studies and prepare a license application at a cost of $25,000. No new roads would be constructed to conduct these studies.

This estimated 10.1 million kWh generated annually by the project would be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

20 a. Type of Application: Amendment of License.

b. Project No: 3174-002.

c. Date Filed: April 15, 1985.

d. Applicant: Ptarmigan Resources and Energy, Inc.

e. Name of Project: Vallecito.

f. Location: Vallecito Dam, on the Los Pinos River, near the City of Durango, in La Plata County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Ptarmigan Resources and Energy, Inc., c/o Barbe Chamblis, 92 Atlantic Avenue, Aspen, Co 81611, (303) 920-2527.

i. Comment Date: October 31, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation's Vallecito Dam and Reservior and would consist of: (1) An intake structure located at the existing slide gates, inside the dam outlet works, with a hydraulic capacity of 1,500 cfs; (2) a 350-foot/long, 84-inch-diameter steel penstock expanding to a 96-inch-diameter, 1,540-foot-long steel penstock; (3) a 25- by 25- by 15-foot concrete surge tank located 200 feet upstream from the powerhouse; (4) a

powerhouse containing Francis turbine-generator units with a total installed capacity of 5.0 MW and producing an estimated average annual generation of 15 GWh; (5) a tailrace returning water to the Los Pinos River; and (6) a 1,800-foot-long, 12.4-KV transmission line. Project power would be sold to Colorado Ute Electric Association.

k. Purpose of Project: Applicant was issued a license for the Vallecito Project No. 3174–001 on October 5, 1983. Applicant is now proposing, among other things, to pressurize the conveyance system and to increase installed capacity from 2.35 MW to 5.0 MW.

l. This notice also consists of the following standard paragraphs: B, C, and D1.

21 a. Type of Application: Declaration of Intention.

b. Project No: EL85–42–000.

c. Date Filed: August 5, 1985.

d. Applicant: Guy M. Carlson.

e. Name of Project: Allison Creek.

f. Location: On Allison Creek in Idaho County, Idaho.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Contact Person: Guy M. Carlson, Box 319, Riggins, Idaho 83549.

i. Comment Date: November 4, 1985.

j. Description of Project: The project constructed in 1955 consists of: (1) A 3.5-foot-high log and rock diversion dam; (2) a 16-inch-diameter, 500-foot-long steel penstock; and (3) a generating unit rated at 7.5 kW operating at a head of 55 feet with a flow of 2 cfs.

A Declaration of Intention requests that the Commission commence an investigation to determine if it has jurisdiction over a project.

k. Purpose of Project: The project was constructed to furnish electric power for domestic use on the owner's ranch, which is remote from any utility grid. Power is wholly consumed on the property.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

22 a. Type of Application: Major License.

b. Project No: 6840–002.

c. Date Filed: November 15, 1984.

d. Applicant: Olympus Energy Corporation.

e. Name of Project: Tyler Peak Water Power.

f. Location: On Dungeness River, within Olympic National Forest, near Sequim, in Clallam County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Jerome E. Livingston, Olympus Energy Corporation, P.O. Box 1090, Bothell, Washington 98041.

i. Comment Date: October 25, 1985.

j. Competing Application: Project No. 5495, Date Filed: June 21, 1984.

k. Description of Project: the proposed project would consist of: (1) A 5-foot-high, 75-foot-long concrete diversion structure at elevation of 7,500 feet; (2) an 8,000-foot-long, 54-inch-diameter steel pipeline; (3) a 1,000-foot-long, 54-inch-diameter steel penstock; (4) a powerhouse containing two generating units with a total installed capacity of 4,980 kW at an operating head of 480 feet; and (6) a 6.5-mile-long, 23-kV transmission line connecting to an existing transmission line. The average annual energy generation is estimated to be 24.6 million kWh. The estimated cost of the project would be 9.5 million dollars.

This application has been accepted for filing as of November 10, 1982, the submittal date of the Applicant's originally accepted exemption application pursuant to Snowbird, Ltd. et at., 28 FERC ¶ 61,062, issued July 18, 1984.

l. Purpose of Project: Project power would be sold to a local public utility.

m. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 60 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

n. This notice also consists of the following standard paragraphs: A9, B, C and D1.

23 a. Type of Application: Exemption (5MW or Less).

b. Project No.: 9279–000.

c. Date Filed: June 6, 1985.

d. Applicant: Cottrell Paper Company.

e. Name of Project: Rock City Falls.

f. Location: Kayaderosseras Creek in Saratoga County, New York.

g. Filed Pursuant to: Energy Security Act of 1980, Section 408 (16 U.S.C. 2705 and 2708).

h. contact Person: Mr. J. Thomas Cottrell, P.O. Box 1589, Fall River, MA 02722.

i. Comment Date: October 25, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 15-foot-high, 68-foot-long dam owned by the Applicant with a crest elevation of 462 feet MSL; (2) an existing reservoir with a surface area of 1.5 acres and a storage capacity of 8 acre-feet; (3) an existing 80-inch diameter, 350-foot-long penstock; (4) a proposed powerhouse containing a generating unit with a rated capacity of 550-kW; and (5) a proposed 600-foot-long transmission line tying into the existing Niagra Mohawk Power Corporation System. The Applicant estimates a 1,375,000 kWh average annual energy production.

l. Purpose of Project: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the intial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit

application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Comm'ssion's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be set to the Applicants representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: September 19, 1985.
Lois D. Cashell,
Acting Secretary.
[FR Doc. 85-22883 Filed 9-24-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP85-199-000]

Algonquin Gas Transmission Co.; Change in FERC Gas Tariff

September 19, 1985.

Take notice that on September 13, 1985, Algonquin Gas Transmission Company ("Algonquin Gas"), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed proposed changes in its FERC Gas Tariff, pursuant to section 4 of the Natural Gas Act and Part 154 of the Commission's Regulations under the Natural Gas Act. Algonquin Gas proposes that the filing take effect on September 16, 1985.

Algonquin Gas states that the filing tracks a tariff requirement for payment of bills by wire transfer recently made by its principal pipeline supplier, Texas Eastern Transmission Corporation ("Texas Eastern"). By order issued August 30, 1985, Texas Eastern's filing was suspended and was allowed to become effective on September 1, 1985, *Texas Eastern Transmission Corporation*, Docket No. RP85-177-000.

Algonquin Gas states that such change is necessary since it must obtain payment from its customers timely in order to be able to make timely payment to Texas Eastern. Algonquin Gas further represents that it is willing to make further changes in its proposed provisions, or to withdraw such changes altogether, as required, in order that the timing and method of payment under its own tariff will remain consistent with the parallel provisions of Texas Eastern's effective tariff in Docket No. RP85-177-000.

Algonquin Gas notes that a copy of this filing is being served upon each of its customers and interested State regulatory 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, 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 *Sept. 27, 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.

Lois D. Cashell,
Acting Secretary.
[FR Doc. 85-22938 Filed 9-24-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA85-17-20-000 & 001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

September 19, 1985.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on September 17, 1985, tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Second Substitute Ninth Revised Sheet No. 201
Substitute Sixth Revised Sheet No. 203
Seventh Revised Sheet No. 211
Substitute Seventeenth Revised Sheet No. 213
Fourth Revised Sheet No. 241
Fourth Revised Sheet No. 311
Fourth Revised Sheet No. 405
Fourth Revised Sheet No. 425

Algonquin Gas states that such tariff sheets are being filed to reflect changes in the underlying rates of its pipeline supplier, Texas Eastern Transmission Corporation that were placed into effect by a motion filed September 11, 1985, effective September 1, 1985 under its major rate decrease filing in Docket No. RP85-177.

Algonquin Gas requests that the Commission grant such special permission as may be necessary to adjust the next month's billing subsequent to Commission approval to effectuate the result of the proposed rate change as of September 1, 1985.

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 the 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 September 27, 1985 Protest will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties of 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.

Lois D. Cashell,
Acting Secretary.
[FR Doc. 85-22939 Filed 9-24-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA86-1-20-000,001]

Algonquin Gas Transmission Co.; Tariff Filing Under Purchased Feedstock Adjustment Clause

September 19, 1985.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on September 17, 1985, tendered for filing Eighth Revised Sheet No. 202 pursuant to its Rate Schedule SNG-1 Purchased Feedstock Adjustment Clause, as contained in its FERC Gas Tariff, Second Revised Volume No. 1, increasing the applicable rate by 92.28¢ per MMBtu reflecting a higher cost of feedstock for the 1985-86 SNG season. The adjustment is filed to be effective as of October 16, 1985.

Algonquin Gas notes that a copy of this filing is being served upon all affected parties 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 (18 CFR 385.211, 285.214). All such motions or protests should be filed on or before *September 27, 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.

Lois D. Cashell,
Acting Secretary.
[FR Doc. 85-22940 Filed 9-24-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI85-685-000]

Exxon Corp.; Application

Issued: September 19, 1985.

Take notice that on September 16, 1985, Exxon Corporation filed an Application for Limited-Term Partial Abandonment Authorization and for Blanket Limited-Term Certificate Authorization for Sales for Resale and

Transportation. The authority sought therein would grant limited-term abandonment of sales of gas released by purchasing pipelines and the resale of that and other committed or dedicated gas with pregranted abandonment, pursuant to section 7 of the Natural Gas Act. In addition, the proposed authorization would grant a limited-term certificate with pregranted abandonment to cover transportation of gas sold under authorization therein and to cover transportation of gas which has been removed from Commission jurisdiction by reason of NGPA section 601(a).

These authorizations are being requested to permit continuation of sales and deliveries of gas previously initiated under Exxon's Special Marketing Program and other special marketing programs and to permit Exxon to maximize its efforts to sell gas to existing and new markets. Eligibility for these authorizations is limited to gas priced in excess of the prevailing ceiling price under NGPA section 109.

Exxon requests that such authorizations be issued prior to November 1, 1985, and be effective as of November 1, 1985, to avoid market disruptions which may be caused by termination of sales under Exxon's SMP and other authorized special marketing programs on October 31, 1985.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make protest with reference to said application should on or before October 2, 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, 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 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.

Under the procedure herein provided for, unless Exxon is otherwise advised, it will be unnecessary for Exxon to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-22941 filed 9-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-651-000]

Marathon Oil Co.; Application for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Abandonment and Pre-Granted Abandonment

September 19, 1985.

Take notice that on September 9, 1985, Marathon Oil Company (Marathon) filed on Application pursuant to sections 4 and 7 of the Natural Gas Act (NGA), and the provisions of 18 CFR Parts 154, and 157(i) authorizing the sale for resale in interstate commerce of certain natural gas produced by Marathon and its joint interest owners, (ii) authorizing blanket temporary abandonment and pre-granted permanent abandonment of certain sales as described therein, and (3) authorizing transportation by interstate pipelines (and the pre-granted abandonment of same), where and if necessary, to effectuate the sale and purchase of gas on the spot market, as more fully described in the Application, which is on file with the Commission and open for public inspection. Marathon also requests that said blanket authorization be made effective on or before November 1, 1985.

Marathon states that industry experience with the spot market to date demonstrates that the blanket authority as requested is consistent with the Commission's rules and regulations, *i.e.*, Parts 154 and 157 requirements, and is necessary to be compatible with the spot market. Further, Marathon states that, absent said blanket authorization, the flexibility and efficiency necessary for successful operation of the spot market would be hindered. Marathon intends to enter into blanket sales and transportation agreements in order to improve effective management of these spot market arrangements, and to facilitate more efficient and cost-effective transportation.

Marathon emphasizes that no Commission-mandated scheme of contract carriage or market access is sought by its Application. A decision by an interstate pipeline, intrastate pipeline or local distribution company to have gas transported on its behalf, or to provide transportation services as a participating pipeline, or for pipelines to enter into blanket transportation agreements with Marathon is purely voluntary. Rather, Marathon is seeking to further the efficient operation of the spot market.

Specifically, Marathon requests that the Commission authorize Marathon, effective on or before November 1, 1985:

(1) To make sales for resale in interstate commerce, without supply or market limitations, of NGA gas with an applicable maximum lawful ceiling price higher than the Natural Gas Policy Act (NGPA) secton 109 celing price that is produced form various interests owned by Marathon;

(2) To make sales for resale in interstate commerce, without supply or market limiations, of NGA gas with an applicable maximum lawful ceiling price higher than the NGPA section 109 price and produced from various interests attributable to other owners having interests in the same wells as Marathon, to the extent that such joint interest owners agree to same;

(3) To abandon, temporarily, sales for resale of NGA gas with an applicable maximum lawful ceiling price higher than the NGPA section 109 price and previously certificated by the Commission, to the extent that such gas is released by interstate pipelines for resale in the spot market to third parties;

(4) To abandon (pursuant to pre-granted abandonment authority) any sale for resale in the spot market authorized pursuant to any blanket certificate issued herein; and,

(5) to have both NGA and non-NGA gas that is sold in the spot market by Marathon and its joint interest owners transported in interstate commerce, on a self-implementing basis and without source or recipient limitations, by any willing transporter to any willing and able purchaser of such gas, with pre-granted abandonment of same.

Marathon is requesting the authorization described herein only to the extent that any element of such authorization is not otherwise made effective on or before November 1, 1985, as a result of Commission action in any other proceeding. In particular, Marathon refers to the Commission's Notice of Proposed Rulemaking (NOPR) issued May 30, 1985, in Docket No. RM85-1-000 and states that the blanket authority requested would be supplemental to the flexible transportation scheme proposed by the NOPR and would be necessary to achieve the NOPR objectives.

Sales proposed to be made by Marathon on behalf of itself and its joint interest owners will not involve a dedication of reserves but will be based on periodic nominations, either by purchasers or by Marathon. The sales volumes, prices, purchasers, delivery points, transporter, and supply source will vary. Although sales made by Marathon to end-users would qualify as direct sales, and thus not require a sales certificate, other sales under the blanket

authority requested will be for resale and will vary on a periodic basis, depending on the nominations.

Marathon proposes to sell and deliver to various spot gas purchasers all or a portion of the gas Marathon determines is available for sale at the most favorable terms for Marathon for a particular month. Marathon will not be obligated to sell gas pursuant to any nomination or proposed nomination until the exact volumes, terms and conditions, and prices are agreed to by Marathon and a purchaser. The actual contract between Marathon and the spot gas purchaser may be for all or any portion of the quanitity which was set out in the nomination or proposed nomination.

It appears reasonable and conistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 2, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 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 petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Marathon to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-22942 Filed 9-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-47-000, 001]

MIGC, Inc.; Proposed Purchased Gas Adjustment Rate Change

September 19, 1985.

Take Notice That on September 16, 1985, MIGC, Inc. tendered for filing copies of Thirty-Third Revised Sheet No. 32 and Eighth Revised Sheet No. 32-A to its FERC Gas Tariff Original Volume No. 1, as required by the Commission's Rules and Regulations under the Natural Gas Act.

MIGC's Thirty-Third Revised Sheet No. 32 and Eighth Revised Sheet No. 32-A provide for a Purchased Gas Adjustment rate decrease of 69.66¢ per MMBtu effective November 1, 1985 in order (1) to provide for a current gas costs adjustment to permit MIGC to reflect the higher cost of gas purchases which it is currently incurring (Table II); (2) to provide for an adjustment to MIGC's Unrecovered Purchased Gas Cost Account as of July 31, 1984 and January 31, 1985 (Table III); (3) to recover carrying charges as permitted under FERC Order No. 47 (Table IV) as set forth in MIGC's First Revised Sheet No. 31-A, and (4) to set forth projected incremental pricing surcharges to become effective November 1, 1985 (Eighth Revised Sheet No. 32-A).[1]

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, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before September 27, 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 the public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-22943 Filed 9-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-200-000]

Natural Gas Pipeline Company of America; Changes in FERC Gas Tariff

September 19, 1985.

Take notice that on September 17, 1985, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective September 1, 1985:

Second Revised Sheet No. 81
Original Sheet No. 81A

Natural states that the purpose of the filing is to eliminate from its presently effective End User Transportation Rate Schedule EUT-1 the restriction against providing onshore transportation service in the event such service would result in a reduction of sales by Natural. The rate section of Rate Schedule EUT-1 also has been revised to institute a rate which will be applicable to transportation arrangements when as a result of such transportation service a reduction in sales by Natural occurs. In addition, it is also proposed to revise the Rate Scheudle EUT-1 (1) so that Natural will be able to provide a best-efforts onshore interruptible transportation service for any Shipper which has contracted for such service and (2) to include a Disposition of Revenues provision.

A waiver of applicable Commission regulations or orders to the extend necessary to make the proposed tariff sheets effective on September 1, 1985, was requested.

A copy of the filing has been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

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 §§ 385.214 and 385.211. All such motions or protests must be filed on or before September 27, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-22944 Filed 9-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-681-000]

Pelto Oil Co.; Application for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Abandonment and Pre-Granted Abandonment

September 19, 1985.

Take notice that on September 16, 1985, Pelto Oil Company, (hereinafter referred to as Pelto) filed an Application pursuant to sections 4 and 7 of the Natural Gas Act (NGA), and the provisions of 18 CFR Parts 154, 157, and 385 seeking a blanket certificate of public convenience and necessity authorizing (1) the sale for resale in interstate commerce of certain natural gas produced by Pelto and its joint interest owners, (2) blanket temporary

[1] None of MIGC's sale-for-resale customers has reported a MSAC for any prior month determined in the manner prescribed by § 282.504(d)(2) of the Commission's Regulations.

abandonment and pre-granted permanent abandonment of certain sales as described therein, and (3) transportation by interstate pipelines and others (and the pre-granted abandonment of same), where and if necessary, to effectuate the sale and purchase of gas on the spot market, as more fully described in the Application which is file with the Commission and open for public inspection. Pelto also requests that said blanket authorization be made effective on or before November 1, 1985.

Pelto states that the blanket authority as requested in consistent with the Commission's rules and regulations, i.e., Parts 154 and 157 requirements, and is necessary for Pelto to continue making short-term gas sales. Further, Pelto states that, absent said blanket authorization, the flexibility and efficiency necessary for successful operation in the spot market would be hindered.

Pelto emphasizes that no Commission-mandated scheme of contract carriage or market access is sought by its Application. A decision by an interstate pipeline, intrastate pipeline or local distribution company to have gas transported on its behalf, or to provide transportation services as a participating pipeline, or for pipelines to enter into transportation agreements with Pelto, is purely voluntary.

Specifically, Pelto requests that the Commission authorize Pelto, effective on or before November 1, 1985:

(1) To make sales for resale in interstate commerce, without supply or market limitations, of NGA-gas with an applicable maximum lawful ceiling price higher than the Natural Gas Policy Act of 1978 (NGPA) section 109 ceiling price that is produced from various interests owned by Pelto;

(2) To make sales for resale in interstate commerce, without supply or market limitations, of NGA-gas with an applicable maximum lawful ceiling price higher than the NGPA Section 109 price and produced from various interests attributable to other owners having interests in the same wells as Pelto, to the extent that such joint interest owners agree to same;

(3) To abandon, temporary, sales for resale of NGA-gas with an applicable maximum lawful ceiling price higher than the NGPA Section 109 price and previously certificated by the Commission, to the extent that such gas is released by interstate pipelines for resale in the spot market to third parties;

(4) To abandon (pre-granted abandonment) any sale for resale in the spot market authorized pursuant to any blanket certificate issued herein; and

(5) To have both NGA- and non-NGA-gas that is sold in the spot market by Pelto and its joint interest owners transported in interstate commerce, on a self-implementing basis and without source or recipient limitations, by any willing transporter to any willing and able purchaser of such gas, with pre-granted abandonment of same.

Pelto is requesting the authorization described herein only to the extent that any element of such authorization is not otherwise made effective on or before November 1, 1985, as a result of Commission action in any other proceeding. In particular, Pelto references the Commission's Notice of Proposed Rulemaking (NOPR) issued May 30, 1985, in Docket No. RM85-1-000 and states that the blanket authority requested would be supplemental to the flexible transportation scheme proposed by the NOPR and would be necessary to achieve the NOPR objectives.

Sales proposed to be made by Pelto on behalf of itself and its joint interest owners will not involve a dedication of reserves but will be based on periodic nominations, either by purchasers or by Pelto. The sales volumes, prices, purchasers, delivery points, transporter, and supply source will vary. Pelto proposes to sell and deliver to various spot gas purchasers all or a portion of the gas Pelto determines is available for sale at terms acceptable to Pelto for a particular month. Pelto will not be obligated to sell gas pursuant to any nomination or proposed nomination until the exact volumes, terms and conditions, and prices are agreed to by Pelto and a purchaser. The acutal contract between Pelto and the spot gas purchaser may be for all or any portion of the quantity which was set out in the nomination or proposed nomination.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application should on or before October 2, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 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 petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-22945 Filed 9-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-675-000]

Texas Gas Exploration Corp.; Application for Blanket Certificate of Public Convenience and Necessity and for Order Permitting and Approving Abandonment and Pre-Granted Abandonment

September 19, 1985.

Take Notice that on September 12, 1985, Texas Gulf Exploration Corporation (TGEC), pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717-717z (1982) (NGA), and Parts 157 and 284 of the regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR Parts 157 and 284 (1984), hereby applied for a blanket certificate of public convenience and necessity (1) authorizing the sale for resale of natural gas by TGEC in interstate commerce from various interests, (2) authorizing the sale for resale of natural gas by TGEC attributable to other interest owners having an interest in the same production, (3) authorizing blanket temporary abandonment and pre-granted abandonment of certain sales as described herein, (4) authorizing transportation by interstate pipelines (and pre-granted abandonment of the same), where and if necessary, to effectuate the delivery of gas sold hereunder, and (5) to waive the system supply requirements of Part 284 of the Commission's regulations so that intrastate and Hinshaw pipelines not subject to the Commission's jurisdiction may transport gas sold hereunder on a self-implementing basis. All authority sought herein is requested to be effective no later than November 1, 1985, as more fully described in the Application which is on file with the Commission and open for public inspection.

Applicant states that the certificate and abandonment authority sought herein, if granted, will enable TGEC to sell natural gas which remains subject to the Commission's NGA authority for which the maximum lawful price is higher than that established by section 109 of the Natural Gas Policy Act

(NGPA) and to have such gas, as well as gas which is no longer within the Commission's NGA authority, transported in interstate commerce to all customers who have the ability to buy gas on the open market.

TGEC is requesting the authority described herein only to the extent that such authority is not provided for in any final rule issued by the Commission in its Notice of Proposed Rulemaking, "Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol", Docket No. RM85-1-000 (May 30, 1985) (NOPR), in the event a final rule in the NOPR is not issued by November 1, 1985, and/or in the event any such rule is stayed or not in effect after its issuance.

TGEC is requesting authority, to be effective no later than November 1, 1985, (1) to make sales for resale in interstate commerce of NGA gas for which the maximum lawful price is higher than the NGPA section 109 price and produced from various interests owned by TGEC, (2) to make sales for resale in interstate commerce of NGA gas for which the maximum lawful price is higher than the NGPA section 109 price and produced from various interests attributable to other interest owners having interests in the same wells, (3) to temporarily abandon sales for resale of NGA gas for which the maximum lawful price is higher than the NGPA section 109 price and previously certificated by the Commission, to the extent that such gas is released by interstate pipelines for resale by TGEC to third parties in the spot market, (4) to abandon (pre-granted abandonment) any sale for resale in interstate commerce authorized pursuant to the blanket certificate issued herein, and (5) to waive the system supply requirements of Part 284 of the Commission's regulations so that intrastate and Hinshaw pipelines may transport gas authorized to be sold hereunder on a self-implementing basis pursuant to section 311 of the NGPA.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 2, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 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 petition to intervene in accordance with the Commission's Rules.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for TGEC to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-22946 Filed 9-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-673-000]

UER Marketing Co.; Application for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Abandonment and Pre-Granted Abandonment

September 19, 1985.

Take notice that on September 12, 1985, UER Marketing Company (UER Marketing), pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717-717z (1982) (NGA), and Part 157 of the regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR Part 157 (1984), applied for a blanket certificate of public convenience and necessity (1) authorizing sales for resale of natural gas in interstate commerce by UER Marketing and the producers from which UER Marketing purchases natural gas; (2) authorizing sales for resale of natural gas in interstate commerce by first sellers through UER Marketing acting as an agent; (3) authorizing blanket partial abandonment and pre-granted abandonment of certain sales as described herein; (4) authorizing transportation, where and if necessary, under section 7(c) of the NGA for interstate pipelines; (5) authorizing pre-granted abandonment of such transportation by interstate pipelines; and (6) authorizing transportation by intrastate and Hinshaw pipelines as set forth herein, all to be effective on or before the earlier of November 1, 1985 or the effective date of the new rules proposed in Docket No. RM85-1-000, as more fully described in the Application which is on file with the Commission and open for public inspection.

Applicants state that the certificate and abandonment authority sought herein, if granted, will enable UER Marketing to purchase from various producers, and resell, natural gas that remains subject to the Commission's NGA authority for which the maximum lawful price is higher than that established by Section 109 of the Natural Gas Policy Act (NGPA); to act as agent in sales by first sellers for resale of natural gas that remains subject to the Commission's NGA authority for which the maximum lawful price is higher than that established by Section 109 of the NGPA; and to have such gas, as well as gas which is no longer within the Commission's NGA authority, transported in interstate commerce to all customers who have the ability to buy gas on the open market.

UER Marketing is requesting the authority described herein only to the extent that such authority is not provided for in any final rule issued by the Commission in Docket No. RM85-1-000 (NOPR); in the event a final rule in the NOPR is not issued by November 1, 1985; and/or in the event any such rule is stayed or not in effect after its issuance.

UER Marketing on behalf of itself, producers, and pipelines, is requesting authority, to be effective no later than the earlier of November 1, 1985 or the effective date of the new regulations proposed in RM85-1-000, (1) to make sales for resale in interstate commerce of NGA gas for which the maximum lawful price is higher than the section 109 price; (2) to temporarily abandon sales for resale of NGA gas for which the maximum lawful price is higher than the section 109 price and previously certificated by the Commission, to the extent that such gas is released by interstate, intrastate and Hinshaw pipelines, and local distribution companies, to producers for resale either by UER Marketing or by first sellers through UER Marketing acting as agent; (3) to abandon (pre-granted abandonment) any sale for resale in interstate commerce authorized pursuant to the blanket certificate issue herein; (4) to have any such gas, as well as natural gas which is no longer subject to the Commission's NGA authority, transported in interstate commerce, on a self-implementing basis, by any transporter to any purchaser; and (5) to abandon (pre-granted abandonment) such transportation.

Such authority, if granted, will enable UER Marketing to purchase NGA gas for which the maximum lawful price is higher than the section 109 price (hereinafter referred to as NGA gas) from producers willing to sell to UER Marketing, for resale on the spot market.

Such authority will also enable UER Marketing to act as agent for various parties in sales of NGA gas on the spot market. UER Marketing currently acts as a reseller or agent on behalf of various

parties in marketing gas on the spot market, and the grant of this authority will allow UER Marketing to continue to perform such marketing activities involving NGA gas. Further, pipelines will be authorized to transport both NGA gas and gas which is no longer subject to the Commission's NGA authority, sold by UER Marketing on the spot market.

The authority sought by UER Marketing on behalf of itself, producers and pipelines, would merely continue that recently granted to UER Marketing in its USA special marketing program and other marketers of natural gas, it is asserted. The Commission's finding in those cases that such authority will, in particular, aid small independent producers that usually do not participate in the spot market, is equally applicable here. UER Marketing can ease the administrative burden of such activities on small producers, effect the release of surplus gas where necessary, find purchasers for that gas, and arrange for transportation on behalf of these producers. UER Marketing can provide the necessary marketing functions that many producers are not staffed to handle.

UER Marketing is willing to subject itself to the Commission's NGA jurisdiction to the extent, and only to the extent, of its participation in these jurisdictional transactions, in the same manner and on the same basis that the Commission's jurisdiction attached to UER Marketing in its USA program and to those other marketers referred to above. UER Marketing requests that the Commission clarify and declare that UER Marketing will be subject to the Commission's NGA jurisdiction only to the extent necessary to effectuate the requested authority and only with respect to its participation in the transactions authorized.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 2, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 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 petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for UER Marketing to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-22947 Filed 9-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 8808-001, et al.]

Surrender of Preliminary Permits; Mega Renewables et al.

September 19, 1985.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Mega Renewables

[Project No. 8808-001]

Take notice that Mega Renewables, Permittee for the Upper Pine Mountain Power Project, FERC No. 8808, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8808 was issued on May 6, 1985, and would have expired on October 31, 1986. The project would have been located on Silver and Clover Creeks, near Oak Run, in Shasta County, California.

The Permittee filed the request on July 29, 1985.

2. Larry J. Hellhake

[Project No. 8524-001]

Take notice that Larry J. Hellhake, Permittee for the Fall Creek Project No. 8524, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 8524 was issued on February 12, 1984, and would have expired on July 31, 1986. The project would have been located on Fall Creek in Valley County, Idaho.

The Permittee filed the request on August 8, 1985.

3. Larry J. Hellhake

[Project No. 8525-001]

Take notice that Larry J. Hellhake, Permittee for the Boulder Creek Project No. 8525, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 8525 was issued on February 12, 1985, and would have expired on July 31, 1986. The project would have been located on Boulder Creek in Valley County, Idaho.

The Permittee filed the request on August 8, 1985.

4. Larry J. Hellhake

[Project No. 8523-001]

Take notice that Larry J. Hellhake, Permittee for the Jug Creek Project No. 8523, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 8523 was issued on December 27, 1984, and would have expired on May 31, 1986. The project would have been located on Jug Creek in Valley County, Idaho.

The Permittee filed the request on August 8, 1985.

5. Larry J. Hellhake

[Project No. 8379-001]

Take notice that Larry J. Hellhake, Permittee for the Louie Creek Project No. 8379, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 8379 was issued on December 17, 1984, and would have expired on May 31, 1986. The project would have been located on Louie Creek in Valley County, Idaho.

The Permittee filed the request on August 8, 1985.

6. Robert W. Compton

[Project No. 8602-001]

Take notice that Robert W. Compton, Permittee for the Deadwood River Project No. 8602, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 8602 was issued on February 19, 1985, and would have expired on July 31, 1986. The project would have been located on Deadwood River in Boise County, Idaho.

The Permittee filed the request on August 8, 1985.

Standard Paragraphs

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-22937 Filed 9-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-684-000, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, Etc.; Wyoming Wind Power, Inc., et al.

September 19, 1985.

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. Wyoming Wind Power, Inc.

[Docket No. QF85-684-000]

On September 6, 1985, Wyoming Wind Power, Inc. (Applicant), of 2121 East 2nd Street, Casper, Wyoming 82609 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 facility will be located at Simpson's Ridge, in Carbon County, Wyoming. The facility will consist of approximately 200 wind generators rated 100 kilowatts each. The total electric power production capacity will be 20 megawatts.

2. Garratt-Callahan Company (Lumahai River Hydroelectric Project)

[Docket No. QF85-689-000]

On September 9, 1985, Garratt-Callahan Company (Applicant), of 111 Rollins Road, Millbrae, California 94030, 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 4 megawatt hydroelectric facility will be located in Kauai, Hawaii.

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. Garratt-Callahan Company (Honolii Stream Hydroelectric Project)

[Docket No. QF85-690-000]

On September 9, 1985, Garratt-Callahan Company (Applicant), of 111 Rollins Road, Millbrae, California 94030, 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 4.8 megawatt hydroelectric facility will be located on the Island of Hawaii approximately three miles north of Hilo.

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.

4. Garratt-Callahan Company (East and West Wailuaiki Streams Hydroelectric Project)

[Docket No. QF85-691-000]

On September 9, 1985, Garratt-Callahan Company (Applicant), of 111 Rollins Road, Millbrae, California 94030, 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 2.7 megawatt hydroelectric facility will be located on the Island of Maui, Hawaii.

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. Service Merchandise Company, Inc.

[Docket No. QF85-685-000]

On September 6, 1985, Service Merchandise Company, Inc. (Applicant), of P.O. Box 24600, Nashville, Tennessee 37202 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 facility will be located in Florissant, Missouri. The primary energy source will be natural gas. The electric power production capacity will be 60 kilowatts. The facility will consist of a reciprocating engine coupled to an induction generator, with waste heat recovery from the engine jacket and exhaust. Recovered heat is used for space heating and absorption cooling in a 50,000 square foot retail showroom and warehouse.

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. 85-22938 Filed 9-24-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AAA-FRL-2902-7]

EPA Master List of Debarred, Suspended or Voluntarily Excluded Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA Master List of Debarred, Suspended or Voluntarily Excluded Persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter the names of, and other information concerning, those parties debarred,

suspended, or voluntarily excluded from participation in EPA assisted by programs by EPA action under Part 32. Assistance (grant and cooperative agreement) recipients and contractors under EPA assistance awards may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for general informational purposes only and is not to be relied on in determining a person's current eligibility status. A comprehensive list, updated weekly, is available in each Regional Office. Inquiries concerning the status of any individual, organization, or firm should be directed to EPA's Regional or Headquarters office for grants administration that normally serves you.

DATE: This short list is current as of September 20, 1985.

FOR FURTHER INFORMATION CONTACT: Frank Dawkins, of the EPA Compliance Staff, Grants Administration Division, at (202) 475–8025.

Dated: September 12, 1985.

Harvey G. Pippen, Jr.,

Director, Grants Administration Division (PM–216).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
A.C. Lawrence Lether Company, Inc. (Danvers, MA)	83-0007-00	D	04-12-84	04-11-87	§ 32.200 (a), (c), (i).
A.F. Bell Electric Company, Inc. (Youngstown, OH)	85-0014-00	D	06-27-85	06-26-88	§ 32.200(a).
Altman, Larry L. (Charleston, SC)	85-0063-03	S	07-29-85	Open	§ 32.300(b).
Anderson, Scott (Walnut Creek, CA)	83-0004-01	D	06-17-83	06-16-86	§ 32.200 (a), (b), (e), (f).
Atlas Prestressing Corp. (Panorama City, CA)	83-0050-00	D	08-02-83	08-01-86	§ 32.200.(a).
Averill, Ernest Jr. (Fort Myers, FL)	83-0056-06	S	12-02-83	Open	§ 32.300(b).
Barber, Lawrence (Hazelwood, NC)	83-0007-05	D	04-12-84	04-11-87	§ 32.200 (a)(, (c), (i).
Blackwelder, Ray Martin (Concord, NC)	84-0011-01	D	06-27-85	06-26-88	§ 32.200(a).
Bowe, Walsh and Associates, Inc. (Melville, NY)	83-0040-00	D	04-14-83	04-13-86	§ 32.200 (a), (e).
Boyette, Wile Eugene (Wilson, NC)	83-0044-01	D	04-15-85	04-14-87	§ 32.200(a).
Bryant Durham Electric Co., Inc. (Durham, NC)	85-0028-00	D	08-30-85	08-29-88	§ 32.200(a)(3).
Croft, William A. (Madison, WI)	83-0047-01	D	06-20-84	06-19-87	§ 32.200(a).
Cryer, John P. (Baton Rouge, LA)	85-0062-03	S	07-29-85	Open	§ 32.300(b).
Cuti, Vincent J., Jr. (Huntington, NY)	83-0040-03	D	04-30-85	04-29-88	§ 32.200(a).
Dellinger, Theodore C. (Monroe, NC)	84-0012-01	VE	03-12-85	03-11-88	§ 32.200(a).
Dobson, Arthur A. (Lincoln, NE)	83-0030-01	D	08-30-85	04-16-87	§ 32.200(i).
Errichetti, Angelo J. (Camden, NJ)	83-0040-04	D	04-14-83	04-13-86	§ 32.200 (a), (b).
Floyd D. Stuckey & Associate (Winfield, KS)	84-0028-00	D	08-26-85	08-25-88	§ 32.200(a).
Franklin Wiring Co. (Youngstown, OH)	85-0044-00	D	09-04-85	09-03-88	§ 32.200(a)(3).
FSA Engineering Consultants (Winfield, KS)	84-0028-00	D	08-26-85	08-25-88	§ 32.200(a).
Gabey, Martin (Northport, NY)	83-0040-02	D	12-16-83	12-15-86	§ 32.200(a).
Galliber, Joseph L. (Bronx, NY)	85-0022-01	S	07-30-85	Open	§ 32.300(b).
Goodspeed, Robert (North Hampton, NH)	83-0007-02	D	04-12-84	04-11-87	§ 32.200 (c), (i).
Harry Johnson Plumbing Company, Inc. (Walla Walla, WA)	83-0060-00	D	07-22-83	07-21-86	§ 32.200 (b) (c), (e), (i).
Herbert G. Whyte, Associates, Inc. (Garry, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200(b)(e).
Herring, Donald W. (Wilson, NC)	83-0044-01	D	10-11-84	10-10-87	§ 32.200(a).
Hunter, James C. (Gardena, CA)	83-0002-02	D	07-07-83	07-06-86	§ 32.200(a).
Insulation Speciality and Supply, Inc. (Cleveland, OH)	84-0025-00	D	10-04-84	10-03-87	§ 32.200 (c), (i).
Jackson, Manly (San Jose, CA)	83-0048-02	D	08-27-83	08-26-86	§ 32.200(a).
Johnson, Mark (Walla Walla, WA)	83-0060-01	D	07-22-83	07-21-86	§ 32.200 (b), (c), (e), (i).
Johnson, Richard (Hinsdale, NH)	83-0007-03	D	04-12-84	04-11-87	§ 32.200 (c), (i).
Jopel Contracting & Trucking Corporation (Bronx, NY)	85-0022-00	S	07-30-85	Open	§ 32.300(b).
Krueger, Joseph (Cleveland, OH)	84-0025-01	D	10-04-84	10-03-87	§ 32.200 (c), (i).
L.A. Reynolds Company (Winston-Salem, NC)	83-0036-00	D	07-01-83	06-30-86	§ 32.200(a).
Law, David P. (Greenwell Springs, LA)	85-0064-00	S	07-29-85	Open	§ 32.300(b).
Law, Theresa McBeth (Greenwell Springs, LA)	85-0064-01	S	07-29-85	Open	§ 32.300(b).
Lee, Herbert P., III. (Sumter, SC)	84-0013-01	VE	02-14-85	12-31-87	§ 32.200(a).
Long, Harold Delmar (Los Gatos, CA)	83-0050-01	D	07-07-83	07-06-86	§ 32.200(a).
Marshall, Weymouth (Gloucester, MA)	83-0007-01	D	04-12-84	04-11-87	§ 32.200 (c), (i).
Masselli, William P. (Bronx, NY)	85-0022-02	S	07-30-85	Open	§ 32.300(b).
Moorehead, Dennis L. (Graniteville, SC)	84-0006-01	D	01-11-85	01-10-88	§ 32.200(a).
Municipal & Industrial Pipe Services, Ltd. (Douglasville, GA)	82-0501 82-0408	D	10-07-82	02-16-87	§ 32.200 (b), (c), (e), (i).
Murray Paving Company, Inc. (Whitesboro, NY)	84-0032-00	D	08-19-85	10-18-86	§ 32.200(a).
Murray, Harry (Whitesboro, NY)	84-0032-01	D	08-19-85	10-18-86	§ 32.200(a).
Newman, Fred M. (Vienna, VA)	83-0072-01	D	09-30-83	09-29-86	§ 32.200(i).
Newman, Richard Gordon (Pierre, SD)	83-0041-00	D	11-29-83	11-28-86	§ 32.200(a).
Post-Tensioning Service Corporation (Saratoga, CA)	83-0001-00	D	07-08-83	07-07-86	§ 32.200(a).
Reynolds, Jon R. (Winston-Salem, NC)	83-0036-91	D	07-01-83	06-30-86	§ 32.200(a).
Richmond, Elwood P. (Grand Forks, ND)	83-0006-01	D	06-06-83	06-05-86	§ 32.200 (a), (f).
Richmond Engineering, Inc. (Grand Forks, ND)	83-0006-00	D	06-06-83	06-05-86	§ 32.200 (a), (f).
Richmond, Lloyde W., Jr. (Grand Forks, ND)	83-0006-02	D	06-06-83	06-05-86	§ 32.200 (a), (f).
Rio Grande Construction Company (Bunkie, LA)	85-0063-00	S	07-29-85	Open	§ 32.300(b).
Rothrock Construction Inc. (Murrells Inlet, NC)	83-0064-00	D	05-17-84	05-16-87	§ 32.200(a).
Rothrock, Steve D. (Murrells Inlet, NC)	83-0064-01	D	05-18-84	05-17-87	§ 32.200(a).
Sargent Electric Co., Inc. (Pittsburgh, PA)	85-0020-00	S	07-26-85	Open	§ 32.200(a)(3).
Sargent, Frederic B. (Pittsburgh, PA)	85-0020-01	S	07-26-85	Open	§ 32.200(a)(3).
Sauseda, Roy (Bunkie, LA)	85-0063-02	S	07-29-85	Open	§ 32.300(b).
Shackleford, Robert S. (Durham, NC)	85-0028-01	D	08-30-85	06-29-88	§ 32.200(a)(3).
Shepherd, Frank A. (Savannah, TN)	83-0046-01	D	07-15-83	11-93-85	§ 32.200(a).
Stone, Francis (Swanzey, NH)	83-0007-04	D	04-12-84	04-11-87	§ 32.200 (a), (c), (i).
Stuckey, Floyd D. (Winfield, KS)	84-0028-01	D	08-26-85	08-25-88	§ 32.200(a).
Tubre Enterprises (Bunkie, LA)	85-0062-01	S	07-29-85	Open	§ 32.300(b).
Tubre Enterprises, Inc. (Bunkie, LA)	85-0062-00	S	07-29-85-	Open	§ 32.300(b).
Tubre, Charles (Baton Rouge, LA)	85-0062-02	S	07-29-85	Open	§ 32.300(b).
Tubre, Thomas (Bunkie, LA)	85-0063-01	S	07-29-85	Open	§ 32.300(b).
Tucker Brothers Contracting Co. (Pell City, AL)	83-0061-00	D	11-26-84	11-25-87	§ 32.200(a).
Tucker, Harold Ray (Pell City, AL)	83-0061-02	D	11-26-84	11-25-87	§ 32.200(a).
Tucker, Kenneth W. (Pell City, AL)	83-0061-01	D	11-26-84	11-25-87	§ 32.200(a).
Tweddell, David Bruce (Gainesville, FL)	83-0020-01	D	08-30-85	08-29-87	§ 32.200(a).
Vanderhurst, William (Saratoga, CA)	83-0001-01	D	07-08-83	07-07-86	§ 32.200(a)
Vryenhoek, Ralph D. (Pittsburgh, PA)	85-0020-02	S	07-26-85	Open	§ 32.200(a)(3).
Walsh, Charles T. (Huntington Bay, NY)	83-0040-01	D	04-14-83	04-13-86	§ 32.200(a).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Walstad, Merrill (Huntington Beach, CA)	83-0003-03	D	06-27-83	06-26-86	§ 32.200(a).
Watson Electrical Construction Co. (Wilson, NC)	83-0044-00	D	04-15-85	04-14-87	§ 32.200(a).
Whyte, Herbert G. (Gary, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200 (b), (e).
Wirt, David (Douglasville, GA)	82-0601 82-0408	D	10-07-82	02-16-87	§ 32.200 (b), (c), (e), (i).
Wirt, Grodon D. (Douglasville, GA)	82-0406	D	12-07-82	02-16-87	§ 32.200 (c), (e).
Wirt, Judith C. (Douglasville, GA)	82-0408	D	12-07-82	02-16-87	§ 32.200 (c), (e), (i).
Zeigler, Beaty Stevens (Sumter, SC)	83-0045-01	VE	07-15-83	08-31-86	§ 32.200(a).

[1] D = Debarred; S = Suspended; VE = Voluntarily Excluded.

[FR Doc. 85-22864 Filed 9-24-85; 8:45 am]
BILLING CODE 6560-50-M

[PF-420; PH-FRL 2902-3]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESSES: By mail, submit comments identified by the document control number [PF-420] and the petition number, attention Product Manager (PM) named in each petition, at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

In person, bring comments to:

Information Services Section (TS-757C), Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Registration Division (TS-767C), Attn: (Product Manager (PM) named in each petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460

In person: Contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/telephone number	Address
PM-12 Jay Ellenberger	Rm. 202, CM#2 (703-557-2386)	EPA, 1921 Jefferson Davis Hwy., Arlington, VA 22202.
PM-15 George LaRocca	Rm. 204, CM#2 (703-557-2400)	Do.
PM-17 Timothy A. Gardner	Rm. 207, CM#2 (703-557-2690)	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and feed additive (FAP) petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial Filings

PP 5F3286. Dow Chemical USA, P.O. Box 1706, Midland, MI 48640. Proposes amending 40 CFR 180.342 by establishing a tolerance for the combined residues of the insecticide chlorpyrifos [0,0-diethyl-0-(3,5,6-trichloro-2-pyridyl phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the commodity fruiting vegetables (except cucurbits) at 1.5 parts per million (ppm) (of which no more than 1 ppm is chlorpyrifos). The proposed analytical method for determining residues is gas chromatography. (PM-12)

II. Amended Petitions

1. *PP 5F3177.* EPA issued a notice published in the **Federal Register** of January 30, 1985 (50 FR 4265) which announced that Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, proposed amending 40 CFR Part 180 by establishing a tolerance for the insect growth regulator cyromazine (*N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine) and its metabolite, melamine (1,3,5-triazine-2,4,6-triamine) in or on the commodity mushrooms at 10.0 ppm.

Ciba-Geigy Corp. has revised the petition to read as follows: Ciba-Geigy Corp. propose amending 40 CFR Part 180 by establishing a tolerance for the combined residues of the insecticide cyromazine (*N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine) and its principal metabolite, melamine (1,3,5-triazine-2,4,6-triamine), calculated as cyromazine in or on the commodity mushrooms at 10.0 ppm. The proposed analytical method for determining residues is gas chromatography. (PM-17)

2. *PP 2F2657.* EPA issued a notice published in the **Federal Register** of February 8, 1984 (49 FR 4841) which announced that Shell Oil Co., Suite #200, 1025 Connecticut Ave., NW., Wash., D.C., 20036, proposes amending 40 CFR 180.179 by establishing tolerances for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on the commodities as follows:

Commodities	Parts per million (ppm)
Eggs	0.3
Fat of cattle, goats, hogs, horses and sheep	2.5
Grapes	10.0
Meat of cattle, goats, hogs, horses and sheep	0.5
Meat byproducts (mbyp) of cattle, goats, hogs, horses and sheep	1.5
Milk, fat	12.0
Milk, whole	0.6
Poultry, fat and mbyp	0.2
Poultry, meat	0.05

In the **Federal Register** of April 26, 1985 (50 FR 16544) Shell Oil Co. amended the petition to include the commodity raisins at 30.0 ppm.

Shell Oil Co. has now amended the petition as follows:

Commodities	Parts per million (ppm)
Eggs	1.0
Fat, meat and mbyp of cattle, goats, hogs, horses, poultry and sheep	3.0
Grapes	10.0
Milk fat (reflecting 0.6 ppm in whole milk)	12.0
Raisins	30.0

The proposed analytical method for determining residues is by gas chromatography. (PM–15)

3. *FAP 2H5340.* EPA issued a notice published in the **Federal Register** of February 8, 1984 (49 FR 4842) which announced that Shell Oil Co. proposed amending 21 CFR Part 561 by establishing a regulation permitting residues of the above insecticide in or on the commodities grape pomace (dry) at 75.0 ppm and raisin waste at 25.0 ppm.

Shell Oil Co. has amended the petition by increasing the tolerance level on the commodity raisin waste from 25.0 ppm to 30.0 ppm. (PM–15)

Authority: 21 U.S.C. 346a and 348.

Dated: September 16, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–22776 Filed 9–24–85; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–744–DR]

Michigan; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Michigan (FEMA–744–DR), dated September 18, 1985, and related determinations.

DATED: September 18, 1985.

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

Notice is hereby given that, in a letter of September 18, 1985, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288), as follows:

I have determined that the damage in certain areas of the State of Michigan resulting from severe flooding, beginning on September 5, 1985, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Michigan.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to section 408(b) of Pub. L. 93–288, you are authorized to advance to the State its 25-percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Ronald B. Buddecke of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Michigan to have been affected adversely be this declared major disaster:

Alcona and Genesee Counties for Public Assistance and Individual Assistance.

LaPeer and Saginaw Counties for Public Assistance and as adjacent areas for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85–22881 Filed 9–24–85; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–741–DR]

Mississippi; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Mississippi (FEMA–741–DR), dated September 4, 1985, and related determinations.

DATED: September 18, 1985.

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

The notice of a major disaster for the State of Mississippi, dated September 4, 1985, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 4, 1985:

Stone County as an adjacent area for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85–22882 Filed 9–24–85; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

[Circular Letter No. 1–85]

All Common Carriers and Conferences of Such Carriers in the Domestic Offshore and Foreign Commerce of the United States; Prohibition of Rates Which Exclude Certain Classes of Shippers

September 19, 1985.

It has come to the attention of the Commission that various carriers and conferences have published rates, the application of which is dependent upon the identity of the shipper. There are numerous examples of such rates. Some such rates may only be used by Non-vessel Operating Common Carriers (NVOCC's) while others may only be used by the beneficial owner of the cargo. Yet other rates are constructed in such a manner that they may only be utilized by a single shipper.

Section 10(b) of the Shipping Act of 1984 (46 U.S.C. app. section 1709(b)) prohibits rates which unjustly discriminate between shippers.[1] The Commission has long held that any distinction between classes of shippers must be made on the basis of valid transportation factors. *Philadelphia Ocean Traffic Bureau v. Export S.S. Corporation,* 1 U.S.S.B.B. 538, 541 (1936), *Thatcher Glass Mfg. Co., Inc. v. Sea-Land Service, Inc.,* 8 F.M.C. 645, 649 (1965) and *Investigation of Rates in the Hong Kong - United States Atlantic and*

[1] Section 10(b) of the Shipping Act of 1984 states in part that:

(b) Common Carriers.—No common carrier, either alone or in conjunction with any other person, directly or indirectly, may—

. . . . . .

(6) except for service contracts, engage in any unfair or unjustly discriminatory practice in the matter of—

(A) rates;

. . . . . .

(10) demand, charge, or collect any rate or charge that is unjustly discriminatory between shippers or ports;

. . . . . .

(12) subject any particular person, locality, or description of traffic to an unreasonable refusal to deal or any undue or unreasonable prejudice or disadvantage in any respect whatsoever. . . .

Gulf Trade, 11 F.M.C. 168, 175–177 (1967).

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Recently, the Commission addressed this issue in Docket No. 84–27, *Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States; Co-Loading Practices by NVOCC's*. The Commission's Notice of Proposed Rulemaking in that proceeding stated:

> The Commission is unaware of transportation characteristics which would warrant a distinction between cargo tendered by NVOCC's and similar cargo tendered by other shippers. 49 FR 29980, 29981 (July 25, 1984).

In adopting a rule to prohibit NVOCC tariffs from containing "special co-loading rates for the exclusive use of other NVOCC's", 50 FR 14704 (April 15, 1985), the Commission stated:

> The suggestion that NVOCC's and other shippers are not "similarly situated", or that NVOCC's are a "distinct class of shippers" is one that must be supported by transportation factors. The fact that they can be identified as NVOCC's or that they are also carriers is not sufficient. It is well settled that the identity of a shipper is not a legitimate transportation factor. *Id.* at 14708.

The same may be said of rates which, by their terms, exclude NVOCC's. As the Supreme Court stated in *ICC v. Delaware, Lackawana & Western Railroad Co.*, 220 U.S. 235, 252; 31 S.Ct. 392 (1911), where it held that common carrier railroads may not deny carload rates on cargo tendered by forwarding agents:

> The contention that a carrier, when goods are tendered to him for transportation, can make the mere ownership of the goods the test of the duty to carry, or, what is equivalent, may discriminate in fixing the charge for carriage, not upon any difference inhering in the goods or in the cost of the service rendered in transporting them, but upon the mere circumstance that the shipper is or is not the real owner of the goods is so in conflict with the obvious and elementary duty resting upon a carrier, and so destructive of the rights of shippers as to demonstrate the unsoundness of the proposition by its mere statement.

Carriers and conferences are hereby given 60 days from the date of this Circular Letter to cancel any rate item, the application of which is dependent solely on the identity of the shipper rather than on recognized transportation conditions. The Commission will take appropriate action against those carriers and conferences that fail to comply with this letter by that date.

By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–22922 Filed 9–24–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

South County Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 17, 1985.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *South County Bancshares, Inc.*, Ashland, Missouri to become a bank holding company by acquiring 100 percent of the voting shares of South County Bank, Ashland, Missouri.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Delta Bancshares, Inc.*, Kaufman, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Kaufman, Kaufman, Texas.

Board of Governors of the Federal Reserve System, September 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–22846 Filed 9–24–85; 8:45 am]

BILLING CODE 6210–01–M

Western Bancorporation, Inc. and Western Bancorporation, N.V.; Applications To Engage de Novo in Permissible Nonbanking Actities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be availabe for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governs not later than October 15, 1985.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Western Bancorporation, Inc.*, Houston, Texas and *Western Bancorporation, N.V.*, Houston, Texas; to engage *de novo* through its subsidiary, Western Bancorporation Life Insurance Company of Texas, Houston, Texas, in underwriting credit life, credit accident and health insurance that is directly related to an extension of credit by the bank holding system.

Board of Governors of the Federal Reserve System, September 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 22847 Filed 9-24-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 85M-0428]

Biochem International, Inc.; Approval of Supplemental Premarket Approval Application For Lifespan™ Model 4110 Transcutaneous PO_2/CO_2 Monitoring System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application by Biochem International, Inc., Waukesha, WI, for premarket approval, under the Medical Device Amendments of 1976, of the Lifespan™ Model 4110 Transcutaneous PO_2/CO_2 Monitoring System. After reviewing the recommendation of the Anesthesiology and Respiratory Therapy Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the supplemental application.

DATE: Petitions for administrative review by October 25, 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: Michael S. Gluck, Center for Devices and Radiological Health (HFZ-430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: On May 8, 1984, Biochem International, Inc., Waukesha, WI 53186, submitted to CDRH a supplemental application for premarket approval of the Lifespan™ Model 4110 Transcutaneous PO_2/CO_2 Monitoring System. The device is a transcutaneous oxygen/carbon dioxide monitor with a combined PO_2/PCO_2 (oxygen tension/carbon dioxide tension) sensor and a temperature compensation factor for PCO_2. The device is indicated for use in neonates as a monitor of skin surface PO_2 and PCO_2. The unit displays trends over time and may be used as an adjunct or supplement to arterial PO_2 and PCO_2 measurements in patients requiring frequent blood gas analyses. Data collected during clinical evaluations covered a range of arterial PCO_2 values from 11 to 107.8 torr and arterial PO_2 values from 9.7 to 396.7 torr. The oxygen monitoring portion of the device previously has been determined to be substantially equivalent to other devices that were on the market before May 28, 1976, the date of enactment of the amendments, and consequently does not at this time require premarket approval. On July 11, 1984, the Anesthesiology and Respiratory Therapy Devices Panel, and FDA advisory committee, reviewed and recommended approval of the application. On August 21, 1985, CDRH approved the supplemental 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 in the Dockets Management Branch (address above) and is available from that office upon 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 Michael S. Gluck (HFZ-430), 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 CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (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 October 25, 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: September 18, 1985.

John C Villforth,

Director, Center for Devices and Radiological Health

[FR Doc. 85-22842 Filed 9-24-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85C-0378]

Optacryl, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Optacryl, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of phthalocyanine green as a color additive in contact lenses.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1), 74 Stat. 402-403 (21 U.S.C. 376(d)(1))), notice is given that a petition (CAP 3C0168) has been filed by Optacryl, Inc., 2890 South Tejon, Englewood, CO 80110, proposing that Part 73 (21 CFR Part 73) be amended to provide for the safe use of phthalocyanine green (Colour Index Pigment Green 7, C.I. No. 74260, CAS Reg. No. 1328-53-6) as a color additive in contact lenses.

The potential environmental impact of this action is being reviewed. If the

agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c), as published in the Federal Register of April 26, 1985 (50 FR 16636).

Dated: September 18, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-22796 Filed 9-24-85; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of October 1985:

Name: National Advisory Council on the National Health Service Corps
Date and Time: October 8-10, 1985, 8:30 a.m.-4:30 p.m.
Place: Palmer House, 17 E. Monroe Street, Chicago, Illinois 60603

Site vists will be made to two community health centers. Transportation will not be provided. The entire meeting is open to the public.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provisions of the legislation.

Agenda: The agenda will include: A general orientation on the National Health Service Corps program; discussions of important program issues, and visits to two community health centers (one rural and one urban).

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Dr. Kenneth P. Moritsugu, Director, National Health Service Corps, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301 443-2900.

Agenda items are subject to change as priorities dictate.

Dated: September 23, 1985.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 85-22971 Filed 9-24-85; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

President's Commission on Americans Outdoors; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the "What Do Americans Want To Do Outdoors?" Committee of the President's Commission on Americans Outdoors will be held at 9:00 a.m., Wednesday, October 9, 1985, in Room 2856, National Geographic Society building, 1146 16th Street, NW., Washington, D.C. 20036. This is the organizational meeting of this Committee.

The meeting will be open to the public.

Further information concerning this meeting may be obtained from Victor H. Ashe, Executive Director of the Commission, Room 3142, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20036; Telephone (202) 343-4905.

Dated: September 18, 1985.

Victor H. Ashe,

Executive Director, President's Commission on Americans Outdoors.

[FR Doc. 85-22884 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[U-50822, U-52743, U-53122]

Utah; Conveyance of Public Land; Reconveyed Land Opened to Entry

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and Opening Order.

SUMMARY: The Bureau of Land Management has completed three land exchanges, conveying 2646.10 acres and having 2748.55 acres reconveyed. 2,708.55 acres of the reconveyed lands will be opened to surface entry and 2,109.88 acres of the reconveyed lands will also be opened to mineral location and mineral leasing.

FOR FURTHER INFORMATION CONTACT: Lillie Hikida, BLM, Utah State Office, 324 South State, Suite 301, Salt Lake City, Utah 84111-2303, 801-524-3074.

SUPPLEMENTARY INFORMATION: 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 Bureau of Land Management has completed three land exchanges.

1. The United States issued Patent No. 43-85-0025 dated August 15, 1985, to John Siddoway Livestock and Investment Company, for the following described lands excepting all minerals:

Salt Lake Meridian

T. 1 N., R. 23 E.,
Sec. 33, NE¼SW¼, S½SW¼, W½SE¼.
Containing 200 acres in Uintah County.

2. In the exchange for these lands, the United States acquired the following described land excepting all minerals:

Salt Lake Meridian

T. 2 S., R. 23 E.,
Sec. 35, the South 20 rods of the N½NE¼, S½NE¼.
Containing 100 acres in Uintah County.

3. The United States issued Patent No. 43-85-0026 dated August 15, 1985, to James R. and Peggy Lyn Siddoway for the following described lands excepting all minerals:

Salt Lake Meridian

T. 1 N., R. 23 E.,
Sec. 19, SE¼SE¼;
Sec. 20, NE¼NE¼, NE¼SW¼, W½SW¼;
Sec. 29, NW¼NW¼;
Sec. 30, NE¼NE¼.
Containing 280 acres in Uintah County.

4. In the exchange for these lands, the United States acquired the following described lands excepting all minerals:

Salt Lake Meridian

T. 2 S., R. 23 E.,
Sec. 26, SE¼SW¼;
Sec. 35, the North 60 rods of the N½NE¼, NE¼NW¼.
Containing 140 acres in Uintah County.

5. The United States issued Patent No. 43-85-0027 dated August 15, 1985, to the State of Utah for the following described lands:

Salt Lake Meridian

T. 9 S., R. 24 E.,
Sec. 24, lots 1, 4, 5, 6, 7, 10, N½SE¼;
Sec. 25, lots 1 through 12, NW¼SW¼, S½S½.
T. 10 S., R. 24 E.,
Sec. 1, lots through 5, S½NE¼, SE¼NW¼, N½S¼, N½S¼SW¼, SW¼SW¼SW¼, W½SE¼SW¼SW¼, SE¼SE¼SW¼, S½SE¼.
T. 9 S., R. 25 E.,
Sec. 19, SW¼;
Sec. 30, lots 1 through 4;
Sec. 31, lots 1, 2, 3 SW¼NE¼, S½.

Containing 2,166.10 acres in Uintah County.

6. In exchange for these lands, the United States acquired the following described lands:

Salt Lake Meridian

T. 9 S., R. 5 E.,
Sec. 3, lots 5 through 8, SW¼NW¼, W½SW¼ (surface only).
T. 9 S., R. 23 E.,
Sec. 1, lot 1;
Sec. 10, NE¼NE¼;
Sec. 13, NW¼NE¼;
Sec. 17, NW¼SW¼ (minerals only).
T. 10 S., R. 23 E.,
Sec. 36, all.
T. 15 S., R. 23 E.,
Sec. 28, N½SW¼, NW¼SW¼SW¼ (surface only).
T. 9 S., R. 24 E.,
Sec. 1, S½NW¼ (surface only);
Sec. 6, lot 4.
T. 10 S., R. 24 E.,
Secs. 16 and 32, all.

Containing 2,508.55 acres in Rich and Uintah Counties.

7. At 10:00 a.m. on October 1, 1985, the reconveyed lands described in paragraphs 2, 4, and 6 except those lands which reconveyed minerals only, will be open to operation of 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 10:00 am on October 1, 1985, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

8. At 10:00 am on October 1, 1985, the reconveyed lands described in paragraph 6, except those lands which reconveyed surface only, 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 or 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.

9. At 10:00 am on October 1, 1985, the reconveyed lands described in paragraph 6 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 applicatins and offers received prior to 10:00 am on October 1, 1985, will be considered as simultaneously filed as of that time and date, and 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.

Dated: September 18, 1985.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85–22800 Filed 9–24–85; 8:45 am]

BILLING CODE 4310-DQ-M

Wyoming; Limited Closure of Public Lands: Elk Mountain Area

AGENCY: Bureau of Land Management (BLM), Rawlins District Office, Rawlins, Wyoming, Interior.

ACTION: Limited Closure of Public Lands and Access Road.

SUMMARY: 1. Notice is hereby given that effective immediately public lands and access road in the Elk Mountain area, Rawlins District, are open for horseback and foot travel and closed to all vehicular use except as to the following authorized users, who are exempt from the closure:

a. Employees of the Federal Government in the course of their employment;

b. Grazing permittees, oil and gas lessees, right-of-way lessese, and contractors of the Bureau of Land Management;

c. Employees of Carbon County and the State of Wyoming, including the University of Wyoming, in the course of their employment, and the State of Wyoming's lessees, permittees and contractors;

d. Private landowners (Palm Livestock Company and Union Pacific Railroad), and persons licensed, permitted, or invited by the private landowners to use the road for purposes directly and exclusively related to the agricultural and/or mineral development of the private lands traversed by the road and to control unauthorized uses on the private lands but not for hunting, fishing or recreation.

2. The public lands and the access road listed below are closed to vehicle use (except by authorized users listed above) from the date of this notice until this order is terminated or modified. Signs will be posted to identify the public lands, parking areas and the access road. Vehicle parking and access will be permitted in Section 24, Township 20 North, Range 82 West. Copies of this notice will be posted in the Bureau of Land Management office having jurisdiction over the subject lands (Rawlins District Office, 1300 Third Street, Rawlins, Wyoming).

3. The legal description of the public lands for which this notice is given:

Township 20 North, Range 82 West, Section 24
Township 20 North, Range 81 West, Section 32
Township 19 North, Range 81 West, Section 8

4. The access road is closed to vehicle use from the south boundary of Section 24, Township 20 North, Range 82 West (approximately one (1) mile south of the junction with the Rattlesnake Pass County Road in Section 14, Township 20 North, Range 82 West), and that portion of the road running south and southeast through Section 25 and the northeast quarter (NE¼) of Section 36, Township 20 North, Range 82 West, the northwest quarter (NW¼) and south half (S½) of Section 31, and the southwest quarter (SW¼) of Section 32, Township 20 North, Range 81 West, the west half (W½) of Section 5 and the north half (N½) of Section 8, Township 19 North, Range 81 West.

5. Authorized vehicular use will be restricted to the access road on the above public lands.

6. The reasons for the closure of the access road to general vehicular access are the narrowness of the right-of-way and the condition of the road surfaces.

The authority for this closure is 43 CFR 8364.1.

Richard Bastin,

District Manager.

[FR Doc. 85–22858 Filed 9–24–85; 8:45 am]

BILLING CODE 4310-22-M

[INT FEIS 85–34]

Availability of Proposed Jarbidge Resource Management Plan and Final Environmental Impact Statement

SUMMARY: The Boise District, Bureau of Land Management (BLM) has prepared a Proposed Resource Management Plan (RMP) and Final Environmental Environmental Impact Statement (EIS), covering 1,690,473 acres of public land located primarily in southcentral Idaho. A small portion occurs in northcentral Nevada.

The proposed plan includes management recommendation for potential land transfer areas; livestock grazing; wild horses; range, watershed and wildlife habitat management; cultural resources; paleontologic resources; mineral and energy development; recreation; wilderness management and forest management. The plan includes preliminary suitability reommendation for three wilderness

study areas and recommendations concerning four areas being considered for Area of Critical Environmental Concern (ACEC) designation.

With the exception of the wilderness recommendations, the public may protest any part of the proposed plan. Protests should be sent to the Director, Bureau of Land Management, 18th and C Streets NW., Washington, D.C. 20240, prior to November 4, 1985—the end of the protest period—and should include the following information:

—The name, mailing address, telephone number, and interest of the person filing the protest.
—A statement of the issue or issues being protested.
—A statement of the part of parts being protested.
—A copy of all documents addressing the issue or issues that were submitted during the planing process by the protesting party or an indication of the date the issue or issues were discussed for the records.
—A short concise statement explaining why the BLM Idaho State Director's proposed decision is wrong.

A the end of the protest period, the proposed plan, excluding any portions under protest, shall become final. Approval shall be withheld on any portion of the plan under protest until final action has been completed on such protest.

FOR FURTHER INFORMATION CONTACT: Ted Milesnick, Team Leader, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705. Telephone (208) 334–1582.

SUPPLEMENTARY INFORMATION: The Jarbidge RMP/EIS analyzes four alternative plans, and two sub-alternatives for managing natural resources in the Jarbidge Planning Area over the next 15 to 20 years. One alternative has been identified as BLM's proposed plan.

The plan proposes to designate as ACECs, three of four areas considered.

The Hagerman Paleontologic Area, containing 4,394 acres of public land, would be designated an ACEC. BLM would regulate surface disturbing activities to protect the paleontologic resources in the area. Agricultural trespass would be prevented and the area would be withdrawn from all types of land disposals. Measures would be initiated to curtail or prevent water and wind erosion. The area would be closed to motorized vehicle use and livestock grazing.

The 815 acre Sand Point Palenontologic, Geologic, and Cultural Resource Area would be designated an ACEC. BLM would regulate surface disturbing activities to protect the paleontologic, geologic and cultural resources in the area. Agricultural trespass would be prevented and lands would be withdrawn from locatable mineral entry and all types of land disposals. Measures would be initiated to curtail or prevent water and wind erosion.

The Bruneau-Jarbidge River Area, containing 84,111 acres of public land, would be designated an ACEC to protect bighorn sheep habitat and cultural, scenic and natural values. BLM would establish the management priority of the canyons for bighorn sheep and other wildlife. Livestock water would not be developed within one mile of bighorn habitat unless impacts could be mitigated. New road construction would be limited and motorized vehicles would be restricted to designated roads and trails. No surface occupancy would be allowed for oil and gas or geothermal exploration or development and the area would be recommended for withdrawal from the 1872 mining laws. Activities or developments that would impair scenic quality would not be allowed.

The Salmon Falls Creek Area (2,947 acres) would not be designated an ACEC under the proposed plan but would be managed as an Outstanding Natural Area.

J. David Brunner,
Associate District Manager.

FR Doc. 85–22859 Filed 9–24; 8:45 am]
BILLING CODE 4310-GG-M

[Serial No. I–013260]

Idaho; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Corps of Engineers proposes that a portion of the withdrawal for the Mountain Home Air Force Base small arms range continue for an additional 25 years, which is the estimated time the lands will continue to be used for the purpose for which withdrawn. The lands would remain closed to surface entry and mining but have been and would remain open to the mineral leasing laws.

DATE: Comments should be received on or before December 24, 1985.

ADDRESS: Comments should be sent to: Idaho State Director, Bureau of Land Management, 3380 Americana Terrace, Boise, ID 83706.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office 208–334–1597.

The Corps of Engineers proposes that a portion of the land withdrawal made by Public Land Order No. 2953 of February 28, 1963, be continued for a period of 25 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Boise Meridian, Idaho

T. 4 S., R. 5 E.,
Sec. 3, lot 4, SE¼NW¼, SW¼;
Sec. 4, lots 1, 2 and 3, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼
Sec. 9, E½NE¼;
Sec. 10, NW¼.

The area described contains 909.36 acres in Elmore County.

The purpose of the withdrawal is to protect the lands for use as a small arms range by the Air Force. The withdrawal presently segregates the land from surface entry and mining. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: September 17, 1985.

William E. Ireland,
Chief, Realty Operations Section.

[FR Doc. 85–22861 Filed 9–24–85; 8:45 am]
BILLING CODE 4310-GG-M

Public Use Restriction (Extension); California

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of temporary vehicle use restrictions in the Short Canyon Area within Kern County in the Caliente Resource Area, Bakersfield District, California.

SUMMARY: This action extends restrictions on vehicle use on BLM-administered public land in the Short Canyon Area in Kern County, California, due to flood-caused damage. Maps of the affected area are available at the Caliente Resource Area Office, 520 Butte Street, Bakersfield, California. All vehicle use in this area is prohibited except for administrative and rehabilitative purposes. Persons allowed to drive in the area will be designated by an authorized officer. This closure will continue to apply until December 30, 1986, or will open earlier if conditions permit.

The public lands affected by this closure are located in portions of T. 26 S., R. 35 E., M.D.M., Sections 20, 21, 22, 26, 27, 28, 29, 32, 33, 34, and 35.

SUPPLEMENTARY INFORMATION: Due to extensive flooding that occurred during July and August, 1984, massive amounts of sandy soils have been eroded and deposited in the Short Canyon Area. These recently deposited soils, as well as eroded hillside soils, and loss of soil-holding vegetation, represent a potential hazard in that they are highly vulnerable to further erosion and subsequent massive soil movement. This situation directly effects commerical and residential developments in the area. In order to stabilize the eroded area, a temporary vehicle closure will be maintained so that vegetation can be reestablished to protect these fragile soils. Authority for this vehicle closure is contained in CFR Title 43, Chapter II, Part 8364.1(a).

DATES: This vehicle closure is effective from November 16, 1984 through December 30, 1986, unless conditions permit an early opening.

FOR FURTHER INFORMATION CONTACT: Glenn Carpenter, Caliente Resource Area Manager, Caliente Resource Area, Bureau of Land Management, 520 Butte Street, Bakersfield, California 93305; (805) 861–4236.

Dated: September 12, 1985.

Glenn A. Carpenter

Caliente Resource Area Manager.

[FR Doc. 85–22860 Filed 9–24–85; 8:45 am]

BILLING CODE 4310–40–M

Colorado; Filing of Plats of Survey

September 16, 1985.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., September 16, 1985.

The plat representing the dependent resurvey of a portion of the Eleventh Standard Parallel North (south boundary, T. 45 N., R. 6 E.), a portion of the south boundary and subdivisional lines, and the survey of the subdivision of sections 25 and 36, T. 44 N., R. 6 E., New Mexico Principal Meridian, Colorado, Group No. 766, was accepted September 5, 1985.

The plat, representing the dependent resurvey of a portion of the Eleventh Standard Parallel North (south boundary, T. 45 N., R. 7 E.), a portion of the south boundary, the west boundary, and a portion of the subdivisional lines, and the survey of the subdivision of certain sections in T. 44., R. 7 E., New Mexico Principal Merdian, Colorado, Group No. 766, was accepted September 5, 1985.

The plat, representing the dependent resurvey of a portion of the west boundary and a portion of the Silver Plume Townsite, and the survey of Lot No. 7 in section 18 T. 4 S., R. 74 W., Sixth Principle Meridian, Colorado, Group No. 696, was accepted September 3, 1985.

The plate representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines, and the survey of the subdivision of certain sections, T. 3 S., R. 95 W., Sixth Principle Meridian, Colorado, Group No. 754, was accepted September 23, 1985.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of the east boundary of T. 15 S., R. 82 W., a portion of the south boundary of T. 14 S., R. 81 W., a portion of the Third Standard Parallel South (south boundary), and Mineral Survey No. 1390, Wolf Placer; the metes-and-bounds survey of Private and public land tracts, and the independent resurvey of a portion of the subdivisional lines, T. 15 S., R. 81 W., Sixth Principal Meridian, Colorado, Group No. 585, was accepted August 29, 1985.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of certain sections, T. 34 N., R. 4 W., south of the Ute line, New Mexico Principal Meridian, Colorado, Group No. 744, was accepted September 23, 1985.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2020 Arapahoe Street, Denver Colorado 80205.

Kenneth D. Witt,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 85–22926 Filed 9–24–85; 8:45 am]

BILLING CODE 4310–84–M

Nevada; Airport Lease Application

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214) as amended by the Act of August 16, 1941 (55 Stat. 621), Al Woodard has applied for an airport lease on the following described public lands:

Mount Diablo Base & Meridian

T. 45 N., R. 37 E., Sec. 27, Lots 3 & 4; a strip of land 450 feet wide and 2640 feet long located just north from the south section line.

The area described is located in Humboldt County, Nevada. The application was filed on December 14, 1984, and on that date, the lands were segregated from all other forms of appropriation under the public land laws.

For a period of 45 days from the date of this notice, interested persons may submit comments to the District Manager, Bureau of Land Management, Winnemucca District Office, 705 East 4th Street, Winnemucca, Nevada 89445.

Dated: September 18, 1985.

Frank C. Shields,

District Manager.

[FR Doc. 85–22930 Filed 9–24–85; 8:45 am]

BILLING CODE 4310–HC–M

Kingman Resource Area (Phoenix District) Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Phoenix District, Interior.

ACTION: Notice is hereby given in accordance with Pub. L. 92–463 of a meeting of the Kingman Resource Area (Phoenix District) Grazing Advisory Board.

DATE: Tuesday, October 29, 1985 at 9:00 a.m.

ADDRESS: 2475 Beverly Avenue, Kingman, AZ 86401, BLM Conference Room.

SUMMARY: The agenda for the meeting will include:

1. Update of the Bureau's Exchange Program,
2. Progress Report on AMP Implementation,
3. Status of Range Improvements FY 85,
4. Status of Range Improvements FY 86,
5. Multiple Use Progress Report,
6. Request for Advisory Board Expenditures,
7. Arrangements for Future Meetings.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: September 18, 1985.

Deane H. Zeller,

Acting District Manager.

[FR Doc. 85-22928 Filed 9-24-85; 8:45 am]

BILLING CODE 4310-32-M

Phoenix/Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Phoenix District, Interior.

ACTION: Notice is hereby given in accordance with Public Law 92-463 of a meeting of the Phoenix-Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board.

DATE: Tuesday, November 5, 1985 at 9:00 a.m.

ADDRESS: 2015 West Deer Valley Road, Phoenix, AZ 85027, BLM Conference Room.

SUMMARY: The agenda for the meeting will include:

1. Update of the Bureau's Exchange Program,
2. Status of Range Improvements FY 85,
3. Status of Range Improvements FY 86,
4. Status of the Bureau's Planning and Grazing Environmental Impact Statements,
5. Arrangements for Future Meetings.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: September 18, 1985.

Deane H. Zeller,

Acting District Manager.

[FR Doc. 85-22929 Filed 9-24-85; 8:45 am]

BILLING CODE 4310-32-M

Minerals Management Service

Development Operations Coordination Document; Total Petroleum, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Total Petroleum Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4907, Block 57, Main Pass Area, offshore Louisiana. 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 Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on September 13, 1985.

ADDRESS: 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: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 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: September 13, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-22890 Filed 9-24-85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Appalachian National Scenic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Appalachian National Scenic Trail Advisory Council will be held in Cashiers, North Carolina, on October 18, from 8:30 a.m. to 5:00 p.m. The agenda of the meeting will include a review of current Appalachian Trail protection and management issues.

The meeting will be open to the public, although space will be limited. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Harpers Ferry, West Virginia 25425, at Area Code (304) 535-2346.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address. Copies of the minutes will also be available from Room 3120, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, and at the headquarters of the Appalachian Trail Conference, Washington Street, Harpers Ferry, West Virginia 25425.

Dated: September 19, 1985.

David A. Richie,

Project Manager.

[FR Doc. 85-22927 Filed 9-24-85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-218]

Certain Automatic Bowling Machine Printed Circuit Control Boards

AGENCY: International Trade Commission.

ACTION: Nonreview of that portion of the presiding administrative law judge's initial determination terminating the above-captioned investigation with respect to respondent United Bowling Mechanics (UBM).

SUMMARY: On August 12, 1985, the presiding administrative law judge (ALJ) issued an initial determination (Order No. 9) (ID) granting the motion of complainant James C. Hudson d/b/a Omega-Tek to withdraw his complaint in its entirety based on a settlement agreement with respondent Richard J. Lynch Company, Inc. The motion included withdrawal of the complaint as to UBM, the only other respondent. The ID terminated the entire investigation. The Commission has determined not to review the ID with respect to termination of respondent UBM.

FOR FURTHER INFORMATION CONTACT: Kristian E. Anderson, Esq., Office of the General Counsel, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202-523-0074.

SUPPLEMENTARY INFORMATION:

Statutory Authority

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (19 CFR 210.53).

Public Inspection

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on, 202-724-0002.

Issued: September 17, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-22891 Filed 9-24-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-278 through 281 (Preliminary)]

Certain Cast-Iron Pipe Fittings From Brazil, the Republic of Korea, and Taiwan

Determinations

On the basis of the record [1] developed in investigations Nos. 731-TA-278 through 280, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil, the Republic of Korea (Korea), and Taiwan of nonalloy, threaded, malleable cast-iron pipe fittings,[2] provided for in items 610.70 and 610.74 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

On the basis of the record developed in investigation No. 731-TA-281, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured [3] by reason of imports from Taiwan of nonalloy, threaded and flanged, nonmalleable cast-iron pipe fittings, other than for cast-iron soil pipe,[4] provided for in items 610.62 and 610.65 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

Background

On July 31, 1985, a petition was filed with the Commission and the Department of Commerce by the Cast Iron Pipe Fittings Committee, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of malleable cast-iron pipe fittings from Brazil, Korea, and Taiwan, and that an industry in the United States is materially injured or threatened with material injury by reason of imports of nonmalleable cast-iron pipe fittings from Taiwan. Accordingly, effective July 31, 1985, the Commission instituted preliminary antidumping investigations Nos. 731-TA-278 through 281 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of August 7, 1985 (50 FR 31928). The conference with respect to investigations Nos. 731-TA-279 through 281 (Preliminary) was held in Washington, DC, on August 22, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

No conference was held with respect to investigation No. 731-TA-278 (Preliminary) involving malleable cast-iron pipe fittings from Brazil due to the time constraints resulting from the issuance of a temporary restraining order by the Court of International Trade. However, all perons who wished to submit written comments or briefs were given an opportunity to do so.[5]

The Commission transmitted its determination in this investigation to the Secretary of Commerce on September 16, 1985. The views of the Commission are contained in USITC Publication 1753 (September 1985), entitled "Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan: Determinations of the Commission in Investigations Nos. 731-TA-278 through 281 (Preliminary) Under the Tariff Act of 1930, Together with the Information Obtained in the Investigations."

Issued: September 16, 1985.

By order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 85-22892 Filed 9-24-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-257 (Preliminary)]

Certain Fresh Atlantic Groundfish From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in

[1] The record is defined in § 207.2(i) of the Commissions' Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] The malleable cast-iron pipe fittings covered by these investigations are those with standard pressure ratings of 150 pounds per square inch (psi) and heavy-duty pressure ratings of 300 psi.

[3] Vice Chairman Liebeler finds a reasonable indication of threat of material injury.

[4] The nonmalleable cast-iron pipe fittings covered by this investigation are those with standard pressure ratings of 125 psi and heavy-duty pressure ratings of 250 psi.

[5] 50 FR 36157 (Sept. 5, 1985), 50 FR 36928 (Sept. 10, 1985).

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practrice and Procedure (19 CFR 207.2(i)).

the United States is materially injured by reason of imports from Canada of certain fresh whole Atlantic groundfish,[2] provided for in items 110.15 and 110.35 of the Tariff Schedules of the United States (TSUS), which are alleged to be subsidized by the Government of Canada, and that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of certain fresh Atlantic groundfish fillets,[3] provided for in items 110.50, 110.55 and 110.70 of the TSUS, which are alleged to be subsidized by the Government of Canada.

Background

On August 5, 1985, a petition was filed with the Commission and the Department of Commerce by the North Atlantic Fisheries Task Force, Gloucester, Massachusetts, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of fresh and chilled cod, haddock, pollock, hake, and flatfish (including flounders and sole) in whole and fillet forms, from Canada. Accordingly, effective August 5, 1985, the Commission instituted preliminary countervailing duty investigation No. 701-TA-257 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of August 14, 1985 (50 FR 32775). The public conference was held in Washington, DC, on August 28, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on September 19, 1985. The views of the Commission are contained in USITC Publication 1750 (September 1985), entitled "Certain Fresh Atlantic Groundfish from Canada: Determination of the Commission in Investigation No. 701-TA-257 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: September 19, 1985.

By order to the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-22893 Filed 9-24-85; 8:45 am]

BILLING CODE 7020-02-M

[2] For purposes of this investigation, the term "certain fresh whole Atlantic groundfish" covers fresh and chilled cod, haddock, hake, and flounders and other flatfish (except halibut), whether whole or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed (TSUS items 110.15 and 110.35).

[3] For purposes of this investigation, the term "certain fresh Atlantic groundfish fillets" covers fresh and chilled cod, haddock, pollock, hake, and flounders and other flatfish (except halibut) processed otherwise than by only the removal of heads, viscera, fins, or any combination thereof (TSUS items 110.50, 110.55, and 110.75).

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-27)]

Intrastate Rail Rate Authority; Oregon

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Certification.

SUMMARY: The Commission grants final certification to the Oregon Public Utility Commissioner under 49 U.S.C. 11501(b) to regulate intrastate rail transportation, subject to a condition precedent that it inform the Commission that its standards and procedures have been officially adopted.

DATE: Certification will begin October 25, 1985.

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: September 10, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio.

Commissioner Sterrett did not participate in the disposition of this proceeding.

Kathleen M. King,

Acting Secretary.

[FR Doc. 85-22852 Filed 9-24-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30656]

Consolidated Rail Corp.; Trackage Rights Exemption; Seaboard System Railroad, Inc.

Seaboard System Railroad, Inc. (SBD) has agreed to grant overhead trackage rights to Consolidated Rail Corporation (Conrail) between Crawfordsville, Lafayette and Altamont, Indiana over a 27.3 mile segment of SBD's line described as follows:

Between the track connection of Conrail and Seaboard at Ames, near Crawfordsville, Indiana, and the turnout of the connecting track to be constructed in Seaboard's track for access to NW's approximately 27.3 miles. Said trackage to include the main running tracks, passing tracks, crossovers, and appurtenant facilities, not including any terminal and/or yard tracks and related facilities, constituting Seaboard's main line of railroad between said stations.

The trackage rights were effective September 12, 1985 or on such later date as SBD and Conrail agree to, as evidenced by an exchange of letters.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: September 18, 1985.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 85-22851 Filed 9-24-85; 8:45 am]

BILLING CODE 7035-01-M

LEGAL SERVICES CORPORATION

Announcement of Availability of Funds for the Provision of Legal Services to Unserved Low-Income Members of Federally Recognized Native American Tribes

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: The Legal Servcies Corporation (LSC) announces the availability of one-time grant funds for the provision of legal services to the currently unserved LSC eligible Native American clients, who reside in the following states and reservations:

States	Reservations
Arizona	Cocopah.
	Colorado River.
	Havasupai.
	Kaibab Piaute.
	Quechan-Fort Yuma.
	Yavapia-Apache.
	Havapai-Prescott.
	Yavapai-Tonto Apache.
Florida	Miccosukee.
	Seminole.
Iowa	Sac and Fox.
Kansas	Iowa.
	Kickapoo.
	Potawatome.
	Sac and Fox.
Louisiana	Chitmacha.
	Coushatta.

States	Reservations
Minnesota	Bois Forte.
	Fond Du Lac.
	Grand Portage.
	Lower Sioux.
	Mille Lacs.
	Prairie Island.
	Upper Sioux.
New York	Oneida.
	Onondaga.
	Seneca.
	St. Regis Mohawk.
	Tonawanda.
	Tuscarora.

DATE: All proposals for grant funds must be received on or before October 15, 1985.

FOR FURTHER INFORMATION CONTACT: Britt Clapham, Manager, Legal Services Corporation, Native American Unit, 1380 Lawrence Street, Suite 610, Denver, Colorado 80204, (303) 844–4205.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation (the Corporation) through its Native American Unit (NAU), formerly the Indian Desk, has established special programs or components to provide access to legal services for low-income members of federally recognized tribes, as required by the Natiave American Funding Approach issued by the Office of Field Services in August, 1979. However, that directive only authorized annualized funding for organizations to serve areas with more than 500 low-income Native Americans. As a result, there are 31 Indian Reservations, as noted above, with fewer than 300 low-income Native Americans in seven states whose federally recognized members do not have access to a special Indian legal services program or component.

In recognition of this, the 1979 Native American Funding Approach did provide that the funds attributable to these persons would be placed in a revolving fund to be administered by the Native American Unit. Accordingly, the NAU is soliciting funding proposals from programs which already serve areas contiguous with these unserved reservations or are in close geographic proximity to these unserved reservations. Funded applications will be one to three year term projects, i.e., not annualized and need not be based on the Corporation's regular minimum access formula. These one-time grant awards will total $92,212 and applicants may request funding up to $20,000 per grant.

Proposals should describe plans for projects to serve one or more of the unserved reservations. These projects should include such activities as extensive outreach, establishment of a special short-term Native American unit, community legal education, publicity or any other activity which would provide or improve access to the Native American poor.

Proposals for awards from this discretionary fund must be submitted in a clear and concise narrative format not to exceed five (5) pages that explains the purposes for which the grant funds will be utilized, with an attachment budget. Applicants are urged to use the resources and skills of local Indian groups and tribes in developing these proposals. Past efforts, if any, at providing legal services to these reservations should be described in the proposal because, as discussed below, it is one of the criteria for the evaluation of the proposals.

The Corporation (through its Rocky Mountain Regional Office, Native American Unit) intends to fund proposals which have maximum impact on the Native American client community. Criteria that will be used to review the applications are as follows:

1. Applicant's previous efforts to serve with regular program funds the reservation based Native Americans;

2. Support for the proposal by the tribe or tribes to be served;

3. Responsiveness of proposed legal services delivery system design to needs of the low-income Native Americans to be served;

4. Methodology for evaluation of proposed legal services delivery system design;

5. Likelihood of high-quality representation (Indicators will be systems to ensure effective, economical, and high-quality legal work for Native American clients, including community outreach, client intake, case handling procedures, supervision, case review, litigation support, training, and staff evaluations.), and;

6. Applicant's administrative structure, including proposed systems and methods for ensuring economical and effective fiscal and administrative management and control.

All groups and persons interested in applying for these grant funds should submit two copies of their proposals to: Britt Clapham, Manager, Legal Services Corporation, Native American Unit, 1380 Lawrence Street, Suite 610, Denver, Colorado 80204, (303) 844–4205.

Any grant application recommended by the Legal Services Corporation will, pursuant to section 1007(f) of the LSC Act, be announced in the **Federal Register**, and additional comments and recommendations will be requested at least thirty days prior to final approval of the grant.

Peter Broccoletti,

Acting Director, Office of Field Services.

September 18, 1985.

[FR Doc. 85–22887 Filed 9–24–85; 8:45 am]

BILLING CODE 6820–35–M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 24, 1985. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTAL INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of

a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the **Federal Register** on July 15, 1985.

The applications received are as follows:

1. Applicant

Matthew Schwaller, NASA Goddard Space Flight Center, Greenbelt, Maryland

Activity for Which Permit Requested

Taking; Enter Site of Special Scientific Interest

The applicant requests permission to enter the penguin colonies on Cape Crozier, Cape Royds, and Beaufort Island to fulfill the scientific objectives of research on the estimation of penguin populations with remote sensing. Field work will include radiometric measurements plus photography of the nesting sites. Radiometric measurements will be made of the penguins themselves, as well as of penguin nesting sites, penguin-free sites, and mixtures of these targets. Field samples and field measurements will be used to establish the reflectance characteristics of the various ground targets which may be imaged in a satellite remote sensing scene that includes penguin rookeries. The ultimate goal of this research is to identify the best spectral bands or band combinations for locating penguin nesting sites in imagery collected with remote sensing satellites.

Location

Cape Crozier, Cape Royds, Beaufort Island.

Dates

November 1985–January 1986.

2. Applicant

Wesley E. LeMasurier, Geology Department, University of Colorado, Denver, Colorado.

Activities for Which Permit Requested

Enter Specially Protected Area; Enter Site of Special Scientific Interest

The applicant proposes to collect rock samples for geological study in Specially Protected Areas and at Sites of Special Scientific Interest. Entry into protected areas is required because the samples cannot be obtained from other locations.

Locations

Beaufort Island, Cape Hallett, Cape Crozier, Cape Royds.

Dates

January–February 1986.

3. Applicant

Warren M. Zapol, Department of Anesthesia, Massachusetts General Hospital, Boston, Massachusetts.

Activities for Which Permit Requested

Taking

A permit is being requested to enable the applicant and his representative to pursue a two-year international collaborative research project entitled "Physiological and Ecological Microprocessor Monitoring Studies of Free Ranging Antarctic Seals in Pack Ice Areas". These studies will continue and expand previous investigations carried out by the applicants under Marine Mammal Protection Act, permit #394, and Antarctic Conservation Act Permit #83–11.

In two austral summer seasons they will study depth-time diving profiles, heart rate and core temperature changes during diving and correlate heart rate changes with the swimming velocity of physiologically monitored Crabeater, Leopard, Weddell and Ross seals. They will also study key metabolic enzyme systems in muscles of the same species. For these studies they request permission to capture up to 40 Crabeater, 40 Leopard and 20 Weddell adult seals each season (1985–86 and 1986–87 austral summers). Only adult seals will be studied in approximately equal numbers of males and females. Up to 25 Crabeater and Leopard, and up to 10 Weddell seals will be equipped each year with long-term physiological monitoring/transmitting packs and released. Up to 15 will be killed for organ biochemical studies. Because they will be working in pack ice areas with indeterminate numbers of seals, the possibility of harrassing a far greater number exists, in order to approach the seals to be studied. They therefore request permission to harass 400 Crabeater, 400 Leopard, 200 Weddell and 40 Ross seals.

Location

Antarctic Peninsula, Palmer Station and vicinity.

Dates

December 1985–April 1987.

Authority to publish this notice has been delegated by the Director of the National Science Foundation.

Peter E. Wilkniss,

Division Director, Division of Polar Programs.

[FR Doc. 85–22879 Filed 9–24–85; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Accident Reports, Safety Recommendations, and Responses, etc; Public Hearing in Dallas-Fort Worth Aircraft Accident

In connection with its investigation of the accident involving a Delta Airlines Lockheed L–1011, N726DA, at the Dallas-Fort Worth International Airport, Texas, August 2, 1985, the National Transportation Safety Board will convene a public hearing at 9 a.m. (local time) on October 29, 1985, in the Mexico Rooms of the Holiday Inn D/FW Airport North, Dallas-Fort Worth International Airport, Texas. For more information contact Mr. Ira Furman, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594, telephone (202) 382–6600.

Ray Smith,

Federal Register Liaison Officer.

September 20, 1985.

[FR Doc. 85–22877 Filed 9–24–85; 8:45 am]

BILLING CODE 7533-01-M

Accident Reports, Safety Recommendations, and Responses, etc.; Public Hearing in Pilgrim Belle Marine Accident

In connection with its investigation of the accident involving the grounding of the U.S. Passenger Vessel PILGRIM BELLE on the Sow and Pigs Reef, Vineyard Sound, Massachusetts, July 28, 1985, the National Transportation Safety Board will convene a public hearing at 10 a.m. (local time) on October 22, 1985, in the Marriott Hotel, Charles and Orms Streets, Providence, Rhode Island. For more information contact Mr. Brad Dunbar, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594, telephone (202) 382–6600.

Ray Smith,

Federal Register Liaison Officer.

September 20, 1985.

[FR Doc. 85–22878 Filed 9–24–85; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-249]

Commonwealth Edison Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain testing requirements of Appendix J to 10 CFR Part 50 to the Commonwealth Edison Company (CECo) (the licensee) for Dresden Nuclear Power Station, Unit No. 3 located at the licensee's site in Grundy County, Illinois.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from certain requirements of Appendix J to 10 CFR Part 50 for type B and C testing of certain valves, vents, drains, sumps and penetrations which maintain containment integrity at design bases accident conditions. The exemption is strictly schedular in that it would allow a 30-day extension of the 2-year test interval for the above components required by Appendix J.

The Need for the Proposed Action

The licensee shut down for its Cycle 9 reguling outage on September 30, 1983 and was scheduled to shut down for its Cycle 10 refueling outage in the Spring of 1985. However, because of an unanticipated 4-month outage extension in 1984, the shutdown for refueling and other modifications has been extended to October 26, 1985. This will cause CECo to exceed the 2-year test interval required by Appendix J for type B and C testing of certain components.

Environmental Impact of the Proposed Action

The proposed exemption affects only the interval between the test of certain components required to assure containment integrity. Because the operational period of these components will be shortened due to the aforementioned 4-month Cycle 9 refueling outage extension, the operational challenge to these components has been less than usually occurs in the 2-year test interval. Thus, post-accident radiological releases will not differ from those determined previously and the proposed exemption does not otherwise affect facility radiological effluent or occupational exposures. With regard to potential nonradiological impacts, the proposed exemption does not affect plant nonradiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the exemption would be to require rigid compliance with the Appendix J requirements. Such action would not enhance the protection of the environment and would result in unjustified costs.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Dresden Unit 3.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letter dated August 16, 1985. This letter is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Dated at Bethesda, Maryland, this 20th day of September 1985.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Assistant Director for Safety Assessment, Division of Licensing.

[FR Doc. 85-22920 Filed 9-24-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Davis-Besse Nuclear Station Unit 1; Meeting

The ACRS Subcommittee on Davis-Besse Nuclear Station Unit 1 will hold a meeting on October 4, 1985, at the Davis-Besse Administration Building, Route 2 Oak Harbor, Ohio.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Friday, October 4, 1985—1:00 p.m. until the conclusion of business.*

The Subcommittee will review actions taken prior to restarting following the loss of feedwater incident and other related matters.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Toledo Edison Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-22921 Filed 9-24-85; 8:45 am]

BILLING CODE 7590-01-M

Bi-Weekly Notice; Applications and Amendments To Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on September 11, 1985 (50 FR 37072), through September 16, 1985.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Monday through Friday.

By October 25, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free

telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telphone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petition for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petition has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket No. 50–318, Calvert Cliffs Nuclear Power Plant, Unit No 2, Calvert County, Maryland

Date of applications for amendment: August 29 and August 30, 1985.

Description of amendment request: The proposed amendment would change the Unit 2 Technical Specifications (TS) to reflect analyses performed in support of Cycle 7 operation.

Basis for proposed no significant hazards consideration determination: On April 6, 1985 the NRC published guidance in the Federal Register (48 FR 14870) concerning examples of amendments that are not likely to involve signficant hazards considerations. One such example (iii) involves "For a nuclear power reactor, a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with technical specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable."

The proposed changes to the Unit 2 TS, submitted by applications dated August 29 and August 30, 1985 satisfy the criteria of example (iii). Accordingly, the Commission proposes to determine that the proposed changes to the TS required for Unit 2 Cycle 7 operation involve no significant hazards considerations.

Local Public Document Room location: Calvert County Library, Prince Frederick Maryland.

Attorney for licensee: George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W. Washington, D.C. 20328

NRC Branch Chief: Edward J. Butcher, Acting.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Data of amendment request: August 9, 1985.

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) as follows:

(1) In Table 3.1.1, "Reactor Protection System (SCRAM) Instrumentation Requirement", the footnote associated with the APRM high flux scram setpoint would be changed to match the value for this setting in TS 2.1.A.1.a, "Fuel Cladding Integrity" and on Figure 3.11–9, "Pilgrim Power/Flow Map." The need for this change was missed when the latter were changed by Amendment No. 72.

(2) Note reference (13) would be placed in Table 3.1.1 in the "Trip Level Setting" column at the "APRM Inoperative" line. The licensee states that this reference was inadvertently deleted during issuance of Amendment No. 15.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning application of the standards by providing certain examples (48 FR 14870). One example of an amendment considered not likely to involve significant hazard considerations is "(i) a purely administrative change to technical speacifications: for example, a change to achieve consistency throught the technical specifications, correction of an error, or a change in nomenclature." Proposed change (1) above is encompassed by this example since it is intended to achieve consistency in the TS. The second change, (2), would restore a reference to a note, still in the TS, which defines the term "APRM Inoperative". Since no requirements or conditions would be affected by restoration of the reference, this change would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of an accident of a type different from any evaluated previously, or (3) involve a significant reduction in a margin safety.

Therefore, the staff has made a proposed determination that the amendment request involves no significant hazards considerations.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: August 12, 1985.

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) for the Brunswick Steam Electric Plant, Unit Nos. 1 and 2, by revising the surveillance requirements for them suppression pool cooling mode of the Residual Heat Removal (RHR) System.

The surveillance requirements for the suppression pool cooling mode of the RHR system, TS 4.6.2.2.b, currently require verification "that each RHR pump can be started from the control room and develops a flow of at least 10,300 gpm against a system head corresponding to a reactor pressure of greater than or equal to 20 psig on recirculation flow."

The current survillance requirement is modeled after an In-Service Inspection requirement for a full-flow test. The system is tested during normal plant operation by taking suction from the suppression pool and returning the water to the pool through a test line. Each pump must develop a flow of 10,300 gpm to satisfy the test requirement. The RHR heat exchanger must be bypassed during this test as flow through the RHR heat exchanger is limited to 7,700 gpm to prevent damage to the heat exchanger tubing.

A more accurate method of verifying operability of the RHR pumps in the suppression pool cooling mode is to

route the recirculation flow through the RHR heat exchanger (as in actual operation), since the flow path in this mode of operation is from the torus, through the RHR heat exchanger, and then back to the torus.

Therefore, the proposed TS requires that each RHR pump produces a recirculation flow of at least 7,700 gpm through the RHR heat exchanger to the suppression pool. The proposed TS follows the guidance provided by NUREG–0123, Standard Technical Specifications for Boiling Water Reactors (STS) by routing flow through the RHR heat exchanger during the surveillance test.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Carolina Power & Light Company has determined that the requested amendment per 10 CFR 50.92:

(1) Does not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed amendment only modifies the surveillance requirement. No changes are made to the design, function, operating parameters, operating procedures or setpoints to any plant system.

(2) Does not create the possibility of a new or different king of accident than previously evaluated for the same reasons as already given in item (1) above.

(3) Does not involve a significant reduction in a margin of safety. The proposed surveillance requirement provides a better indication of actual system performance by including the RHR heat exchanger in the test loop. The modified requirement is more consistent with the guidance provided in NUREG–0123, the STS. Also, the requirements of the surveillance are more clearly stated. The margin of safety, therefore, is maintained.

The staff has reviewed the licensee's determination and finds it acceptable. Based on the above, the staff proposes to determine that the proposed amendment meets the criteria of 10 CFR 50.92(c) and, therefore, does not involve significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: August 28, 1985.

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) for the Brunswick Steam Electric Plant, Units 1 and 2 to revise the rated thermal power range over which the Rod Block Monitor (RBM) channels must be operable.

The Rod Worth Minimizer (RWM) and and Rod Sequence Control System (RSCS) are redundant systems which assure that out-of-sequence control rods will not be withdrawn or inserted during low-level power operation. Control rod withdrawal sequences are established (based on rod worth) to assure that in the event of a control rod drop accident, the fuel peak enthalpy does not exceed 280 cal/gm. At greater than 20 percent of rated thermal power, no rod has sufficient worth such that, if it were to drop, the peak enthalpy would exceed 280 cal/gm. Therefore, the RWM and RSCS need be operable only when the plant is operating at less than 20 percent of rated thermal power.

Currently, TS 3.1.4.3 requires both RBM channels to be operable when thermal power is greater than the preset power level of the RWM and the RSCS (approximately 30 percent nominal rated thermal power). In addition, this specification requires that the RBM and the RWM and RSCS operationally overlap when approaching this power level to ensure meeting the requirements of the TS. However, based on the information discussed previously, the design intent and power levels over which the systems are required are very different; RWM and RSCS are designed for low power levels, and RBM is designed for high power levels. Therefore, no overlap is necessary.

The RBM is designed to operate at high power levels. Currently, the RBM is bypassed when the Average Power Range Monitor (APRM) used to normalize the RBM reading is indicating less than 30 percent power. The proposed revision to the TS would require the RBM to be operable when thermal power is greater than or equal to 35 percent of rated thermal power. This setpoint was conservatively chosen to ensure that: (1) A clear, concise power level is designated by the TS for plant operations; (2) the RBM functions as designed; (3) the RBM is operable as required by the TS using existing plant setpoints; and (4) the margin of safety is not reduced.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from accidents previously evaluated; or (3) involve a significant reduction in a margin of safety. Carolina Power & Light Company has determined that the requested amendment per 10 CFR 50.92(c):

3. Does not involve a significant increase in the probability of consequences of an accident previously evaluated because this change merely clarifies the power level at which the RBM is required to be operable. The proposed TS changes the current setpoint to 35 percent of rated thermal power which is still well below the high power level at which the RBM is required to operate; therefore, neither the RBM design and function, nor the accident analyses that use the RBM have been changed.

2. Does not create the possibility of a new or different kind of accident than previously evaluated for the same reason as stated in 1 above.

Does not involve a significant reduction in a margin of safety. None of the actual plant operating setpoints will be changed as a result of the proposed TS. Only the power level at which the RBM is required to be operable, as specified by the TS, will be clarified; this change is consistent with the guidelines set forth in NUREG–0123, the Standard Technical Specifications.

The staff has reviewed the licensee's determination and finds it acceptable. Based on the above, the staff proposes to determine that the proposed change meets the criteria of 10 CFR 50.92(c) and, therefore, does not involve significant hazards considerations.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George E. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of amendment request: August 19, 1985 as supplemented by letter dated September 5, 1985.

Description of amendment request: The proposed amendments to Operating License NPF–11 and Operating License NPF–18 would revise the setpoints and setpoint tolerances for the 18 safety relief valves (SRVs) in the Technical Specifications for each of La Salle, Units 1 and 2. The Commonwealth Edison Company (licensee) indicates that the present values of setpoints and setpoint tolerances are too restrictive. The General Electric Company (the vendor) specifications indicate that the setpoint tolerances can be changed from ±1% to a revised value of +1% to −3% and still be consistent with the specifications because the test data of the La Salle SRVs gave a nameplate rating of +1%, −3% by ASME rating. The ASME rating practice requires an approved, preheated test loop where the accuracies are demonstrated. This is performed by preheating the SRV to be tested in the loop, then testing the SRV four times in a row. These four readings must fall within a 4% scatterband or the valve is rejected. Therefore, by definition, the +1% and −3% is the apportionment of the 4% scatterband that is designed for the valves at La Salle, and defines the nameplate setting of the SRVs.

The essential function of the 18 safety relief values for each unit is the protection of the primary system from overpressure. Since the upper tolerance band remains the same, the safety margin remains unchanged within the system since the upper limit where the SRV will open has the same tolerance. In addition, the implication of retaining a lower bound of −1% on the SRV setpoint is the possibility of unnecessary testing of valves. By the original Technical Specifications, if any of the valves fails to meet the ±1% set pressure tolerance, an additional sample of valves must be removed and tested. If any of these valves fail, then the remainder of the valves must be removed and tested. This would unnecessarily increase the length of the time the unit is shutdown and would also increase the man-rem exposure during the additional valve removals and installation.

Presently, the setpoints for these safety relief valves are as follows: 4 at 1205 psig, 4 at 1195 psig, 4 at 1185 psig, 4 at 1175 psig, and 2 at 1146 psig. The licensee is proposing that the setpoints for the last safety relief valves be changed from 1146 to 1150 psig, because of revisions to GE design documents. This represents about a .4% increase in the lowest setpoint. This would have only a minor effect on the safety function of these valves, and the 1150 psig setpoint reflects General Electric design documents.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined and the NRC Staff agrees that the proposed amendments will not;

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because: The overpressure limit as previously analyzed is maintained. The safety valves will be maintained within the allowable limits of the design.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because: No safety relief valves are being removed. No new accident is postulated. Full overpressure protection is maintained.

(3) Involve a significant reduction in the margin of safety because the ability of the safety relief valves to limit reactor pressure as required will be maintained in accordance with design requirements. Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue, N.W., Washington, D.C. 20036.

NRC Branch Chief: Walter R. Butler.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of amendment request: August 28, 1985.

Description of amendment request: The proposed amendments to operating License NPF–11 and Operating License NPF–18 would revise the La Salle, Units 1 and 2 Tech-nical Specifications with respect to the average power range monitor (APRM) gain adjustment to allow time to correct calibrations before declaring the channels inoperable and requiring half-scram. The licensee is proposing an interpretation and clarification to provide 2 hours to correct APRMs which are less than 0.98 of the base line value during plant operation above 90 percent rated thermal power. At less than 90 percent rated thermal power, 2 hours would be allowed to correct APRMs exceeding 1.02 of the base line value and 12 hours to correct APRMs exceeding 10 percent of rated thermal power. A clarification is also proposed that would make it acceptable to trip only an inoperable channel where trip systems have more than 2 channels per system.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined and the NRC staff agrees that the proposed amendments will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because this change simply allows a more realistic time period to correct APRM calibration before reactor trip is required. The APRM channel setpoints will be maintained within required limits or restored to proper limits with the time limits consistent with other specifications.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because no change in the APRM scram function is included in this amendment.

(3) Involve a significant reduction in the margin of safety because the change does not allow the APRMs to be set non-conservatively. Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room Location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue, N.W., Washington, D.C. 20036.

NRC Branch Chief: W. R. Butler.

Commonwealth Edison Company, Docket No. 50–374, La Salle County Station, Unit 2, La Salle County, Illinois.

Date of amendment request: August 28, 1985.

Description of amendment request: The proposed amendment to Operating License NPR–18 would revise the La Salle Unit 2 Technical Specifications for a one-time technical specification relief during the La Salle Unit 1 first refueling outage to extend the present three-day or seven-day period to thirty days during which only three diesel generators would be required to satisfy the standby AC on-site power requirements for Unit 2. This one time change will allow the installation of the diesel generator lube oil modification required by license condition to be installed on Unit 1 prior to startup after the first refueling for the common diesel generators "O" and "1A". Because the "O" and "1A" are shared between the two units and existing Technical Specifications 3.8.1.1 require these diesel generators be operable whenever either unit is in operation, the licensee is unable to perform the modification without bringing both Units to shutdown. The licensee indicates in its application that the proposed Technical Specifications are justifiable because:

1. The probability that a station blackout will occur during the 30 days is extremely unlikely.

2. The operating unit can be safely shutdown following a loss of off-site power transient even if one of the remaining diesels fails. In addition to the above, the licensee contends that the La Salle diesels have a higher than average reliability. The average emergency diesel generator has a reliabiltity of 0.98 and those at La Salle have a reliability that exceed 0.99.

Basis of propoosed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFr 50.92 (c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined and the NRC staff agrees that the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because in the event of a loss of offsite power with the "O" or "1A" diesel inoperable for this period sufficient onsite power with a single active failure will still be available to safely shutdown.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because emergency power is still available to those systems required to mitigate accidents evaluated in the FSAR.

3. Involve a significant reduction in the margin of safety because the probability of a loss of offsite power in addition to a remaining diesel generator failure during the period of these diesel generator modifications is sufficiently small to reasonably assure the health and safety of the public.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Bruke, Suite 840, 1120 Connecticut Ave, N.W., Washington, D.C. 20036.

NRC Branch Chief: Walter R. Butler.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: August 2, 1985.

Description of amendment request: the proposed amendment would revise the Technical Specifications to establish limiting conditions for operation (LCO's) and surveillance requirements for the Alternate Safe Shutdown System of Indian Point Unit No. 2. The proposed Technical Specifications were directly requested by the Nuclear Regulatory Commission by Generic Letter 81–12 dated February 20, 1981. This amendment application supersedes Consolidated Edison's August 7, 1981 application concerning the same subject.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (48 FR 14870). One of the examples (ii) of an amendment not likely to involve significant hazards considerations is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The staff proposes to determine that this change does not involve a significant hazards determination because it consists of additional requirements not currently in the Technical Specifications and is submitted to conform Indian Point Unit 2 to current NRC requirements.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

Consolidated Edison Company of New York, Docket No 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: August 6, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications to include anticipatory reactor trip upon turbine trip. The proposed change was directly requested by the Nuclear Regulatory Commission by Generic Letter dated September 20, 1982, and is required to satisfy NUREG–0737 "Clarification of TMI Action Plan Requirements" Item II.K.3.12. In addition the amendment application requests a modification to bypass (block) the anticipatory reactor trip upon turbine trip below 35% power. The 35% power level was chosen because at this level the elimination of reactor trip on turbine trip will not challenge the pressurizer Power Operated Relief Valves (PORV's) and essentially will not challenge the probability of a small-break LOCA resulting from a stuck-open pressurizer PORV. The purpose of the modification is to increase plant availability by reducing the length of time required to

restart the unit following a readily correctable turbine trip at low power.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (48 Fr 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications. The staff proposes to determine that the proposed change does not involve a significant hazards consideration since it consists of an additional limitation on operation of the facility not currently in the Technical Specifications. Although Consolidated Edison h .s requested a modification to bypass the reactor trip upon turbine trip below 35% power, this still constitutes an additional limitation on operation of the facility not currently in the Technical Specifications.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: August 6, 1985.

Description of amendment request: The proposed amendment to the Technical Specifications includes revisions to further limit the use of the containment purge and vent isolation valves during power operation. This amendment was directly requested by the Nuclear Regulatory Commission by letters dated September 29, 1983 and June 17, 1985. The proposed amendment also clarifies associated requirements in Technical Specification 3.6 relating to the application of containment isolation action statements. Minor format and editorial changes are also included.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). Example (ii) of those involving no significant hazards considerations discusses a change that constitutes an additional limitation, restriction, or control not presently included in the technical specification: for example, a more stringent surveillance requirement. The proposed revision to specification 3.6.A adds limiting conditions for operation (LCOs) relative to the containment purge and pressure relief isolation valves and is consistent with example (ii) in that the proposed change constitutes an additional limitation not presently included in the Technical Specifications.

Consistent with the Commission's criteria for determining whether a proposed amendment to an operating license involves no significant hazards considerations, 10 CFR 50.92 (48 FR 14871), the proposed revision to Specification 3.6.A relating to containment isolation provision action requirements and the editorial and format changes will not involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any previously evaluated; or involve a significant reduction in margin of safety. The proposed revisions are solely intended to provide clarifying guidance for the specification's applicability; thereby eliminating the potential for inappropriate or incorrect interpretation. The editorial and format changes are for administrative purposes only.

Therefore, the staff proposes to determine that the amendment does not involve a significant hazards determination.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment requests: October 31, 1984, and July 15, 1985.

Description of amendment request: The proposed amendments would change the Technical Specifications for interior groundwater monitors to provide consistency between the Technical Specifications and the as-built capabilities of the Groundwater Monitoring System. The interior groundwater monitors are installed so as to detect and alarm exterior groundwater at a level 2'8" above the top of floor slabs at various locations. The current Technical Specifications require the interior groundwater monitors to detect groundwater at a level corresponding to the top of these floor slabs and to alarm 2'0" above that level. The proposed amendments would, therefore, change Technical Specification 3/4.7.13 and referenced Specification Table 3.7-7 such that the initial alarm and lower detection and control level for interior monitors is 2'8" above the monitored floor level. A second alarm level at 5'0" above floor leve and a third at 15'0" above floor level would not be changed by the proposed amendments. Specification 3.7.13 would also be clarified to indicate that its ACTION statements (requiring that the reactor be placed in hot standby or cold shutdown) are not applicable when the reactor is in Mode 5 (cold shutdown) or Mode 6 (refueling).

Basis for proposed no significant hazards consideration determination: Specification 3.7.13.d requires that various actions, the selection of which depends upon the rate of rise of groundwater level, be implemented if groundwater levels rise above specified allowable levels. The results of the Technical Specification change would be to reduce by eight inches the groundwater level interval that would be available after the initial alarm to determine the rate of rise (and, hence, the appropriate action) as required by Technical Specification 3.7.13.d. By letter dated July 15, 1985, the licensee discussed the result of its analysis which finds that with the reduced interval, there would still be ample time available to make the required determinations of groundwater rate of rise and take appropriate actions. Specifically, the licensee's analysis indicates that approximately 10 minutes would be needed by an operator to respond to a groundwater level alarm and take appropriate actions, whereas the installed detection range and setpoints of the interior groundwater monitors are such that in excess of 19 hours would be available to the operator. The Commission's preliminary review supports the licensee's analysis and conclusions that there would, therefore, be no impact on operator response time and that the amount of response time continues to allow operators time to take required actions without jeopardizing any safety margins.

The Commission has provided guidance concerning the application of the standards for determining whether license amendments involve significant hazards consideration by providing certain examples (48 FR 14870). The proposed amendments do not match the examples. However, the Commission has reviewed the licensee's request for the above amendments and has determined that should this request be

implemented, it would not: (1) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes concern only monitoring instrumentation and setpoints which provide information to plant staff to assess the need for and take timely action, and do not otherwise result in a change in any equipment, procedure or specified action. The proposed amendments also would not (2) involve a significant increase in the probability or consequences of an accident previously evaluated or (3) involve a significant reduction in a margin of safety because, as discussed above, ample operator response time remains available. Similarly, the proposed amendment to the action statement requiring hot standby or cold shutdown which would indicate that the action statement is not applicable when the reactor is already in a shutdown condition is simply a clarification and will not significantly increase the probability or consequences of accidents previously evaluated, will not create a new accident different from any previously evaluated, and will not involve a significant reduction in any margin of safety. Accordingly, the Commission proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242

NRC Branch Chief: Elinor G. Adensam.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–321, Edwin I. Hatch Nuclear Plant, Unit No. 1, Appling County, Georgia

Date of amendment request: August 20, 1985.

Description of amendment request: This amendment would modify the Technical Specifications to add limiting conditions for operation, trip setpoints and surveillance requirements for the monitors which provide the high radiation isolation signals to the containment purge and vent valves.

The above proposed Technical Specification modifications were submitted to reflect implementation of NUREG–0737 Item II.E.4.2(7) which requires that the purge and vent valves close automatically on a high containment radiation signal.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). An example of actions involving no significant hazards considerations is an amendment involving a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. These proposed Technical Specification modifications impose additional limitations, restrictions and controls and therefore fall within this example.

Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards considerations exist, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–321, Edwin I. Hatch Nuclear Plant, Unit No. 1, Appling County, Georgia

Date of amendment request: August 23, 1985.

Description of amendment request: This amendment would modify the Technical Specifications to add limiting conditions for operation and surveillance requirements for new Automatic Depressurization System (ADS) bypass timers.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). An example of actions involving no significant hazards considerations is Example (ii), an amendment involving a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. ADS bypass timers are being added to Unit 1 to satisfy the requirements of NUREG–0737, Item II.K.3.18. These proposed Technical Specification modifications add operating and surveillance requirements for these new ADS bypass timers and therefore fall within this example.

Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards considerations exist, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: May 9, 1985, as supplemented August 30, 1985.

Description of amendment request: The amendment would modify the Technical Specifications to remove the overcurrent trip setpoints and response time for the primary containment penetration conductor overcurrent protection breakers and remove reference to "testing at the specified setpoints" from the surveillance testing requirements. It would replace these trip setpoints and the corresponding surveillance requirements with a requirement that breakers be tested using the current specified in the applicable NEMA Standard, NEMA AB–2–1980.

The amendment would also correct an erroneous parts listing and revise two motor control center frame identification numbers.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The selection of the breaker and its setpoint is controlled and limited by the design requirement for protection of the

containment electrical penetration against damage due to overcurrent provided in Section 3.8.2 of the Hatch Unit 2 FSAR. As a practical matter, the breaker and its setpoint must also be selected to allow startup and normal operation of the electrical equipment that is powered through the electrical penetration. As a result, when electrical equipment is changed, the breaker and/or the setpoint may also be changed, and the setpoint may be higher or lower than that listed in the current TS. Thus, the margin between the trip overcurrent and the actual design overcurrent limit for electrical penetration may change when breaker setpoints are changed. However, the FSAR design requirements and the requirements of 10 CFR 50.59 concerning design changes will assure an adequate design margin of safety is maintained. The testing in accordance with the NEMA standard will assure that the breakers function as designed.

The reference to testing molded circuit breakers "at the specified setpoint" is incorrect. Correct testing of breakers requires injecting a current greater than the specified setpoint. Deletion of this requirement and replacing it with the requirement to test in accordance with the NEMA standard corrects this error. This is an administrative change.

The correction of erroneous parts listings and frame identification numbers is an administrative change.

On the basis of the above, the Commission's staff expects the proposed changes will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Therefore, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G.F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment request: August 23, 1985.

Description of amendment request: These amendments would modify the Technical Specification tables of primary containment isolation valves for each unit to reflect drywell pneumatic system modifications. The modifications divide the original single drywell pneumatic header for each unit into two separate headers which penetrate the drywell at different locations. Each header supplies approximately half of the safety/relief valves (SRVs). For Unit 1, two additional isolation valves are added to reflect the additionof the new header. For Unit 2, two additional valves are added and a third valve that has now become unnecessary has been removed. The Technical Specification tables of containment isolation valves would be modified to add the two new valves for each unit and to delete the valve that is no longer needed on Unit 2. The addition of these valves to the tables impose surveillance requirements and operability requirements for the new valves.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The system operates in the same manner as before except that the air supply to the SRVs is via two separate headers instead of one, and no new failure mode is introduced. The same degree of containment isolation is provided. Each pneumatic supply line will have two containment isolation valves, the same number as for the single supply line. The proposed changes are not expected to (1) increase the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident previously evaluated. The division of the single pneumatic header into two headers is expected to better assure that some of the SRVs will continue to have a functional pneumatic supply system following an accident. This should increase the margin of safety provided by the safety relief system.

On the basis of the above, the Commission has determined that the requested amendments meet the three criteria and therefore has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G.F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 31, 1985, as supplemented August 21, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to reflect the addition of a halon fire suppression system and fire detectors to the service water pump room at Cooper Nuclear Station. In particular, the TS would be modified to include limiting conditions for operation (LCO) and surveillance requirements for the halon system in Section 3/4.17 and to add the service water area fire detectors to the list of plant fire detectors in Table 3.14. The halon system and fire detectors were installed in the service water pump room to justify an exemption from the requirements of Appendix R to 10 CFR Part 50. The exemption was requested by the licensee in a letter dated June 28, 1982 because of the inadequate separation between redundant service water pumps. The addition of the halon system and fire detectors was found acceptable and the exemption was granted by NRC letter dated September 21, 1983. *Basis for proposed no significant hazards consideration determination:*

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions invovling no significant hazards consideration, i.e., example (ii), is "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." The current Cooper Technical Specifications do not include operability nor surveillance requirements for the service water halon system or additional fire detectors. Therefore, the proposed amendment to add these requirements is encompassed by example (ii) above. The Commission, therefore, proposes to determine that this action involves no significant hazards considerations.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: August 30, 1984, as revised November 8, 1984 and August 29, 1985.

Description of amendment request: The proposed amendment will change the Technical Specifications (TS) to incorporate the changes in the radiation monitoring requirements due to installation of Reactor Building Vent Wide Range Gas Monitors (RBV-WRGM) and to incorporate miscellaneous administrative changes. The changes are as follows:

(1) TS 3.2/4.2 and 3.8/4.8 are changed to clear up confusion associated with cross reference to the Reactor Building Vent (RBV) Plenum Monitors and RBV-WRGM. The RBV plenum monitor will be associated with isolation functions for an accident whereas, the newly installed RBV-WRGM will be associated with isolation functions for routine releases.

(2) A footnote is added to Table 4.8.1, "Radioactive Liquid Effluent Monitoring Instrumentation Surveillance Requirements" reflecting the existing calibration source requirements for the discharge canal radiation monitors and the future calibration source requirements, if the canal radioactivity monitors should ever be replaced. In addition, to avoid confusion between "effluent releases" and "liquid radwaste releases," word changes are made to Table 3.8.1, "Radioactive Liquid Effluent Monitoring Instrumentation."

(3) To clarify the Limiting Conditions for Operation (LCOs) in TS 3.8/4.8, Radioactive Effluents, certain paragraphs are moved from the Surveillance Requirements column to the LCO column without any change to the wording.

Basis for proposed no significant hazards consideration determination: The changes proposed in Item No. (3) clarify the Radioactive Effluents LCO and Surveillance Requirements and avoids confusion. Some paragraphs have been moved from the Surveillance Requirements column to the LCO column. There is no change in the wordings or the requirements. For these reasons, the staff, therefore, proposes that the change would not: (1) Involve a significant increase in the possibility or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in the margin of safety.

The changes proposed in Item No. (1) incorporate the changes in the requirements due to installation of RBV-WRGM and to avoid confusion associated with cross-reference to TS 3.2/4.2 and 3.8/4.8. The RBV pelnum monitors no longer perform isolation functions for routine releases. The newly installed RBV-WRGM provide enhanced monitorings and calibration features and are superior to the original plenum monitors. These are set in accordance with the methods in the Offsite Dose Calculation Manual (ODCM).

The proposed change in the wording to the Technical Specifications clarifies the confusion associated with the function and appropriate setpoint for the RBW plenum monitors and the RBV-WRGM. All currently specified setpoints are preserved. For these reasons, the staff, therefore, proposes that the change would not: (1) Involve a significant increase in the possibility or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in the margin of safety.

In Item No. (2) above, the added footnote reflects the existing calibration source requirements for the discharge canal radiation monitors and its future calibration source requirements, as permitted by the existing TS, if the canal radioactivity monitors should ever be replaced. The footnote states that there is a correlation between the original liquid source and the current solid source in the instrument calibration and also recognizes, that, should the canal radioactivity monitors ever be replaced, their detector response and system efficiency shall be equal to or better than the present system and met present day calibration requirements. Thus, for these reasons, the staff concludes that the proposed change in Item No. (2) above would not: (1) Involve a significant increase in the possibility or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in the margin of safety.

Therefore, based on the reasons as described above, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: September 14, 1984.

Description of amendment request: The proposed amendment would reflect the changes in the revised Section of 10 CFR 50.72, and a new Section, 10 CFR 50.73, both of which became effective on January 1, 1984. The revised subsection 50.72 modifies the immediate notification requirements for operating nuclear power reactors and subsection 50.73 provides for a revised Licensee Event Report System.

The proposed changes are in the "Definitions" and "Administrative Control" sections of the Technical Specifications. The definition "Reportable Occurrence" is replaced by a new term "Reportable Event." A new requirement is added for the Safety Audit and Operations Committee to review all reportable events and special reports. A new position of "Assistant to the Plant Manager" is added with no other organizational changes involved. The title of "Director of Nuclear Generation" is changed to "Vice President Nuclear Generation." An additional Senior Reactor Operator (SRO) in the control room is added to comply with the requirements of 10 CFR 50.54(m)(2).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include example (vii)—change in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The "reporting changes" proposed in the application for amendment are fully encompassed by this example because the license is being changed solely to conform with a change in the

regulations. The licensee was requested by the NRC staff to make these administrative changes in Generic Letter No. 83-43, "Reporting Requirements of 10 CFR Part 50, subsections 50.72 and 50.73, and Standard Technical Specifications," dated December 19, 1983. The presence of an additional SRO in the control room also falls in this category since the proposed change satisfies the requirements of § 50.54(m)(2) of 10 CFR Part 50.

The changes in the titles and a new position in the plant organization without any other organizational changes are strictly of an administrative nature. For these reasons, the staff, therefore, proposes that the changes would not: (1) Involve a significant increase in the possibility or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in the margin of safety.

Therefore, since all of the changes are encompassed by examples of changes which the Commission has determined are not likely to pose a significant hazards consideration, the staff proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: September 6, 1985, as supplemented September 3, 1985.

Description of amendment request: The proposed amendment would authorize changes to the Fort Calhoun Station, Unit No. 1 Technical Specifications which are required to support the operation of the unit at full rated power during Cycle 10. Specifically, the following specifications are proposed to be changed: minimum departure from nucleate boiling (DNB) ratio, total planar radial peak, total integrated radial peak, and reactor cold leg temperature. In addition, the licensee proposes to incorporate the axial shape index as an input to the Thermal Margin/Low Pressure Trip Function and to use a mini-CECOR/Better Axial Shape Selection System (BASSS) for incore monitoring of the linear heat rate and DNB LCOs. Because these specifications are proposed to be changed, the following figures would be changed: Thermal Margin/Low Pressure Safety Limit, Thermal Margin/Low Pressure Limiting Safety System Settings, Limiting Condition for Operation for Excore Monitoring of Linear Heat Rate, and F^T_R and F^T_{xy} and Core Power Limitations.

Basis for proposed no significant hazards consideration determination:

The licensee has presented its discussion of significant hazards considerations pursuant to 10 CFR 50.92 in regard to the above proposed technical specification changes. The licensee's discussion is based upon an in-depth Cycle 10 reload evaluation which was submitted with the application for amendment. The licensee states that (1) the probability or consequences of accidents previously evaluated are not increased because all events/accidents not enveloped by Cycle 9 parameters were evaluated and shown to have acceptable consequences, with violation of no safety limits; (2) the Cycle 10 reload does not create the possibility of a new or different kind of accident from any previously evaluated because the core loading utilizes fuel management techniques which have previously been proven acceptable, and (3) the Cycle 10 core reload does not result in a significant reduction in a margin of safety because the Cycle 10 reload evaluation, which uses NRC approved methodologies, demonstrates that the margin of safety is maintained in the revised Technical Specifications limits. The staff has reviewed the licensee's significant hazards considerations determination for the technical specification changes and, based upon this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: May 23, 1980, as amended by letters dated August 1, 1980, June 2, 1981, April 4, 1983, May 29, 1984, and April 24, 1985.

Description of amendment request: The proposed amendments would: (1) Change the title of the off-site safety review organization from "Operation and Safety Review Committee" to "Nuclear Review Board", (2) designate the "Superintendent, Nuclear Services" as the alternate to the "Superintendent, Nuclear Generation Division" in lieu of the "Superintendent, Fossil-Hydro Generation Division," (3) change the title of "Superintendent, Generation Division—Nuclear" to "Superintendent—Nuclear Generation Division", (4) revise the management organization chart to reflect the formation of a new position of Manager, Nuclear Production, and (5) redefine the reporting schedule for the Nuclear Review Board and Safety Limit Violation Report. This change would define the reporting schedule as "10 working days" rather than "14 days" as currently specified in the Technical Specifications (TSs). This change would establish consistency with the reporting requirements of Section 6.9.2 of the Peach Bottom TSs.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazard consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: (i) A purely administrative change to the Technical Specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature.

The proposed changes identified in items (3) and (5) above are purely administrative changes as in example (i) since they involve a change in nomenclature and result in achieving consistency throughout the TSs.

The Commission has provided standards for determining whether a significant hazards consideration exists [10 CFR 50.92(c)]. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility

in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed changes to Section 6 (Administrative Controls) described in items 1, 2, and 4 above are the result of the creation of a new review organization for the the Peach Bottom facility. The creation of the Nuclear Review Board (item 1) to replace the current Operation and Safety Review Committee permits the utilization of personnel with experience and expertise at both the Peach Bottom and Limerick Nuclear facilities. The Board will perform the safety review functions at Peach Bottom without changing the current functions of the Operational and Safety Review Committee as described in the current TSs.

In addition, further organization changes have resulted in the creation of the position "Superintendent, Nuclear Services" (item 2). The licensee indicates that the proposed change, including the assignment of responsibilities, would enhance the effectiveness of the Nuclear Generation Division in responding to safety issues at Peach Bottom. In a similar manner, organizational changes have resulted in the creation of a position, "Manager, Nuclear Production," which will focus separate management attention on nuclear activities (item 4 above). Based upon the above, the Commission's staff believes that these proposed changes are administrative improvements and that these changes will not diminish, in any way, current administrative requirements of the Peach Bottom TSs. The staff, therefore, proposes to conclude that the proposed amendments to the Peach Bottom TSs involving Section 6 (Administrative Controls) would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of an accident of a type different from any previously evaluated, or (3) involve a significant reduction in a margin of safety. On this basis, the staff has made an initial determination that the proposed amendments are not likely to involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennslyvania.

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: John F. Stolz.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: May 4, 1983, as supplemented November 10, 1983, and November 29, 1984.

Description of amendment request: The application requests revisions to the Technical Specifications (TSs) concerning reactor system coolant leakage monitoring. This application was previously noticed on April 5, 1984 (49 FR 13612). This new notice pertains to a revised amendment request dated November 29, 1984. Specifically, this application requested the following: (1) A change in nomenclature from "Air Sampling System" to "Drywell Atmosphere Radioactivity Monitor" to clarify the parameter being monitored; (2) elimination of Table 3.2.E (Instrumentation That Monitors Drywell Leak Detection) to remove redundancy in the TSs; (3) a change in limiting condition for operation (LCO) requirements from a 7-day to a 30-day LCO together with the addition of grab sample surveillance requirements in the revised Section 3.6.C.3; and (4) revisions to TS Bases supporting these changes. The November 29, 1984, letter also withdraws certain requests involving the proposed deletion of specific testing and surveillance requirements concerning the Drywell Atmosphere Radioactivity Monitor Systems.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (i) of an action involving no significant hazards considerations is a purely administrative change to Technical Specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

The proposed change pertaining to renaming the "Air Sampling System" the "Drywell Atmosphere Radioactivity Monitor" is purely a change in nomenclature as in example (i) above. Thus, this proposed change conforms to the above example for which no significant hazards considerations exist.

The Commission has provided standards for determining whether a significant hazards consideration exists [10 CFR 50.92(c)]. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The request for deletion of Table 3.2.E will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the requirements currently contained in this Table would now be fully addressed in the proposed revised Section 3.6.C (Coolant Leakage);

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the specific monitoring functions currently indicated in Table 3.2.E will still be performed under the proposed revised Section 3.6.C; or

(3) Involve a significant reduction in a margin of safety because the required functions of Table 3.2.E would now be specified in Section 3.6.C.

The request to change the LCO requirements for the Drywell Atmosphere Radioactivity Monitor from 7-days to 30-days in the event the system is inoperable (and the TS Bases supporting these changes) will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the new specifications would also add the requirement of using grab sampling at least every 24 hours while the system is inoperable as a means of monitoring drywell air radioactivity which is in accordance with the Standard Technical Specifications for Boiling Water Reactors;

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the radioactivity monitoring function would be accomplished by the proposed grab sampling, and reactor coolant system leakage surveillance as specified in Section 3.6.C.1 would still be undertaken by the requirements of Section 3.6.C.2 (Coolant Leakage—Containment Sump and Flow Monitoring System); or

(3) Involve a significant reduction in a margin of safety because the proposed change in the LCO from 7 to 30 days

would be accompanied by the additional requirement of performing grab sampling every 24 hours which is also consistent with the provisions outlined in the Standard Technical Specifications for Boiling Water Reactors.

Therefore, since the application for amendments involves changes that are similar to examples for which no significant hazards consideration exists, or has been determined on a case by case basis that no significant hazards consideration exists, the Commission's staff has made a proposed determination that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: John F. Stolz.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: July 17, 1985.

Description of amendment request: These proposed amendments request that bypassing scram signals which are the result of main steam line isolation valve (MISV) closure or main condenser low vacuum be permitted when the reactor mode switch is not in the RUN position. Modifications to the Reactor Protection System would be made to accomplish this. The current Technical Specifications (TSs) permit bypassing when the mode switch is not in the RUN position and reactor pressure is less than 600 psig. This proposed amendment request also would add to Tables 3.2.A (Instrumentation That Initiates Primary Containment Isolation) and 4.2.A (Minimum Test and Calibration Frequency for Primary Containment Isolation Systems) limiting conditions for operation (LCO) and surveillance requirements for certain instruments. These additional requirements are being proposed because the instruments which provided the inputs for the Reactor Protection System scram signals, as described above, and which are proposed to be bypassed, also provide input into the Primary Containment Isolation System for control of the isolation valves for the feedwater flush system.

Finally, the proposed amendments request that obsolete footnotes be deleted since applicable modifications and testing referenced in these footnotes have been completed.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: (i) A purely administrative change to the Technical Specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature; and (ii) a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications.

Example (i) encompasses the changes requested to delete obsolete footnotes since the licensee indicated that the modifications and testing programs referenced in these footnotes have been completed. Example (ii) applies to the change request which would add LCOs and surveillance requirements to the Primary Containment Isolation Systems (Tables 3.2.A and 4.2.A) for Reactor Pressure (Feedwater Flush System Interlock) instruments.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license to a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendment request to permit bypassing the scram signals which are the result of MSIV closure or main condenser low vacuum while not in the RUN mode differs only from the existing TS requirements by removing the current TS pressure restriction (". . . reactor pressure less than 600 psig"). The licensee maintains in its submittal that operation difficulties with an earlier BWR type (BWR–1) resulted in the addition of scram logic to prohibit operation above 600 psig while not in the RUN mode with MSIVs closed. Subsequent to establishing these restrictions on BWR–1s and some later BWR–4s (e.g., Peach Bottom), the reactor vendor (General Electric tested a BWR–4 configuration operating in the "bottled-up" condition (MSIV closed) and concluded that there are no unacceptable operating regions when a BWR–4 reactor was "bottled-up" at pressures well in excess of 600 psig (GE Report No. NEDO–20697, "Bottled-up Operation of a BWR", November 1974). These data were presented as part of a TS amendment application submitted by TVA for Browns Ferry, Unit 3 (a BWR–4) on January 23, 1984. The Commission's staff approved the TVA request to permit the bypassing of the scram systems which are the result of MSIV closure or main condenser low vacuum except in the RUN mode (August 27, 1984). A survey of other BWR–4s by the staff indicates that the above pressure restrictions are not present.

In summary, the existing scrams delineated in the Peach Bottom TSs are already bypassed (when the reactor mode switch is not in the RUN position) except when reactor pressure is greater than 600 psig, and test data referenced above indicate that there is no need for this pressure restriction on BWR–4s. Therefore, the Commission's staff finds that: (1) The probability of occurrence or the consequences of an accident would not be increased above those analyzed in the Final Safety Evaluation Report (FSAR) because the proposed removal of the pressure restrictions appear not to affect any safety system setting applicable to BWR–4s; (2) the possibility of a new or different kind of accident from those analyzed in the FSAR would not result from this change because technical data appear to support the conclusion that the above cited pressure restrictions are not needed and were never needed in BWR–4s; and (3) the margin of safety would not be significantly reduced because the removal of these pressure restrictions would not appear to result in any unacceptable operating conditions since BWRs can be controlled adequately in the "bottled-up" condition at pressure greater than 600 psig.

Accordingly, the Commission proposes to determine that the above proposed changes to the TSs involve no significant hazards considerations.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: John F. Stolz.

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: August 7, 1985.

Brief description of amendment: The proposed amendment would add operability and surveillance requirements for the core exit thermocouples and the Reactor Vessel Level Instrumentation System to Tables 3.3-11 and 4.3-7, respectively.

Basis for proposed no significant hazards considerations determination: The Commission has provided guidance to the NRC staff concerning the application of the standards for determining whether a significant hazard exists by providing examples of amendments that are not likely to involve a significant hazards consideration (48 FR 14870). One such example is (ii), a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The proposed changes are in response to post-TMI requirements for Item II.F.2 of NUREG-0737, and appear to be consistent with the model technical specifications issued in NRC Generic Letter 83-37. As such, these changes are encompassed in example (ii) and constitute additional controls which will assist the operators in monitoring plant paramenters and in mitigating the consequences of an accident. Therefore, the staff proposes to determine that the application for amendment does not involve a significant hazards consideration.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Attorney for licensee: J.W. Durham, Senior Vice President, Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Branch Chief: Edward J. Butcher, Acting.

Power Authority of the State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of amendment request: May 17, 1985 as supplemented August 9, 1985.

Description of amendment request: The changes to the Security Plan revise the table of the management organization to include certain title changes; remove and replace out-of-date document references with current references to the guard training and qualification plan; extend certain construction completion dates which fall due during an outage; to document changes to locations of the perimeter fence; clarify additional upgrades to the intrusion detection/CCTV system, and provide additional details on the special security measures at the condensate polisher building and intake structures.

Basis for proposed no significant hazards consideration determination: Our evaluation of change concludes that the licensee has provided equivalent or improved measure for all of the changes. Therefore, we conclude that a no significant hazards consideration finding is appropriate because (1) the proposed changes do not constitute a significant hazards consideration as defined by 10 CFR 50.92; (2) there is reasonable assurance that the health and safety of the public will not be endangered by the proposed changes; and (3) this action will not result in a condition which significantly alters the impact of the station on the environment, as described in the NRC Environmental Impact Statement.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendments request: August 6, 1985.

Description of amendments request: The amendments request would change Section 4.6.1.3, Containment Air Lock Surveillance Requirements, to read:

a. "By pressurizing the volume between the airlock door gaskets to equal to or greater than 10.0 psig and checking for an extrapolated** seal leak rate equal to or less than 0.01 L_a.

1. After each opening, except when used for miltiple entries; then at least once per 72 hours.

2. After performing maintenance which could affect the airlock door gaskets sealing capability.

3. Prior to establishing containment integrity,

b. By conducting an overall air lock leakage test at design pressure (47.0 psig) and verifying the overall air leakage rate is within its limit:

1. At least once per six months#.

2. Prior to establishing containment integrity when maintenance that could affect the airlock sealing capability was performed and the maintenance affects components other than the door gaskets,* and

c. At least once per 6 months by verifying that only one door in each air lock can be opened at a time.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). This change corresponds to examples (i) and (ii) of the guidance provided in **Federal Register** 14870 by the Commission for Amendments That Are Considered Not Likely To Involve Significant Hazards Considerations. The change to Unit No. 1 constitutes an addition of a more stringent surveillance requirement [example (ii)] and the change conforms to example (i) for both Salem units in that it is an administrative change that achieves consistency between the Salem Technical Specifications and NUREG 0452, Standard Technical Specifications for Westinghouse Pressurized Water Reactors. Based on the above, the staff proposes to determine that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08709.

Attorney for licensee: Conner and Wetterhann, Suit 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendments request: August 6, 1985.

Description of amendments request: The proposed amendments would revise Surveillance Requirement 4.8.2.3.e for both Salem units. This change will remove the requirement for performing two separate tests of the batteries during certain plant shutdowns and allow the satisfactory performance of the more stringent of the two tests to satisfy the surveillance requirements for both the 18 month and the 60 month tests on those occasions where the 60 month test is performed.

Basis for proposed no significant hazards consideration determination: The Battery Capacity Discharge Test, the 60 month test, demonstrates the battery is still within acceptable limits relative to its original design. This test also demonstrates, unless a significant change to the DC system has been made during subsequent plant operation (and

that change would have been evaluated in terms of 10 CFR 50.59), that the battery can also satisfy the original design duty cycle, which is the purpose of the 18 month test.

Therefore, the proposed change in testing would have no appreciable impact on the operability of the batteries. There would be no significant increase in the probability or consequences of any accident previously analyzed, there would be no new accident created for which no analysis was performed, and no margin of safety would be significantly reduced. Therefore the staff proposes to determine that these changes involve no significant hazards consideration.

Local Public Document Room location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: July 19, 1985.

Description of amendment request: The proposed amendment would revise the Ginna Technical Specifications to remove an inconsistency regarding the quality assurance (QA) record retention requirements. Section 6.10.1 indicates that a number of records of QA activities required by the Operational Quality Assurance Manual (OQAM) "shall be retained for at least 5 years." The inconsistency is that item 1 of Section 6.10.2 requires that records of QA activities required by the OQAM (i.e., these same records) "be retained for the duration of the Unit Operating License."

In light of the above, the NRC staff recommended that the words "not listed in Section 6.10.1 "be added to item 1 of Section 6.10.2 of the Ginna Technical Specifications. RG&E responded accordingly with the proposed amendment request.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concernir g the application of the standards in 10 CFR 50.92 by providing certain examples of actions not likely to involve a significant hazards consideration (48 FR 14870). One of the examples (i) relates to purely administrative changes to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correct errors, or change nomenclature. The proposed change would clarify a potential inconsistency in quality assurance records retention requirements.

Based on the above, since the proposed change involves actions that conform to example (i), the staff proposes to determine that this application for amendment involves no significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, N.W., Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: John A. Zwolinski.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: April 25, 1985 and June 20, 1985.

Description of amendment request: These submittals revise and supplement the request for amendment dated May 31, 1984, as supplemented July 31 and August 31, 1984, which was noticed in the **Federal Register** on November 21, 1984 (49 FR 45963). The April 24, 1985 submittal revises the effective period for the license condition proposed in the May 31, 1984, submittal and revises the Living Schedule Plan to modify some of the methods for accommodating changes to establish schedules. The June 20, 1985, submittal provides additional information on the plan and procedures for preparation of the Living Schedule. The submittal does not change the license condition.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards consideration (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to a purely administrative change to the Technical Specifications. Revising the effective period of the proposed license condition does not change our conclusion that the incorporation of a license condition requiring the use of a plan to provide for scheduling modifications and notification of scheduling changes is purely administrative. Modifying of the methods for accommodating changes to established schedules and providing additional information do not change the proposed license condition or the Technical Specifications.

Therefore, since the application for amendment as revised and supplemented still involves proposed changes that are similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that it involves no significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

NRC Branch Chief: John F. Stolz.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: August 12, 1985.

Brief description of amendment: The purpose of the proposed amendment request is to revise Technical Specification Figure 6.2–2 to reflect an organizational title change from Supervisor, Radwaste to Superintendent, Radwaste.

Basis for proposed no significant hazards consideration determination: On April 6, 1983, the NRC published guidance in the **Federal Register** (48 FR 14870) concerning examples of amendments that are not likely to involve significant hazards considerations. This amendment request is similar to the example of a purely administrative change to the technical specifications. The proposed organizational title change involves a minor revision to a previously submitted and approved Operations Radwaste Organization, does not involve a change in reporting relationships, does not involve a change in job responsibilities, and does not involve a change in minimum qualification requirements. Based on the above, the requested amendment does not involve a significant hazards consideration.

Local Public Document Room locations: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevard, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: B. J. Youngblood.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: August 13, 1985.

Brief description of amendment: The purpose of the proposed amendment is to revise Technical Specification 4.7.10.1.2.c to allow the 18-month inspection of the fire pump diesel engines to be performed when the plant is at power, instead of only when the plant is shutdown.

Basis for proposed no significant hazards consideration determination: The Callaway Plant's fire suppression water system has three 1500 gpm pumps. Two are diesel-driven and one has an electric drive. Per Technical Specification 3.7.10.1 and the system design, only two fire suppression pumps are required to meet the Limiting Condition for Operation (LCO) for all modes of operation. Therefore, taking one diesel-driven pump out-of-service for inspection of the engine is consistent with the LCO in all modes of operation.

Appropriate action statements are provided in the event the LCO cannot be met. On April 6, 1983, the NRC published guidance in the Federal Register (48 FR 14870) concerning examples of amendments that are not likely to involve significant hazards considerations. This amendment request is similar to the example of a purely administrative change to the technical specifications; specifically a change to achieve consistency throughout the specifications. Based on the above, the requested amendment does not involve a significant hazards consideration.

Local Public Document Room locations: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevard, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W. Washington, D.C. 20036.

NRC Branch Chief: B.J. Youngblood.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: May 10, 1985.

Description of amendment request: This proposed change would revise the Vermont Yankee Technical Specifications (TS), Figures 3.6.1, 3.6.2 and 3.6.3 (Pages 111, 111a and 111b) and correspondent bases pages (Pages 117 and 118) to incorporate shifts in the Vermont Yankee reactor vessel pressure/temperature limit curves.

This change would adjust the curves of Figure 3.6.1 to compensate for the effects of increased neutron exposure to permit operation to a cumulative energy output of 1.790E8 MWh(t). This adjustment is necessary because the existing curves are limited to an energy output of 1.33E8 MWh(t), a value which is expected to be reached during May 1986. This change would also adjust the curves of Figures 3.6.1 and 3.6.2 to incorporate revised fast neutron fluence calculations.

A revision to Appendix G of 10 CFR Part 50, which became effective July 26, 1983, required that all reactor vessel pressure/temperature limit curves include additional safety margins for the closure flange region of the vessel. Subsequently, on February 7, 1984, the licensee submitted a change to reflect the additional Appendix G requirements as they applied to the licensee's May 26, 1983 submittal. On March 13, 1984, the staff issued Amendment No. 81 to the Vermont Yankee Facility Operating License. This amendment revised the Vermont Yankee TS in response to the licensee's letter of May 26, 1983 to accommodate shifts in transition temperature for the reactor pressure vessel materials that were induced by radiation effects, as required by 10 CFR Part 50, Appendix G. However, Amendment No. 81 did not incorporate the revised reactor vessel pressure/temperature curves submitted by letter dated February 7, 1984. The new curves submitted with this proposed change supersede those previously submitted.

The reactor vessel pressure/temperature curves submitted by letter dated February 7, 1984 have been revised based upon the results of the 10-Year Surveillance Capsule Report, prepared by Battelle Laboratories. Pursuant to 10 CFR Part 50, Appendix H, Reactor Vessel Material Surveillance Program Requirements, the licensee submitted Battelle Report BCL-585-84-3, "Final Report on Examination, Testing and Evaluation of Irradiated Pressure Vessel Surveillance Specimens From the Vermont Yankee Nuclear Power Station." This report documented the analysis performed on the surveillance specimen removed from the Vermont Yankee reactor vessel during the 1983 refueling outage.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for conclusions regarding "Significant Hazards Consideration" (48 FR 14870). The examples of actions involving no significant hazards consideration include: "A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations" (example vii).

This change to the pressure/temperature limits is similar to the example cited above because 10 CFR Part 50, Appendices G and H require the updating of pressure/temperature limits based on the surveillance program. This proposed change will result in a change to facility operations clearly in keeping with the regulations.

Based on the above, the staff proposes to determine that the requested action would involve no significant hazards considerations.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Domenic B. Vassallo.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendments request: August 6, 1985.

Description of amendments request: The proposed change would eliminate the NA-1&2 TS 6.5.3.(n) which is redundant to several other requirements listed in TS 6.5.3.1. TS 6.5.3.1 specifies various audits which the Quality Assurance (QA) Department is required to maintain on NA-1&2 station activities. Presently included within the scope of TS 6.5.3.1 are TS 6.5.3.1.(l) and 6.5.3.1.(m) which require the QA Department to audit the Offsite Dose Calculation Manual (ODCM) and Process Control Program (PCP) (including implementing procedures) at least every 24 months. Also, TS 6.5.3.1(n) specifies an audit of activities required by Regulatory Guide 1.21, Revision 1, June 1974, and Regulatory Guide 4.1, Revision 1, April 1975, at least once per 12 months.

Provisions contained in Regulatory Guide 1.21 (Revision 1-June 1974) and Regulatory Guide 4.1 (Revision 1-April 1975) were used by the licensee in developing the ODCM and PCP. Copies of the ODCM and PCP were included in the licensee's submittal for the NA-1&2 Radiological Effluent Technical Specifications (RETS) and were found to be acceptable. Changes to these documents require approval of the NA-1&2 Station Nuclear Safety and

Operating Committee (SNSOC) and submittal to the NRC in the Semiannual Radioactive Effluent Release Report for the period in which any change was made.

The Implementing procedure for the ODCM and the PCP contain QA Program requirements as specified in the licensee's Nuclear Power Station QA Program. The ODCM and PCP and associated implementing procedures are audited as required by TS 6.5.3.1(l) and (m) to ensure compliance with the licensee's Nuclear Power Station QA Manual.

The above referenced programs and procedures constitute the QA Program which implements the applicable provision of the Regulatory Guides referenced above. The proposed changes would increase the audit frequency of the ODCM and PCP (including implementing procedures) from 24 months to twelve months for TS 6.5.3.1(l) and (m) and delete the redundant audit requirement specified in TS 6.5.3.1(n).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether a proposed action involves a significant hazards consideration by providing certain examples (See 48 FR 14870). Example (i) states: "A purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The proposed changes fall within the envelope of example (i) since the proposed change would eliminate a redundant requirement and provide greater consistency. Accordingly, the Commission proposes to determine this change involves no significant hazards consideration.

Local Public Document Room location: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: August 9, 1985.

Description of amendment requests: This amendment would revise the surveillance requirements for safety-related shock suppressors (snubbers) by: (1) Deleting the snubber listings (Tables 4.17-1 and 4.17-2), (2) revising Specifications 4.17A and 4.17B to reduce the frequency of visual inspections, and (3) revising the Bases for 4.17 to include the definitions of accessible and inaccessible snubbers, and to establish snubber inspection groups based on design and application. The deletion of the snubber listings from the Technical Specifications (TS) is executed as a consideration of Generic Letter (GL) 84-13.

Basis for proposed no significant hazards consideration determination: Consistent with the Commission's criteria for determining whether a proposed amendment to an operating license involves no significant hazards consideration, 10 CFR 50.92 (48 FR 14870), the proposed revisions to the surveillance requirements of snubbers would not involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any previously evaluated; or involve a significant reduction in margin of safety.

The Commission stated in GL 84-13 that a snubber listing within the TS was not necessary provided the TS are modified to specify which snubbers are required to be operable. Since this proposed change shifts the location of the snubber listing (Tables 4.17-1 and 4.17-2) from the TS to an administratively controlled listing and does not eliminate the requirement to inspect the snubbers, this proposal meets the three criteria stated above.

The proposed revisions to reduce the frequency of visual inspections, and the establishment of snubber inspection groups based on design, application, and accessibility may result in some increase to the probability or consequences of an accident previously evaluated or may reduce in some way a margin of safety. However, the magnitude of these effects would not be significant and would remain within all acceptable criteria. Thus, these proposals meet the three criteria stated above.

As such, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Branch Chief: Steven A. Varga.

Yankee Atomic Electric Company, Docket No. 50-29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: May 26, 1981, as revised January 23, 1984 and February 26, 1985.

Description of amendment request: Amendment 83 to the Yankee Nuclear Power Station Technical Specifications (TS) was issued July 1, 1985, and addressed a majority of the proposed changes requested in the May 16, 1981 and January 23, 1984 letters. A portion of the proposed changes were not covered by the initial notice in the Federal Register March 27, 1985 (50 FR 12168). These remaining proposed changes are (1) removal of one valve from the Emergency Core Cooling System (ECCS) surveillance requirements, (2) modification of the operability requirements for the high pressure carbon dioxide system to allow maintenance in Manhole No. 3, (3) changes to the Radioactive Effluent TS to require operability of certain systems only for conditions where flow exists in the systems, and (4) change the special sampling requirements for tritium radioactive gaseous waste.

Basis for proposed no significant hazards consideration determination:

(1) The requested TS change proposes to remove one of the charging header/loop #4 Hot Leg Injection Long-Term Recirculation valves from the TS. Current TS require the valve to be open with power to the valve operator removed. Modifications to the ECCS recirculation system have excluded the valve from the hot leg injection and the ECCS recirculation flow path. Thus, the valve is no longer required to be open to ensure hot leg ECCS injection or recirculation.

(2) The high pressure CO_2 system is currently required to be operable whenever equipment within the protected area is required to be operable. The requested TS change proposes to allow an exception to this requirement by allowing the automatic initiation of the high pressure CO_2 system to be disabled during maintenance activities, provided a continuous fire watch is established and the high pressure CO_2 system remains capable of being manually initiated. The protection afforded by the high pressure CO_2 system will, therefore, remain intact. The proposed change is in keeping with the current requirement to

have a continuous fire watch if the CO_2 system is inoperable.

(3) Radioactive effluent composite samplers and flow measurement devices are currently required to be operable at all times. The requested TS change proposes to require these systems to be operable only when there is flow in the applicable effluent pathway. Due to the design of these samplers and devices, they can only be checked and calibrated if flow exists. The proposed change makes the TS consistent with the physical capabilities of these systems.

(4) The requested TS change proposes to delete the requirement to sample gaseous effluent for tritium following a thermal power change. Since the tritium is not affected by thermal power changes, sampling for this isotope will reveal nothing about a change in effluents caused by the power change. Sampling will continue to be required monthly by grab sample, and is performed continuously in the stack sampling system.

Based on these discussions, the proposed changes would not: (1) Involve any significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The staff therefore proposes to determine that the requested actions would not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: John A. Zwolinski.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: August 8, 1985.

Description of amendment request: The amendment request would revise the Technical Specifications to add additional surveillance requirements for reactor trip breakers. The amendment would also add reference to maintenance of sampling and analysis equipment as part of the Post Accident Sampling Program and correct two typographical errors.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether an action involves a significant hazards consideration by providing certain examples (48 FR 14870). Two of the examples of actions not likely to involve significant hazards considerations are example (i), a purely administrative change to technical specifications and example (ii), a change that constitutes an additional limitation, restriction or control not presently in the technical specifications.

The proposed license amendment contains changes that fall into these two categories. Correction of two typographical errors and addition of a reference to maintenance of sampling and analysis equipment as part of the Post Accident Sampling Program are purely administrative changes. Surveillance requirements for reactor trip breakers constitute additional controls not presently in the technical specifications.

Based on the above, the staff proposes to determine that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Public Library, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Commonwealth Edison Company, Docket No. 50-373, La Salle County Station, Unit 1, La Salle County, Illinois

Date of amendment request: July 15, 1985 as supplemented by letters dated August 9, and 12, 1985.

Brief Description of amendment: The amendment would extend on a one-time-only basis for a limited number of the surveillance requirements in the La Salle Unit 1 Technical Specifications which must be performed every 18 months and which can only be done when the plant is shutdown. Since the La Salle Unit 1 has been through an extended startup program and has been shutdown for various reasons over the past months, the core has not been fully utilized. Therefore, the licensee rescheduled the refueling outage from September 22, 1985 to October 27, 1985 in order to operate the plant to extend the useful core life. Upon startup, this temporary extension will expire.

Date of publication of individual notice in **Federal Register:** August 21, 1985 (50 FR 33875).

Expiration date of individual notice: September 20, 1985.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit No. 1, Callaway County, Missouri

Date of amendment request: July 10, 1985 as supplemented by letter dated August 9, 1985.

Description of amendment request: The purpose of the proposed amendment is for an extension of the initial 18-month surveillance interval for manual initiations of the reactor trip system and engineered safety features actuation system (ESFAS), portions of diesel generator testing, ESFAS actuations on safety injection and loss of offsite power, containment spray actuation test-ing, phase A and B containment isolations, and class 1E battery service test.

Date of publication of individual notice in **Federal Register:** September 3, 1985 (50 FR 35626).

Expiration date of individual notice: October 3, 1985.

Local public document room locations: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the

Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Signficant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: April 15, 1983, as revised May 14, 1985.

Brief description of amendment: The amendment incorporates revised radiological effluent and environmental monitoring limiting conditions for operation, action statements, and surveillance requirements.

Date of issuance: August 30, 1985.

Effective date: March 1, 1986.

Amendment No.: 89.

Facility Operating License No. DPR-35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38390) and July 3, 1985 (50 FR 27503).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 30, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, Docket No. 50-325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of application for amendment: April 30, 1985.

Brief description of amendment: The amendment changes the Technical Specifications (TS) to revise TS Table 3.6.3-1 to reflect modifications being made during the current refueling outage to provide a dedicated purge system for post-accident combustible gas control.

Date of issuance: September 10, 1985.

Effective date: September 10, 1985.

Amendment No.: 91.

Facility Operating License No. DPR-71. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 19, 1985 (50 FR 25483) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 10, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunwick County, North Carolina

Date of application for amendment: June 18, 1985.

Brief description of amendment: The amendments change the Technical Specifications to delete the requirements for radioactivity monitors on individual branches of the Reactor Building Component Cooling Water (Service Water) System.

Date of issuance: September 3, 1985.

Effective date: September 3, 1985.

Amendment Nos.: 90 and 115.

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 31, 1985 (50 FR 31066) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 3, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Carolina Power and Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: February 7, 1984 as supplemented by letters dated July 20, 1984 and January 31, 1985 which are superseded by letter dated May 2, 1985.

Brief description of amendment: The amendment revises Technical Specifications contained in Appendix A of the Facility Operating License and revises paragraphs 3B and 3G of the Facility Operating License in compliance with NUREG-0737 and guidance of Generic Letter 83-37.

Date of issuance: August 29, 1985.

Effective date: August 29, 1985.

Amendment No. 94.

Facility Operating License No. DPR-23. Amendment revised the Technical Specifications and Facility Operating License.

Date of initial notice in **Federal Register:** This amendment request was initially noticed on May 23, 1984 (49 FR 21826). The initial amendment request was supplemented and finally superseded by letter dated May 2, 1985. The May 2, 1985 request was renoticed on May 21, 1985 (50 FR 20972). The May 2, 1985 letter, however, was inadvertently identified as April 30, 1985 in 50 FR 20972.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 29, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: October 20, 1981.

Brief description of amendment: This amendment revises the technical specifications to delete the logic requirement of pressurizer low-level for a safety injection trip. Previously, pressurizer water level coincident with pressurizer pressure trip was necessary for initiation of safety injection, which is less stringent than the current condition for low pressurizer pressure trip actuation of safety injection. Deletion of the pressurizer level from actuation logic for safety injection maintains the more conservative logic requirements as

requested by IE Bulletin 79-06A (Revision 1).

Date of issuance: September 3, 1985.

Effective date: September 3, 1985.

Amendment No. 65.

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 26, 1983 (48 FR 49580). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 3, 1985.

No signficant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 2, 1983.

Description of amendment request: This amendment modifies the Techncial Specifications to: (1) Add post-accident instrumentation heading to Section 3 and 4 of the index; (2) add new limiting conditions for operation and surveillance requirements for post-accident instrumentation and, (3) add requirements for a special report if post-accident instrumentation is unavailable.

Date of issuance: September 3, 1985.

Effective date: September 3, 1985.

Amendment No. 66.

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 26, 1983 (48 FR 49581). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 3, 1985.

No signficant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 31, 1984.

Brief description of amendment request: This amendment modifies the Techncial Specifications to change the discharge pressure requirements for ECCS periodic flow testing to reflect true pump performance with allowance for ECCS pump degradation due to normal wear.

Date of issuance: September 3, 1985.

Effective date: September 3, 1985.

Amendment No. 67.

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 12, 1984 (48 FR 28484). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 3, 1985.

No signficant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 29, 1985 superseding the January 18, 1979 submittal.

Brief description of amendment: The amendment approves technical specifications for radiological effluent monitoring which incorporate the requirements of Appendix I to 10 CFR Part 50 into Appendix A, "Technical Specifications," and deletes Appendix B, "Environmental Technical Specifications."

Date of issuance: September 5, 1985.

Effective date: September 5, 1985.

Amendment No. 68.

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications and the license.

Date of initial notice in Federal Register: July 17, 1985 (50 FR 29008). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1985.

No signficant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: March 29, 1985.

Brief description of amendment: The amendment deletes Technical Specifications 4.13 that required neutron noise monitoring to confirm that the modification made in 1974 to change the core barrel in place was adequate.

Date of issuance: September 5, 1985.

Effective date: September 5, 1985.

Amendment No. 91.

Provisional Operating License No. DPR-20. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 23, 1985 (50 FR 16002). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1985.

No signficant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendent: December 12, 1984 and revised by letter dated June 27, 1985.

Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 to impose requirements to protect the reactor coolant system from overpressure events under low temperature conditions. The revised technical specifications comply with the guidelines contained in Standard Review Plan Section 5.2.2, "Overpressure Protection" and Branch Technical Postition RSB 5-2, "Overpressurization Protection of PWRs While Operating At Low Temperatures".

Date of issuance: September 6, 1985.

Effective date: September 6, 1985.

Amendment No. 96.

Facility Operating License No. DPR-49: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 27, 1985 (50 FR 7986) and July 31, 1985 (50 FR 31068).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 6, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Mermorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50-321, and 50-366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment request: October 1, 1984.

Brief description of amendment: The amendment revise the Environmental Techncial Specifications (Appendix B) to delete the requirement for aerial photography which has been employed to determine the effects of cooling tower drift on the surrounding environment.

Date of issuance: September 9, 1985.

Effective date: September 9, 1985.

Amendments Nos.: 115 and 56.

Facility Operating Licenses Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12143) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 9, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301, City Hall Drive, Baxley, Georgia.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2 Appling County, Georgia

Date of amendment request: March 11, 1985.

Brief description of amendments: The amendments revise the Technical Specifications to delete dates for completion of environmental qualification of equipment that have been superseded by the regulations (10 CFR 50.49).

Date of issuance: September 9, 1985.

Effective date: September 9, 1985.

Amendments Nos.: 114 and 54.

Facility Operating Licenses Nos. DPR–57 and NPF–5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 4, 1985 (50 FR 23548).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 9, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: February 15, 1985, as supplemented May 14, 1985.

Brief description of amendment: The amendment revises the Technical Specifications to change the pressure alarm setpoint for the hydraulic control units and the identification number for the automatic depressurizer timer.

Date of issuance: September 9, 1985.

Effective date: September 9, 1985.

Amendment No.: 55.

Facility Operating Licenses No. NPF–5. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 4, 1985 (50 FR 23548). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 9, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: March 5, 1985.

Brief description of amendment: This amendment incorporates editorial changes to GPU's submittal dated February 17, 1984, dealing with shock suppressors (snubbers) which was issued as Amendment 106 on March 21, 1985.

Date of issuance: September 9, 1985.

Effective date: September 9, 1985.

Amendments No.: 110.

Facility Operating License No. DPR–50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 23, 1985 (50 FR 16005). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 9, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, Pennsylvania 17126.

Pennsylvania Power and Light Company Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: June 24, 1985.

Brief description of amendments: The NRC staff in NUREG 0737 Item III.D.1.1 required the establishment of the leakage reduction program outlined in Technical Specification 6.8.4a. This change to the Technical Specifications adds the Residual Heat Removal and Post Accident Sampling Systems to the listing of "Primary Coolant Source outside Containment" in Technical Specification 6.8.4a in order to complete the listing and accurately reflect that contained in the FSAR Section 18.1.69.

Date of issuance: September 16, 1985.

Effective date: Upon issuance.

Amendments Nos.: 49 and 17.

Facility Operating Licenses Nos. NPF–14 and NPF–2–2. Amendments revised the Technical Specifications.

Date of initial notices in **Federal Register:** July 31, 1985 (50 FR 31071).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 16, 1985.

No comments were received regarding the Commission's proposed no significant hazards consideration determination.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket No. 50–388, Susquehanna Stream Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: September 25, 1984 as amended on November 12, 1984.

Brief description of amendments: This amendment allows the licensee to physically modify the plant by adding two motor operated values to the Emergency Service Water (ESW) system return lines from the Unit 2 direct expanssion (DX) units. This physical plant modification is relfected in Technical Specification Table 3.8.4.2–1 which shows the addition of two motor operated valves in the ESW system.

Date of issuance: September 4, 1985.

Effective date: 90 days from the date of issuance.

Amendments No.: 15.

Facility Operating License No. NPF–22. Amendment revised the Technical Specifications.

Date of initial notices in **Federal Register:** December 31, 1984 (49 FR 50818). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 4, 1985.

No comments on the proposed determination were received.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County Pennsylvania

Date of application for amendment: April 9, 1985.

Brief description of amendment: This amendment changes the Technical Specifications to permit Susquehanna SES refueling operations (fuel) loading and unloading) to take place without using Fuel Loading Chambers (FLCs). This change allows up to eight fuel assemblies to be loaded in order to attain the required Technical Speicification count rate on the source

range monitors (SRMs) without creating any safety concern.

During the Susquehanna SES Unit 1 end-of-cycle defueling, the FLCs, which were being used to provide neutorn monitoring, produced anomalous reading which were attributed to a detector saturation condition caused by the high gamma flux from the irradiated fuel. The same problem will be experienced during the upcoming Unit 2 refueling outage since PP&L plans to offload the entire core as they did during the Unit 1 refueling outage.

In order to assure a safe subcritical condition during the loading of the first eight fuel assemblies (2 assemblies per SRM) the licensee has performed calculations assuming maximum reactivity conditions (i.e., cold, clustered, uncontrolled, peak reactivity) which concluded that eight fuel assemblies, as analyzed, would remain subcritical. These calculations were bounding for all the fuel to be used during the Susquehanna SES Unit 2 Cycle 2.

During a typical core reloading, two irradiated fuel assemblies will be loaded around each SRM to produce greater than the minimum required count rate. The loading schemes will be selected to provide for continuous multiplying medium to be established between the required operable SRMs and the location of the core alteration to enhance the ability of the SRMs to respond to the loading of each fuel adjacent to the SRMs.

Date of issuance: September 4, 1985.
Effective Date: Upon issuance.
Amendment No.: 16.
Facility Operating License No. NPF-22: Amendment revised the Technical Specifications.
Dates of initial notices in **Federal Register:** July 17, 1985 (50 FR 29013). The Commission's related evalution of the amendment is contained in s Safety Evaluation dated September 4, 1985. The Commission has made a proposed no significant hazards consideration determination and has received no comments on such finding.
Local Public Document room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: September 20, 1984.
Brief description of amendment: The amendment revises the TSs to (1) change the name of the Reactor Building Stack, Auxiliary Building Stack, Reactor Building Service Area Vent and the Radwaste Service Area Vent Particulate Monitors to Particulate Samplers, (2) change the name of the Radwaste Service Area Iodine monitor to Iodine Sampler, and (3) delete the source check, instrument channel calibration and the channel check for these instruments.
Date of issuance: August 30, 1985.
Effective Date: August 30, 1985.
Amendment No.: 73.
Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.
Dates of initial notices in **Federal Register:** April 23, 1985 (50 FR 16012) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 30, 1985
No significant hazards consideration comments received: No.
Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: October 29, 1984.
Brief description of amendment: The amendment revises the Technical Specifications defining the testing requirements for those pressurizer heaters powered from Class 1E power sources.
Date of issuance: September 9, 1985.
Effective date: September 9 1985.
Amendment No.: 74.
Facility Operating License No. DPR-54. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: June 4, 1985 (50 FR 23550) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 9, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: October 29, 1984.
Brief description of amendments: The amendment revised the Technical Specifications defining fire hose acceptability and corrects certain inconsistencies in reporting requirements.
Date of issuance: September 9, 1985
Effective date: September 9, 1985
Amendment No: 75
Facility Operating License No. DPR-54. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20988) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 9, 1985
No significant hazards consideration comments received: No.
Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: May 21, 1985.
Brief description of amendments: The amendments change the Technical Specifications to delete references to three loop power operations.
Date of issuance: September 3, 1985.
Effective date: September 3, 1985.
Amendment Nos: 41 and 33.
Facility Operating License Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 31, 1985 (50 FR 31072). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 3, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: March 11, 1985.
Brief description of amendments: The amendments revised the NA-1&2 TS by reducing the boron concentration in the boron injection tank and concentrated boric acid system. The minimum required boric acid concentration for the boron injection tank and the boric acid system was revised from a range of 11.5% to 13.0% (by weight) to a range of 7.4% to 9.0% (by weight). In addition, the minimum boric acid tank temperature was revised from 145°F to 155°F. Finally, the minimum boric acid tank inventory for both NA-1&2 was increased from

4,200 gallons to 6,000 gallons. These changes will reduce maintenance problems and the associated personnel radiation exposure.

Date of issuance: September 9, 1985.

Effective date: Within 30 days from the date of issuance.

Amendment Nos: 68 and 54.

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 23, 1985 (50 FR 15997 at 16019).

The Commission's related evaluation of the amendments is contained in a Safety Evaluated dated September 9, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: April 26, 1985.

Brief description of amendments: The amendments revised the Technical Specifications to remove the restrictions on movement of loads over the spent fuel pool following crane modification to meet the single failure criteria of NUREG-612. Surveillance requirements for the auxiliary building crane have also been revised to reflect crane upgrades to meet single failure criteria and to delete limit switch inspection criteria previously in the Technical Specifications. Limit switches to restrict movement over the spent fuel pool were removed following the NUREG-612 crane upgrades.

Date of issuance: September 3, 1985.

Effective date: September 3, 1985.

Amendment Nos: 96 and 100.

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 31, 1985 (50 FR 31061 at 31077).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 3, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

A copy items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By October 25, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be

made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Carolina Power & Light Company, Docket No. 50–324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of application for amendment: August 28, 1985, as supplemented August 29, 1985.

Brief description of amendment: The amendment changes the Technical Specifications to allow the isolation time for the inboard high pressure coolant injection (HPCI) steam line isolation value to be increased from 50 to 55 seconds on a temporary basis until the next reload, at which time the valve will be repacked.

Date of issuance: September 3, 1985.

Effective date: September 3, 1985.

Amendment Nos.: 116.

Facility Operating License No. DPR–62. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination are contained in a Safety Evaluation dated September 3, 1985.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Applying County, Georgia

Date of application request: August 30, 1985.

Brief description of amendment: It consists of changes to the Technical Specification setpoint for automatic transfer of the reactor core isolation cooling pump suction from the condensate storage tank (CST) to the suppression pool on low CST water level.

Date of issuance: September 11, 1985.

Effective date: September 11, 1985.

Amendment Nos.: 57.

Facility Operating License No. NPF–5. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are contained in a Safety Evaluation dated September 11, 1985.

Attorney for licensee: G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Indiana and Michigan Electric Company, Docket No. 50–315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan.

Date of application for amendment: July 30, 1985, as supplemented by letters dated August 8, 1985 and two letters dated August 13, 1985.

Brief description of amendment: The amendment revises the Technical Specifications to reflect revised setpoints in the channels for overpower delta T, overtemperature delta T, and loss of the flow trips and the reactor coolant temperature to protect against departure from nucleate boiling (DNB). The licensee submittals of August 8, 1985 and August 13, 1985 were made to clarify the language of the original submittals and provide specific values for the Technical Specifications and do not contain substantive changes.

Date of issuance: September 3, 1985.

Effective date: September 3, 1985.

Amendment No.: 91.

Facility Operating License No. DPR–58. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. 50 FRN 31447 dated August 2, 1985.

Comments received: No.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 3, 1985.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of amendment request: July 17 and 19, 1985.

Brief description of amendment: This amendment revises the WNP-2 license by modifying the Technical Specifications to add a new Technical Specification Section 3/4.3.10, entitled Neutron Flux Monitoring Instrumentation and supporting licensing bases and modify Technical Specification Section 3/4.4.1 (Recirculation Loops) to permit operation at a higher power level than is currently authorized under Single Loop Operation (SLO). This amendment also corrects page number errors in the Technical Specifications Index.

Date of issuance: September 5, 1985.

Amendment No.: 16.

Effective date: July 19, 1985.

Facility Operating License No. NPF-21. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation is contained in a Safety Evaluation dated July 19, 1985.

Attorney for licensee: Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventh Street NW, Washington, D.C. 20036.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington, 99352.

Dated at Bethesda, Maryland this 18th day of September 1985.

For the Nuclear Regulatory Commission

Edward J. Butcher,

Acting Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 85-22841 Filed 9-24-85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Statistical Policy Directive on Compilation, Release, and Evaluation of Principal Federal Economic Indicators

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget.

ACTION: Notice of adoption of a revised Statistical Policy Directive Number 3. The existing directive is entitled "Compilation and Release of Principal Federal Economic Indicators.".

SUMMARY: The revised directive clarifies and strengthens Office of Management and Budget guidance to Federal agencies on the compilation and release of principal economic indicators. It includes more stringent procedures for announcing changes in data collection, analysis, and estimation methods, and it adds a new requirement for periodic evaluation of the performance of each economic indicator. The intent of these changes is to ensure that the Federal data and estimates used to assess current economic conditions meet high standards of reliability and usefulness and that agencies release them to the public in a fair and orderly manner. The changes reflect comments by officials of affected agencies on a draft of the revised directive.

BACKGROUND: Statistical Policy Directive Number 3 designates statistical series that provide timely measures of economic activity as Principal Economic Indicators and requires prompt release of these indicators. The intent of the directive is to preserve the time value of such information, strike a balance, between timeliness and accuracy, prevent early access to information that may affect financial and commodity markets, and preserve the distinction between the policy-neutral release of data by statistical agencies and their interpretation by policy officials.

Principal Changes

(1) *Strengthening the language on prompt release.* Economic indicators must be released promptly. Their value as aids for decisionmaking decreases as the time since the end of the reference period increases. Prompt release also reduces the chance of unauthorized, premature disclosure by minimizing the time between the completion of tabulations and the release to the public. The revised directive states that the time between the close of the reference period and the public release date for a series issued quarterly or more frequently should be at most 22 working days.

(2) *New procedures for announcing the schedule of publication.* The revised directive assigns agencies additional responsibilities for ensuring that users are informed about the release time and date of economic indicators. Each agency must publish a release schedule for each calendar year and individual publications must include an announcement of the next release date and time. These procedures should ensure that agencies annoucne release dates well in advance and that they routinely provide reminders of the next release date and time to interested users.

(3) *A new requirement that agencies announce planned changes in data collection, analysis, or estimation methods at least three months before implementing the change.* This is to allow users of economic indicators to evaluate, comment upon, and prepare for significant changes in methods or procedures. Users of economic indicators often require a consistent time series for modeling and forecasting. If agencies make modifications, the users must have sufficient time to prepare for the changes and incorporate correction factors. This time period also gives users an opportunity to inform the agency of the effects of a new policy early enough in the planning process so that the agency can consider users' comments.

(4) *New guidance for prerelease access to indicators.* The revised directive clarifies the current provision for making material available to the President through the Chairman of the Council of Economic Advisers prior to public release. There are new rules for the granting of prerelease access to the press and to policy officials. Agencies must ensure that adequate steps (e.g., sequestering those granted access) are taken to prevent prerelease disclosure or use. So long as there is no risk of prerelease disclosure or use, prerelease access is permitted. Those granted prerelease access must be informed about the conditions surrounding the access.

(5) *New requirement for periodic evaluation of each indicator.* The last section of the directive requires the evaluation of economic indicators every 3 years. These series can have substantial effects upon market decisions and government policy. Periodic evaluation should help ensure that economic indicators continue to meet high standards of accuracy. The required evaluations include an analysis of the accuracy of the series, the effects

of revisions, and performance relative of established benchmarks. The agency that releases each economic indicator will also evaluate release procedures, prerelease security procedures, and the availability and accuracy of documentation. The Office of Management and Budget will review the evaluations to ensure that the releasing agency is adhering to all guidelines. The new requirements replace the informal and highly variable review practices currently in use with uniform evaluation principles and procedures.

The revised directive is published below.

Robert P. Bedell,

Acting Administrator for Information and Regulatory Affairs, Office of Management and Budget

Statistical Policy Directive No. 3

Compilation, Release, and Evaluation of Principal Federal Economic Indicators

Statistical series that are widely watched and heavily relied upon by government and the private sector as indicators of the current condition and direction of the economy must meet high standards of accuracy and reliability. Because such data series have significant commercial value, may affect the movement of commodity and financial markets, or may be taken as a measure of the impact of government policies, public release must be prompt and according to an established, publicly available schedule. The purpose of the procedures outlined in this directive is to assure that these data series meet specific accuracy, release, and accountability standards.

1. *Designation of Principal Indicators.* The Administrator for Information and Regulatory Affairs, Office of Management and Budget, will determine, after consultation with interested Federal agencies, the data series and estimates to be designated as principal Federal economic indicators and covered by this directive. The Administrator will review the designations annually.

2. *Prompt Release.* The interval between the period to which the data or estimates refer and the date when the data or estimates are released to the public shall be as short as practicable. Agencies should compile and release series that are issued quarterly or more frequently within 22 working days of the end of the reference period.

3. *Release Schedule.* The releasing agency is responsible for ensuring that the interested public is aware of the release time and date. The last report of each calendar year must contain the time and date of all reports in the upcoming year. In addition, each release will include an announcement of the time and date of the next release. The releasing agency shall provide a schedule of releases for the upcoming calendar year to the Statistical Policy Office, Office of Information and Regulatory Affairs, by December 15. Changes in the release schedule may occur only if special, unforeseen circumstances arise. The releasing agency must announce and fully explain any schedule changes as soon as it has determined they are unavoidable.

There should be one office in the agency that can provide the release schedule of all the agency's economic indicators. The name, address, and telephone number of this office should be readily available to the public. Agencies shall establish and maintain one or two times of day for the release of their principal economic indicators and shall only release indicators at such designated times.

4. *Announcement of Changes.* Agencies shall announce any planned change in data collection, analysis, or estimation methods that may affect the interpretation of a principal economic indicator as far in advance of the change as possible. The agency should include the announcement in a regular report of the economic indicator. When possible, a period of public comment should be provided between the announcement of an intended change and its implementation. At a minimum, for quarterly and monthly series, the agency shall announce the change at least three reports before the first report affected by the change. For weekly and annual series, the announcement should precede the first report affected by the change by at least three months. In the first report affected by the change, the agency should include a complete description of the change and its impact.

Agencies shall fully explain unforeseeable changes due to special circumstances as soon as they are known and in the first report affected by the change.

5. *Release Procedure.* The statistical agency that produces each principal economic indicator shall issue it in a press release or other printed report. The agency shall issue a press release where this will significantly speed up the dissemination of data to the public.

Each statistical agency shall be responsible for establishing procedures to assure that there is no premature release of information or data estimates during the time required for preparation of the public report. This includes the protection of public use data banks, which shall not receive any data or estimates until they are officially released. As soon as copies of materials for public release have been prepared, the agency shall physically secure them.

Except for the authorized distribution described in this section, agencies shall ensure that no information or data estimates are released before the official release time.

The agency will provide prerelease information to the President, through the Chairman of the Council of Economic Advisers, as soon as it is available. The agency may grant others prerelease access only under the following conditions:

(a) The agency head must establish whatever security arrangements are necessary and impose whatever conditions on the granting of access are necessary to ensure that there is no unauthorized dissemination or use.

(b) The agency head shall ensure that any person granted access has been fully informed of and agreed to these conditions.

(c) Any prerelease of information under an embargo shall not precede the official release time by more than 30 minutes.

(d) In all cases, prerelease access shall precede the official release time only to the extent necessary for an orderly review of the data.

All employees of the Executive Branch who receive prerelease distribution of information and data estimates as authorized above are responsible for assuring that there is no release prior to the official release time. Except for members of the staff of the agency issuing the principal economic indicator who have been designated by the agency head to provide technical explanations of the data, employees of the Executive Branch shall not comment publicly on the data until at least one hour after the official release time.

6. *Preliminary Estimates and Revisions.* Deciding when to release a principal economic indicator requires the balancing of accuracy and timeliness. Agencies should not withhold information needed to evaluate current economic conditions by imposing unnecessarily stringent accuracy requirements on preliminary estimates. However, agencies shall use the following guidelines when issuing and evaluating preliminary data and revisions:

(a) Agencies shall clearly identify figures as preliminary or revised.

(b) Agencies shall only release routine revisions of a principal economic indicator as part of the regular reporting schedule.

(c) If the difference between preliminary and final aggregate figures

is large relative to average period-to-period differences, the agency must either take steps to improve the accuracy of preliminary estimates or delay the release of estimates until a reliable estimate can be made.

(d) If preliminary estimates show signs of a consistent bias (for example, if revisions are consistently in the same direction), the agency shall take steps to correct this bias.

(e) Revisions occurring for routine reasons, such as benchmarking and updating of seasonality factors, shall be consolidated and released simultaneously.

(f) Revisions occurring for other than routine reasons shall be fully explained and shall be released as soon as corrections can be completed.

7. *Granting of Exceptions.* Prior to taking any action that may violate the provisions of this directive, the head of a releasing agency shall consult with the Administrator for Information and Regulatory Affairs. If the Administrator determines that the action is in violation of the provisions of this directive, the head of the releasing agency may apply for an exception. The Administrator may authorize exceptions to the provisions in sections 2, 3, 4, 5, and 6 of this Directive. Any agency requesting an exception must demonstrate to the satisfaction of the Administrator that the proposed exception is necessary and is consistent with the purposes of the Directive.

8. *Performance Evaluation.* Each agency that issues a principal Federal economic indicator shall submit a performance evaluation of that indicator to the Statistical Policy Office, Office of Information and Regulatory Affairs, every three years. A schedule for the performance evaluation of data series or estimates designated as principal Federal economic indicators will be prepared by the Statistical Policy Office. The evaluation shall address the following issues:

(a) the accuracy and reliability of the series, e.g., the magnitude and direction of all revisions, the performance of the series relative to established benchmarks, and the proportion and effect of nonresponses or responses received after the publication of preliminary estimates;

(b) the acuracy, completeness, and accessibility of documentation describing the methods used in compiling and revising the indicator;

(c) the agency's performance in meeting the designated release schedule and the prompt release objective of this directive;

(d) the agency's ability to avoid disclosure prior to the scheduled release time;

(e) any additional issues that the Administrator for Information and Regulatory Affairs specifies in writing to the agency at least 6 months in advance of the scheduled submission date.

The evaluation will be reviewed by the Administrator to determine whether the indicator is prepared and published in conformity with all OMB statistical policies, standards, and guidelines. A summary of the year's evaluations and their reviews will be included in the annual report to Congress required by section 3514 of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

[FR Doc. 84-22905 Filed 9-24-85; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14729; No. 812-6062]

Application and Opportunity for Hearing; Scudder Variable Life Investment Fund, et al.

September 18, 1985.

Notice is hereby given that Scudder Variable Life Investment Fund ("Fund"), Security Equity Life Insurance Company (the "Company"), at Court House Square, P.O. Box 1625, Binghamton, New York, 13902, and Security Equity Variable Life Separate Account (the "Account"), a separate account of the Company, (hereinafter collectively called the "Applicants") filed an application on March 22, 1985, and an amendment thereto on September 12, 1985, requesting an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") exempting Applicants, separate accounts similarly situated to the Account, and life insurance companies similarly situated to the Company from the provisions of Sections 9(a), 13(a), 15(a), and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder to the extent necessary to permit the shares of the Fund to be sold (i) to the Account, other separate accounts of the Company hereafter established to invest in shares of the Fund, and the separate accounts of other life insurance companies ("participating insurance companies"), in connection with the offer and sale of variable annuity contracts ("VA contracts") and variable life insurance policies ("VLI policies") and (ii) to the Company and such other insurance companies in connection with providing initial capital to the Fund for investment. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the relevant provisions.

Applicants state that the Fund is an open-end diversified managment investment company and that Scudder, Steven & Clark will be the Fund's investment adviser. Applicant state that the Fund has been organized as as funding vehicle for variable insurance products to be issued by any insurance company that enters into an appropriate contractual arrangement in that connection. The Company is a New York stock life insurance company, and the Account was registered by the Company as a unit investment trust. With respect to scheduled premium VLI policies offered by the Account, Applicants state that premiums from the policies, after certain deductions, may be allocated to one or more subaccounts of the Account which, in turn, will invest in shares of the appropriate protfolio of the Fund. Applicants further state that in the future, the Company may wish to offer VA contracts or flexible premium VLI policies funded by the Fund. Applicants state that participating insurance companies will establish their own separate accounts an unit investment trusts in accordance with Rule 6c-3 and Rules 6e-2, 6e-3(T), or, when adopted, 6e-3 under the Act, which will fund variable insurance products, and these separate accounts will invest their assets in shares of the Funds.

Applicants state the Rule 6e-2(b)(15) provides, for a separate account registered as a unit investment trust, partial exemptions from sections 9(a), 13(a), 15(a), and 15(b) of the Act, but that these exemptions are available only where all of the assets of the unit investment trust are shares of managment investment companies which offer their shares exclusively to variable life insurance separate accounts of the life insurer or of any affiliated life insurance company. Applicants state that this exclusivity requirement relates to the insurance product being offered (thereby prohibiting "mixed funding") and also relates to the entity that is offering the insurance product (thereby prohibiting "shared funding"). Rule 6e-3(T)(b)(15) also has the shared funding limitation. Applicants request exemptive relief with respect to both aspects of the exclusivity requirements; Applicants' proposal involves both mixed funding (it is proposed that the Fund be the

investment medium for VA contracts and VLI policies) and shared funding (the Fund proposes to sell its shares to both affiliated and unaffiliated insurers).

Applicants assert that granting the requested exemptive relief is in the public interest and that the Commission will not compromise the regulatory purposes of sections 9(a), 13(a), 15(a), or 15(b) of the Act or Rules 6e–2 or 6e–3(T) thereunder by granting the requested relief. Applicants assert that shared funding will benefit all contractowners of the variable insurance products by eliminating a sigificant portion of the costs of establishing and administering separate funds. Granting the requested relief, Applicants further assert, will stimulate broader industry competition by enabling a greater number of companies than otherwise to enter the field, and should result in an increased amount of assets available for investment by the Fund, which would benefit contractowners by promoting economies of scale.

With respect to the request for exemption from section 9(a), Applicants assert that they believe the partial exemption from the monitoring requirements in paragraph (b)(15) of Rules 6e–2 and 6e–3(T) is included because of a determination by the Commission that it is necessary to exclude disqualified persons only from the management or administration of the Fund, and that there is no regulatory purpose in applying the monitoring requirement derived from section 9(a) because the Account or other separate accounts invest in the Fund.

With respect to the request for exemption from sections 13(a), 15(a), and 15(b) in paragraph (b)(15) of Rules 6e–2 and 6e–3(T), Applicants submit that the rights of an insurance company or of a state insurance regulator to disregard policyowners' voting instructions are not inconsistent with the proposed mixed funding and shared funding. Applicants state that the Company will provide pass-through voting privileges and will require that pass-through voting privileges be provided by other participating insurance companies. Similarly, (and also relevant to the request to permit participating insurance companies to provide initial capital to the Fund) Applicants represent that shares held in any insurance company general or separate account and not attributable to policies will be voted in proportion to shares that are attributable to the policies.

Applicants state that the conditions in the application are designed to safeguard against any adverse effects that discrepancies between state regulatory decisions may produce, and that if a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected participating insurance company will be permitted to redeem its separate account's investment in the Fund. Further, Applicants state that if an insurer's veto action to disregard contractowners' voting instructions conflicts with the majority of all contractowners giving voting instructions, and if the insurer's judgment represents a minority position or would preclude a necessary vote, the insurer will, subject to regulatory requirements, be permitted to withdraw its separate accounts investment in the Fund.

Applicants state that the Fund's by-laws provide that the Fund will conform its investment objectives, policies, and restrictions to the insurance law requirements fo the state of New York, and that an insurer whose actions conflict with these requirements will be presumed to be the insurer creating the irreconcilable material conflict.

With respect to investment policies, Applicants state that the Fund will be not be managed to favor or disfavor a particular type of insurance policy or issuer, and that the Fund's portfolios will be managed in pursuit of their stated objectives and consistent with their stated policies.

The Applicants request that the Commission issue an exemptive order subject to the conditions which are stated in the application and are summarized as follows: (1) The trustees of the Fund, a majority of whom shall consist of persons who are not interested persons of the Fund or its investment adviser, will monitor the Fund for the existence of any material irreconcilable conflict among the interests of the contractowners of all separate accounts investing in the Fund. An irreconcilable material conflict may arise, *inter alia*, from: (a) An action by any state insurance regulatory authority; (b) a change in applicable insurance law or regulations; (c) a tax ruling or provision of the Internal Revenue Code or the regulations thereunder; (d) any other development relating to the tax treatment of insurers, contractowners or beneficiaries of VA contracts of VLI policies; (e) the manner in which the investments of any portfolio are being managed; (f) a difference in voting instructions given by VA contractowners, on the one hand, and VLI contractowners, on the other hand, or by the contractowners of different participating insurance companies; or (g) a decision by an insurer to override the voting instructions of contractowners. (2) Participating insurance companies will be responsible for reporting any potential or existing conflicts to the trustees. The Applicants will be responsible for assisting the trustees in carrying out their responsibilities under this condition 2 and condition 1, by providing the trustees with all information reasonably necessary for the trustees to consider the issues raised. This responsibility will also be a contractual obligation of all participating insurance companies under agreements governing participation in the Fund, and the Fund will request its investment adviser to report any such conflict which comes to its attention. (3) If it is determined by a majority of the trustees of the Fund or a majority of its disinterested trustees that a material irreconcilable conflict exists, the relevant insurance companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees), take whatever steps are necessary to eliminate the irreconcilable material conflict, including withdrawing the assets allocable to some or all of the separate accounts from the Fund or any portfolio and reinvesting such assets in a different investment medium, including another portfolio of the Fund, or offering to the affected contractowners the option of making such a change, or establishing a new funding medium including a new management investment company. The responsibility to take remedial action in the event of a determination by the trustees of the existence of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all insurers investing in the Fund under the terms of the agreements governing participation in the Fund. The trustees or the disinterested trustees shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict. In the event of a determination of the existence of an irreconcilable material conflict, the trustees shall cause the Fund to take such action, such as the establishment of one or more additional portfolios, as they in their sole discretion determine to be in the interest of all shareholders and contractowners in view of all applicable factors, such as cost, feasibility, tax, regulatory and other considerations. In no event shall the Fund be required to establish a new funding medium for any variable contract or policy. No participating insurance company shall be required to establish a new funding medium for any variable contract or policy if an offer to do so has been declined by vote or a

majority of the contractowners materially adversely affected by the material irreconcilable conflict. A participating insurance company will recommend to its contractowners that they decline an offer to establish a new funding medium only if the company believes it is in the best interest of the contractowners. (4) The trustees determination of the existence of an irreconcilable material conflict and its implications promptly shall be communicated to all participating insurance companies by written notice. (5) The Company shall be responsible for assuring that its separate account participating in the Fund shall calculate voting privileges of contractowners in the manner described in the application, and the obligation of all other separate accounts investing in the Fund to calculate voting privileges in a manner substantially the same as the Account shall be a contractual obligation of all other participating insurance companies. (6) The Fund shall comply with the provisions of section 16(a) of the Act and any rules promulgated thereunder. (7) The Fund shall hold annual meetings of shareholders or, in the event its declaration of trust is amended to abolish the requirements of annual meetings, the Fund shall comply with the provisions of section 16(c) of the Act. (8) The Applicants will conform to the conditions of Rule 6e–2 if amended or 6e–3 if adopted if either contains provisions that conflict with the conditions of the order requested.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 8, 1985, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for such request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such requests should be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Managment, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–22874 Filed 9–24–85; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 03/03–0172]

Enterprise Equity Corp.; Surrender of License

Notice is hereby given that Enterprise Equity Corporation, 7787 Leesburg Pike, Falls Church, VA. 22043 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Enterprise Equity Corporation was licensed by the Small Business Administration on December 5, 1984.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on August 20, 1985, and accordingly, all rights, priveleges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: August 28, 1985.

John L. Werner,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 85–22958 Filed 9–24–85; 8:45 am]

BILLING CODE 8025–01–M

[Licence No. 04/04–5228]

Horn & Hardart Capital Corp.; Issuance of a License To Operate as Small Business Investment Company

On January 18, 1984, a notice was published in the **Federal Register** (48 FR 1957), stating that Horn & Hardart Capital Corporation (HHCC), located at 701 Southeast 6th Avenue, Del Ray Beach, Florida 33444, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102(1984), for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on February 2, 1984, and no significant comments were received.

Notice is hereby given that considering the application and other information, SBA has issued License No. 04/04–5228 to HHCC, effective September 11, 1985.

Dated: September 13, 1985.

John L. Werner,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 85–22956 Filed 9–24–85; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 04/04–5236]

Renaissance Capital Corp.; Application for License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1985)) for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et. seq.*) and the Rules and Regulations promulgated thereunder.

Applicant: Renaissance Capital Corporation.

Address: 1350 North Omni International, Atlanta, Georgia 30303.

The proposed officers, directors and shareholders of the Applicant are as follows:

Name	Position	Percent of ownership
Thomas O. Cordy, 3770 Village Drive, Atlanta, GA 30331.	President, Director	None.
Ernest R. Murphy, 495 Holderness Street, SW., Atlanta, GA 30310.	Interim General Manager.	None.
Walter R. Huntley, Jr., 1096 Lawton Place, Atlanta, GA 30310.	Secretary	None.
John L. Clendenin, 5290 N. Powers Ferry Rd., NW., Atlanta, GA 30327.	Director	None.
Dr. Edward Irons, 3243 Kingsdale Drive, Atlanta, GA 30311.	Director	None.
Richard Jackson, No. 5 Braemore Townhouses, Atlanta, GA 30310.	Director	None.
Carl Ware, 1596 Willis Mill Rd., Atlanta, GA 30311.	Director	None.
James K. Davis, 3389 Bobolink Circle, SW., Atlanta, GA 30311.	Director	None.
William A. Clement, 428 Page Avenue, NE., Atlanta, GA 30307.	President of Investment Advisor.	None.
Dobbs Corporation, 401 West Peachtree, NE., Atlanta, GA 30308.	Investment Advisor	None.
Atlanta Economic Development Corporation, 1350 North Omni International., Atlanta, GA 30303.		14.1
Coca Cola Company, 310 North Avenue, Atlanta, GA 30311.		10.0

The Applicant, a Georgia corporation, will begin operations with $1,000,000 in private capital and conduct its activities principally in the State of Georgia. As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the

Act, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in the Atlanta, Georgia area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 19, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-22955 Filed 9-24-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 10/10-0178]

Seattle Trust Capital Corp.; Surrender of License

Notice is hereby given that Seattle Trust Capital Corporation, 804 Second Avenue, Seattle, Washington 98104 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Seattle Trust Capital Corporation was licensed by the Small Business Administration on May 10, 1982.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on August 14, 1985 and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: September 11, 1985.

John L. Werner,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 85-22957 Filed 9-24-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2205]

Florida; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on September 12, 1985, I find that the Counties of Franklin, Levy, Manatee, and Pinellas constitute a disaster loan area because of damage from Hurricane Elena and flooding beginning on or about August 29, 1985. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 12, 1985, and for economic injury until June 12, 1986, at:

Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Springs St., SW., Suite 822, Atlanta, Georgia 30303

or other locally announced locations.

The interest rates are:

Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Business with credit available elsewhere	8.000
Business without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.00
Other (non-profit organizations including charitable and religious organizations)	11.125

The number assigned to this disaster is 220508 for physical damage and for economic injury the number is 633400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and-59008)

Date: September 16, 1985.

Alfred E. Judd,

Acting Deptuy Associate Administrator for Disaster Assistance.

[FR Doc. 85-22954 Filed 9-24-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2206]

Michigan; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on September 18, 1985, I find that the Counties of Alcona and Genesee and the adjacent Counties of Lapeer and Saginaw constitute a disaster loan area because of damage from severe flooding beginning on September 5, 1985. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 18, 1985, and for economic injury until June 18, 1986, at:

Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St., SW., Suite 822, Atlanta, Georgia 30303

or other locally announced locations.

Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	11.125

The number assigned to this disaster is 220606 for physical damage and for economic injury the number is 633500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Date: September 19, 1985.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 85-22959 Filed 9-24-85; 8:45 am]

BILLING CODE 8025-01-M

Interest Rates on Direct Business Loans

The Interest rate on section 7(a) Small Business Administration direct business loans (as amended by Pub. L. 97-35) and the SBA share of immediate participation loans is eleven and one half (11½) percent for the fiscal quarter beginning October 1, 1985.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 120.3(b)(2)(iii)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the October-December quarter of 1985,

this rate will be ten and three-eights (10⅜) percent.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 85-22960 Filed 9-24-85; 8:45 am]

BILLING CODE 8025-01-M

Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit the maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "FFB Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged by the Federal Financing Bank on ten-year debentures sold by Licensees to the Bank. Notice of this rate is generally published each month.

Accordingly, Licensees are hereby notified that effective *October 1, 1985*, and until further notice, the FFB Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 10.495% per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to Section 308(i) of the Small Business Investment Act, as amended by Section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Dated: September 19, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-22953 Filed 9-24-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; 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 Federal Aviation Administration (FAA) Air Traffic Procedures Advisory Committee (ATPAC) to be held from October 21, at 9 a.m., through October 25, 1985, at 4 p.m., at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of minutes.
2. Discussion of agenda items.
3. Discussion of urgent priority items.
4. Report from Executive Director.
5. Old Business.
6. New Business.
7. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later then October 18, 1985, Mr. Walter H. Mitchell, Executive Director, ATPAC, Air Traffic, Acting ATO-300, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-3725. Information may be obtained from the same source.

The next quarterly meeting of the FAA ATPAC is planned to be held from January 14 through January 17, 1985, in San Antonio, Texas.

Any member of the public may present a written statement to the Committee at any time.

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

Walter H. Mitchell,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 85-22829 Filed 9-24-85; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station at Des Moines, IA; Closure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Flight Service Station at Des Moines, Iowa; Closure.

SUMMARY: Notice is herey given that on September 30, 1985, the Flight Service Station at Des Moines, Iowa, will be closed. Thereafter services to the general aviation public at Des Moines will be provided by the Fort Dodge, Iowa, Flight Service Station. This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Kansas City, Missouri, on September 12, 1985.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 85-22832 Filed 9-24-85; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Maury and Williamson Counties, TN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in Maury and Williamson Counties, Tennessee.

FOR FURTHER INFORMATION CONTACT: Mr. Wright B. Aldridge, Jr., Community Planner, Federal Highway Administration, Federal Building, U.S. Courthouse, 801 Broadway—Suite A-926, Nashville, Tennessee 37203, telephone (615) 251-7106.

SUPPLEMENTAL INFORMATION: The FHWA in cooperation with the Tennessee Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to construct a four-lane access control highway on new location from State Route 6 (U.S. 31) in the vicinity of the Saturn Plant Site to Interstate Route 65 Maury and Williamson Counties, Tennessee. The proposed improvement would have a length of approximately 4.4 miles. Improvements to the corridor are considered necessary to provide for the projected traffic demands.

Options under consideration include (1) taking no action; (2) postponement; (3) reduced facility design; and (4) constructing a four-lane roadway on new location.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state and local agencies at a future date. A public hearing will be held at a future date. Public notice will be given of the time and place of this hearing. The draft EIS will be available for public and agency review and comment. These activities are providing input regarding the scope of the EIS.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and suggestions concerning

the proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: September 17, 1985.

Wright B. Aldridge, Jr.,

Community Planner, Tennessee Division.

[FR Doc. 85-22809 Filed 9-24-85; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 29-85]

Treasury Notes, Series Z-1987

Washington, September 19, 1985.

The Secretary announced on September 18, 1985, that the interest rate on the notes designated Series Z-1987, described in Department Circular—Public Debt Series—No. 29-85 dated September 12, 1985, will be 9 percent. Interest on the notes will be payable at the rate of 9 percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-22897 Filed 9-24-85; 8:45 am]

BILLING CODE 4810-40-M

Customs Service

Application for Recordation of Trade Name: "Cryomec, Inc."

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "CRYOMEC, INC." used by Cryomec, Inc., a corporation organized under the laws of the State of California, located at 1265 North Kraemer Boulevard, Anaheim, California 92806.

The application states that the trade name is used in connection with the following goods, manufactured in the United States: pumps, particularly reciprocating and centrifugal pumps for cryogenic liquids, cryogenic vaporizers, and conversion systems for converting cryogenic liquids to a gas, and related equipment, including heat exchangers.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

DATE: Comments must be received on or before November 25, 1985.

ADDRESS: Written comments should be addressed to the Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue NW., Room 2417, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5765).

Dated: September 18, 1985.

Stephen Pinter,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 85-22898 Filed 9-24-85; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Bureau of Educational and Cultural Affairs; Grant Program; Winter Institute in American Studies

The United States Information Agency (USIA) plans to sponsor a six-week Winter Institute in American Studies for twenty-five to thirty secondary school educators of English, History, and Social Studies. Participants will come from Latin American and African countries. USIA has invited proposals from selected institutions which have an acknowledged reputation in American Studies and special expertise in handling cross-cultural programs.

Other interested academic institutions should request detailed information from: Bureau of Educational and Cultural Affairs, (ATTN. Division for the Study of the U.S., Office of Academic Programs), United States Information Agency, 301 4th Street SW, Washington, DC 20547, or call (202) 485-2553.

Proposal deadline is October 25 1985.

Dated: September 19, 1985.

Jane M. Alden,

Acting Chief, Division for the Study of the U.S.

[FR Doc. 85-22886 Filed 9-24-85; 8:45 am]

BILLING CODE 8320-01-M

President's International Youth Exchange Initiative; Invitation for Proposals

The United States Information Agency (USIA) announces a program of selective assistance through limited grant support to private not-for-profit organizations for programs that promote an expansion of international youth exchanges, enhance the climate for youth exchanges in the U.S., and improve the quality of exchange activities. This program has been approved by OMB Clearance No. 3116-0159 (expiration date December 31, 1985).

USIA will entertain proposals for single-country and multi-country projects involving the United States and the following countries: Argentina, Austria, Bolivia, Botswana, Cameroon, Canada, Colombia, Costa Rica, Cyprus, Dominican Republic, Egypt, France, Germany (FRG), Greece, Honduras, India, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Republic of Korea, Mexico, Nigeria, Panama, Senegal, Sierra Leone, Sudan, Tanzania, Thailand, Togo, Turkey, United Kingdom, Uruguay, Yugoslavia, and Zimbabwe. Some specific reqiurements and/or prohibitions are listed below for several of these countries. Organizations interested in exchanges with countries not listed in this announcement should inquire with the Youth Exchange Staff at the address listed at the end of this announcement.

Grant funding will generally be for 12-18 month periods. A few programs will be authorized for two or three year periods, with funding approved on an annual basis, subject to a review of progress towards clearly defined long-term goals and the availability of funds. Organizations are forewarned that competition for grants is expected to be intense.

Eligibility

Academic, cultural, not-for-profit youth exchange and youth-serving organizations are eligible to apply. General guidelines for the Bureau of Educational and Cultural Affairs require that grants to organizations that have worked in the youth exchange field for less than four years may not exceed $60,000. Organizations must be capable of meeting the "Criteria for Teenager Exchange Visitor Programs" or "Criteria for Practical Trainees," which may be found in law libraries in the Code of Federal Regulations under 22 CFR 514, recently amended by notice published in the Federal Register (see 50 FR 31709, August 6, 1985) or may be obtained by

writing to the General Counsel's Office, USIA, Washington DC 20547. Organizations whose assets are limited in comparison to the amount of the grant requested may be required to post a performance bond.

Program Content

All proposals must justify projects in terms of the desirable outcome of the grant. An organization should be prepared to describe its current situation, its goal, and the steps that are necessary to accomplish this goal. Objectives should be quantified wherever possible (e.g., to increase the number of exchange participants from 50 to 100 by June 1987). The justification must include reasons why the organization's funds are insufficient to accomplish the objectives without recourse to public funds.

Priority will be given to projects that conform to the following models:

A *Long-Term Academic Homestay.* Generally one academic year or semester programs for 15–19 year-old secondary school students or recent graduates. Program includes: homestay for the duration of the experience, attendance at a secondary school, community activities, orientation, and language study as necessary.

B. *School-to-School Exchanges.* Generally 3–4 week programs for 15–18 year-old secondary school students. This is primarily a school linkage model in which a group of students from the same school or classroom, accompanied by a teacher, participate in an exchange with a partnered school abroad. Program features include study of the partner country before departure, homestays, study and community activities during the exchange.

C. Thematic Exchanges. Generally 4–8 week group programs for students aged 15–25. Program features include: study of a country, set of revelvant issues, or common focus (e.g., the arts, journalism, the environment) prior to and during the exchange with a similar counterpart organization in the host country, under guidance of a group leader or chaperone: homestays for most or all of the visit; and orientations.

D. *Work Projects.* Programs for students and young professionals aged 15–25 for minimum 4-week duration but preferably 6–12 weeks. Program features include: experiential learning activities, including camp counseling, historical preservation or restoration, public works, conservation, and volunteer community service; may be done as a group, involving interaction with a similar-aged group of host country nationals, or as individual projects; campstays as appropriate, but homestays where possible are preferred; and pre-departure orientations and post-return debriefings.

E. *Non-Academic Homestays.* Programs for students, young workers, farm youth, et al., aged 15–25, of a minimum 4-weeks duration, but preferably 6–12 weeks. Program features include: homestay for the full period of the visit; community activities; group activities, such as scouting, recreation, service projects; individual activities, such as volunteer farm work; pre-departure orientations and post-return debriefings.

F. Internships. Programs of 6 weeks to 18 months for students, young professionals and young workers, aged 15–25. Program features include: individual homestays for the duration of the program where possible; work in a private enterprise or public agency, usually in the area of one's career choice or vocation; may be coupled with study; community activities; orientations. Grant funding is usually restricted to partial travel and partial administrative costs; tuitions and stipends are not funded. Certain types of programs may require use of the J–1 "trainee" visa, for which prior designation by USIA is a prerequisite.

Specific Country Projects

The following are specific country concerns that should be considered in preparing proposals for USIA in this competition:

Germany—Proposals for partial funding of youth exchanges between American and German organizations for projects to be initiated between May and December 1986 are invited in the following categories: (1) expansion of high school classroom-to-classroom exchanges, including development of appropriate materials on American society and U.S. foreign policy: (2) non-academic one-community homestay or work project exchanges; (3) volunteer internships or on-the-job training, 6 weeks or longer in a variety of fields. For details please write or call the Youth Exchange Staff at the address listed at the end of this announcement. American organizations should have identified German partners.

United Kingdom—No proposals for long-term academic exchanges with the U.K. will be accepted. Priority is given to short-term exchanges involving community groups and organizations or exchanges with a strong thematic focus, such as theater.

Israel—Priority will be given to projects which respond to those on the list jointly approved by the US and Israeli Governments. Please write to the Youth Exchange Staff at the address given at the end of this announcement for further information.

France—As in the case of Israel, priority will be given to projects on the jointly approved bilateral list. Contact USIA for details.

Sierra Leone—Priority is given to short-term projects, 6–8 weeks in duration, involving groups of 6–8 participants from Sierra Leone. Projects need not be reciprocal. Thematic areas include: community service and volunteerism, the American farm, and American society—the arts.

Italy—Projects should include a provision for some language training for the US participants.

India—USIA has a special interest in projects in the area of the environment.

Special Projects

USIA has a special interest in the following special projects:

1.. Bicentennial of the U.S. Constitution—USIA is interested in proposals for youth exchange programs that fit the descriptions of program models listed above, with special emphasis on the "Thematic" model, and focus on the U.S. Constitution, constitutionalism, and other related fields, in connection with the celebration of the Bicentennial of the Constitution. Exchanges must be for a minimum of 3 weeks. Participation in a conference is possible only as part of a program that meets other USIA requirements for youth exchanges.

2. Community Coalitions—USIA continues to be interested in encouraging cooperation at the local level among youth exchange organizations, educational and government authorities, schools, civic groups, and concerned citizens. A special fund will be established in 1986 for small grants in support of these efforts. Interested community coalitions or exchange networks may write to the Youth Exchange Staff for further information on this fund. Additionally some limited grant support will be available through this competition for exchange projects and support activities conducted by coalitions.

3. Projects that benefit the field of youth exchange in general—USIA support will be available for a limited number of projects that enhance the climate for youth exchanges in American secondary schools through information programs aimed at education officials, school administrators and faculty. Proposals for pilot projects in the areas of civic education and global issues for American youth preparing for an exchange are welcome.

4. Selected language programs—USIA is interested in proposals for pilot projects to enhance orientation programs to increase the competency of American youth participating in exchanges with Arabic and Japanese-speaking countries. Priority will be given to long-term academic projects for 15–19 year-olds; the minimum stay will be six weeks. Funding will be available to provide financial incentives for American youth (generally travel subsidies), intensive language training, and special cultural orientation. This program is not designed to support area studies or semester/year abroad programs of American colleges and universities.

5. Teacher exchanges—Proposals for a limited number of pilot projects involving exchanges of young teachers or student teachers will be entertained. Volunteer internship model exchanges area of special interest.

Review Criteria

Proposals will be judged on the extent to which projects address the following criteria:

Justification—As outlined above, reviewers look for realistic, quantifiable goals, clear directions, and the feasibility that the grant will contribute to growth which the organization can sustain after federal funding is terminated. The need for public funds to achieve the objectives must also be adequately justified.

Networking—Certain projects involve matching the organizational experience and capability of an exchange group with the resources of a youth-serving organization or network with facilities, youth memberships, community access, etc. These proposals will be judged on their potential for forging these relationships and generating viable exchange activities.

Cost-sharing—Financial and in-kind support from participating organizations, schools, families, communities, counterpart foreign organizations and government agencies.

Efforts to mainstream disabled youth into exchange activities.

Efforts to assist economically disadvantaged youth and increase the ethnic diversity of American participants in exchanges.

Challenge grants—This involves the use of a block grant to an organization, which in turn makes small grants available to its constituent member groups, with the proviso that matching funds be raised. Individual challenge grant projects must conform to criteria listed in this announcement.

Reciprocity—The exchanges should be two-way and as balanced (inbound/outbound numbers) as possible.

Cost-effectiveness—Greatest return for each federal dollar invested; reasonable per capita cost in comparison with other proposals submitted.

Quality—Proposals are judged in terms of the program features which enhance the educational value of the exchange and provide for extensive interaction between exchange visitors and their host communities (e.g., homestays, joint work projects).

Organizational competency—Ability of the organization to demonstrate adequate resources to carry out a quality exchange.

Self-management—The organization should demonstrate the ability to administer the project without extensive subcontracting to other non-profit or profit-making organizations. Where such arrangements exist, an organization should provide a copy of the service agreement.

Length of stay—A minimum of 3 weeks is required for any exchange experience and projects that provide for longer stays are frequently judged as more competitive than shorter exchanges.

Benefit to the general field of youth exchange—Projects designed to enhance the climate for youth exchange and/or promote quality improvements will be judged in terms of their value to the exchange field as a whole.

Geographic distribution of exchanges is a key consideration in the award of grant funds.

The following are ineligible for support under this competition:

—Sports exchanges.

—Research studies.

—Study for post-secondary academic credit or degree programs.

—Travel/observation tours and hotel-hopping delegations.

—School tuitions.

—Stipends to host families.

—Performing arts tours.

—Projects designed to assist organizations start an affiliate in a foreign country. Organizations should demonstrate that such a base has been established before seeking grant funds to assist in its expansion.

—Projects designed to promote or advertise the general program of an organization.

—Any project which is designed to lobby elected officials, promote politically partisan views, or whose aim is to promote religious activities.

—Conferences, except as part of a program that meets other criteria listed above (i.e., length of stay, project model).

In the absence of special circumstances, the following should be understood to be of low priority for purposes of this competition:

—Full scholarship support (i.e., grant funding for all costs of a program).

—Support for exchange activities already being carried out.

U.S. participants in all grant-funded exchange projects must be American citizens or permanent residents, as a matter of policy.

Proposal Format

Interested organizations should write or call the Youth Exchange Staff for guidelines which specify what should be included in the narrative portion of the proposal, how budgets should be designed, and what attachments are required. Organizations should indicate the type of visa that will be used to bring foreign exchange students to the U.S. The proposal should include a statement on the type of visa that will be used to bring foreign exchange students to the U.S. if the project is funded.

Review Process

Proposals (original and 10 copies) should be received in USIA no later than November 15, 1985. Early submission of proposals is encouraged to facilitate early review. Following an initial screening for eligibility and completeness, proposals will be reviewed by a USIA panel. Final decisions are made by the Associate Director for Educational and Cultural Affairs. Funding will be available as soon as the review process is completed.

For further information on this program contact the International Youth Exchange Staff, Bureau of Educational and Cultural Affairs (E/YX), U.S. Information Agency, Washington, DC 20547 or call 202–485–7299.

Dated: September 18, 1985.

Ronald L. Trowbridge,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 85–22886 Filed 9–24–85; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 186
Wednesday, September 25, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL COMMUNICATIONS COMMISSION

September 25, 1985.

The Federal Communications Commission will hold on Open Meeting on the subjects listed below on Friday, October 4, 1985, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—Title: Regulatory Classifications of Subscription Television and Direct Broadcast Satellite Services. SUMMARY:[1] The Commission will consider whether to issue a Notice of Proposed Rulmaking to inquire into the proper criteria to be applied when determining the regulatory classification of subscription services such as STV and DBS.

Common Carrier—1—Title: Report and Order in CC Docket 85-25, Amendment of Part 22 of the Commission's rules to require that all Cellular Customer Equipment be equipped with a means for subscriber selection of operation on frequency Block A or Block B or that wireline cellular carriers be prohibited from selling or leasing equipment without such a capability.

Common Carrier—2—Title: Guidelines for Dominant Carriers' MTS Rates and Rate Structure Plans—CC Docket No. 84-1235. Summary: The Commission will consider proposed guidelines for dominant carriers' alternative MTS rate and rate structure proposals.

Mass Media—1—Title: Application to transfer control of Golden West Television, Inc., licensee of station KTLA-TV, Los Angeles, California, from Golden West Associates, L.P., *et al.*, to Tribune Broadcasting Company (BTCCT-850607KG). Summary: The Commission will consider Tribune's application to acquire control of KTLA-TV. Tribune presently owns the Daily News, published in Van Nuys, California, and cable systems serving communities outside of Los Angeles. Since the provisions of § 73.3555(c)(3) and 76.501(a)(2) of the Commission's Rules and section 613(a) of the Communications Act prohibit common ownership of a television station with a daily newspaper and/or a cable system, Tribune requests a period of 18 months to divest itself of the newspaper and cable systems. The Commission will also consider petition to deny filed by Sue Gottfried, the California Association of the Physically Handicapped, Inc., Camellia City Telecasters, Inc., the City of Lakewood, California, and Ferris E. and Irene V. Traylor.

Mass Media—2—Title: Amendment of Part 76, Subpart G of the Commission's Rules and Regulations Concerning the Fairness Doctrine and Political Cablecasting Requirements for Cable Television Systems. Summary: The Commission will address revision or elimination or rules which make cable television system operators subject to certain obligations relative to political telecasts and the fairness doctrine obligations.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254-7674.

Issued: September 23, 1985.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-23026 Filed 9-23-85; 3:46 pm]

BILLING CODE 6712-01-M

[1] The summaries listed in this notice are intended for the use of the public attending open Commission meetings. Information not summarized may also be considered at such meetings. Consequently these summaries should not be interpreted to limit the Commission's authority to consider any relevant information.

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 2:30 p.m. on Monday, September 30, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item by moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against 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. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:The Permittee filed the request on August 8, 1985.

Application for consent to transfer assets in consideration of the assumption of deposit liabilities:

The South Carolina National Bank, Charleston, South Carolina, for consent to transfer certain assets to First Federal Savings and Loan Association of South Carolina, Greenville, South Carolina, a non-FDIC-insured institution, in consideration of the assumption of the liability to pay deposits made in the Columbia and North Charleston Branches of The South Carolina National Bank and the Columbia and Summerville Branches of the former First National Bank of South Carolina (now merged with The South Carolina National Bank).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: September 23, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85–23021 Filed 9–23–85; 3:40 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. Monday, September 30, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for consent to purchase assets and assume liabilities and establish two branches:

South Umpqua State Bank, Roseburg, Oregon, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Roseburg, Oregon, office of Evergreen federal Savings and Loan Association, Grants Pass, Oregon, and the Sutherlin, Oregon, office of Home Federal Savings and Loan Association, Albany, Oregon, both non-FDIC-insured institutions, and for consent to establish those two offices as branches of Sourt Umpqua State Bank.

Application for consent to purchase assets and assume liabilities and establish two branches:

Horicon State bank, Horicon, Wisconsin, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in Commercial State Bank, Iron Ridge, Wisconsin, and for consent to establish the two offices of Commercial State Bank as branches of the resultant bank.

Application for consent to transfer assets in consideration of the assumption of deposit liabilities:

Heritage bank and Trust Company, Crest Hill, Illinois, an insured State nonmember bank, for consent to transfer certain assets to Joliet Federal Savings and Loan Association, Joliet, Illinois, a non-FDIC-insured institution, in consideration of the assumption of the liability to pay deposits made in Heritage bank and Trust Company.

Application for consent to relocate main office:

The First Bank of Wakenney, Wakenney, Kansas, for consent to relocate its main office from 229 Main Street to 137 Main Street, within Wakenney, Kansas.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,330—Costa Mesa Subregional Office, Costa Mesa, California

Memorandum and resolution re: Proposed amendments to Parts 303, 309, and 310 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and notices of Acquisition of Contrtol," "Disclosure of Information," and "Safeguarding Personal Information in Federal Deposit Insurance Corporation Records," respectively, which would (1) require persons who have filed notices with the Corporation under the Change in Bank Control Act of 1978 ("CBCA") (12 U.S.C. 1817(j)), to publish an announcement of the notice's acceptance in a newspaper, except that in the case of a public tender offer the announcement may be delayed until a tender offer commences; (2) make certain information regarding CBCA notices accepted by the Corporation available to the public upon request, except in certain public tender offer situations; and (3) amend a "routine use" of information contained in the Corporation's system of records concerning consumated changes in bank control (Changes in Bank Control Ownership Records).

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the Sixth floor of the FDIC Building located at 550—17th Street, NW., Wasington, D.C.

Request for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: September 23, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secreatry

[FR Doc. 85–23022 Filed 9–23–85; 3:40 p.m.]

BILLING CODE 6714-01-M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 12:00 Noon, Monday, September 30, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed policy statements regarding confirmation and relocation expenses of Federal Reserve Board nominees.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–22934 Filed 9–20–85; 4:41 pm]

BILLING CODE 6210-01-M

5

POSTAL SERVICE

(Board of Governors)

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. section 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, October 1, 1985, in the Benjamin Franklin Room, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW, Washington, DC. The meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the

Secretary of the Board, David F. Harris, at (202) 245-3734.

AGENDA

Tuesday Session

October 1, 1985—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, September 5–6, 1985.
2. Remarks of the Postmaster General.
3. Board of Governors Operating Budget, FY86.

(Mr. Harris, Secretary for the Board, will present a proposed operating budget for the Board of Governors for fiscal year 1986.)

4. Review of Capital Investment Program.
5. Capital Investment 5-Year Plan.

(Mr. Gordon, Senior Assistant Postmaster General, Administration Group, will present the 5-year capital investment plan.)

6. Consideration of Extension of Service Contract.

(Mr. Schiller, Assistant Postmaster General, Technology Resource Department, will make the extension of a service contract presentation.)

7. Consideration of Lease for Interim Housing at the Technical Training Center.

(Mrs. Henry, Director, Office of Training and Development, will make the presentation.)

8. Capital Investment: PRISM
9. Report of the Regional Postmaster General.

(Mr. Penttala, Regional Postmaster General, will report on postal conditions in the Southern Region.)

10. Determination of Sites of Board of Governors' Meetings in 1986.

(Mr. Harris will present the proposed 1986 meeting sites.)

11. Tentative agenda for November 4–5, 1985, meeting in Washington, D.C.

David F. Harris,

Secretary.

[FR Doc. 85-22972 Filed 9-23-85; 10:20 am]

BILLING CODE 7710-12-M

Federal Register

Wednesday
September 25, 1985

Part II

Environmental Protection Agency

40 CFR Parts 265 and 270

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities; EPA Administered Permit Programs: Hazardous Waste Permit Program; Notice of Implementation and Enforcement Policy

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 265 and 270

[SWH-FRL 2868-3]

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities; EPA Administered Permit Programs: the Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of implementation and enforcement policy.

SUMMARY: On November 8, 1984, the Hazardous and Solid Waste Amendments of 1984 (HSWA) were enacted (Pub. L. 98-616). These Amendments made changes to section 3005(e) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. 6925(e). Under the amendment to section 3005(e), an interim status land disposal facility will lose interim status on November 8, 1985 unless the facility applies for a final determination regarding the issuance of a permit and certifies compliance with all applicable ground-water monitoring and financial responsibility requirements by that date. This notice sets forth the Environmental Protection Agency's (EPA) policy regarding the implementation of this provision as it applies to interim status land disposal facilities.

DATE: All interim status land disposal facilities are required to submit an application for a final determination and the applicable certifications by November 8, 1985, or interim status will be terminated by statute. In the case of each land disposal facility which is in existence on the effective date of statutory or regulatory changes under RCRA that render the facility subject to the requirement to have a permit under section 3005, facilities will have 12 months after the date on which the facility first becomes subject to permit requirements to submit an application for a final determination and the applicable certification, or interim status will be terminated by law.

FOR FURTHER INFORMATION CONTACT:

Region I: Jerry Levy, Chief, Compliance Monitoring and Enforcement Section HSE/Causeway, U.S. EPA, John F. Kennedy Federal Building, Boston, MA 02203, (617) 223-1591, FTS 223-1591.

Region II: Stanley Siegel, Chief, NY Compliance Enforcement Section 2AWM, U.S. EPA, 26 Federal Plaza, Room 1043, New York, NY 10278, (212) 264-8356, FTS 264-8356.

Region III: Peter Schaul, Hazardous Waste Enforcement Branch 3H-WLL, U.S. EPA, 841 Chestnut Street, Philadelphia, PA 19107, (215) 597-8334, FTS 597-8334.

Region IV: Allan Antley, Chief, Waste Compliance Section, U.S. EPA, 345 Courtland St., NE, Atlanta, GA 30365, (404) 881-4552, FTS 257-4552.

Region V: Bill Muno, Chief, RCRA Enforcement Section, 5HE-12, U.S. EPA, 230 South Dearborn Street, Chicago, IL 60604, (312) 886-4434, FTS 886-4434.

Region VI: William Rhea, Chief, Hazardous Materials Branch 6AW-H, U.S. EPA, 1201 Elm Street, Dallas, TX 75270, (214) 767-9732, FTS 729-9732.

Region VII: Wayne Kaiser, RCRA Compliance Section, Waste Management Division, U.S. EPA, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 236-2891, FTS 757-2891.

Region VIII: Diana Shannon, Chief, RCRA Compliance Monitoring 8HWM-WM, U.S. EPA, Denver Place, Suite 1300, 999 18th Street, Denver, CO 80202-2413, (303) 293-1502, FTS 564-1500.

Region IX: Judy Walker/Industry Assistance, Toxics and Waste Management Division T-2-1, U.S. EPA, 215 Fremont Street, San Franscisco, CA 94105, (415) 974-7472, FTS 454-7472.

Region X: Charles Rice, Chief, RCRA Compliance Section M/S-533, U.S. EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 442-0695, FTS 399-0695.

SUPPLEMENTARY INFORMATION: The contents of today's Notice are listed in the following outline:

I. Background

Under section 3005(a) of RCRA, owners or operators of hazardous waste treatment, storage or disposal facilities are required to obtain a RCRA permit. Recognizing that EPA would not be able to issue permits to all hazardous waste management facilities at once, section 3005(e) of RCRA provides that a hazardous waste management facility that meets certain requirements will be treated as having been issued a permit. This statutorily-conferred authorization to operate pending issuance or denial of a permit is known as "interim status." A facility may lawfully operate only if it has a permit or interim status.

Prior to the enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA) a facility's interim status could be terminated only when final administrative disposition of the permit application was made, or if the facility failed to furnish the necessary application information. HSWA amended section 3005(e) to provide additional grounds for termination of interim status for land disposal facilities.

Section 3005(e)(2) which is referred to, hereafter, as the Loss of Interim Status provision states:

> In the case of each land disposal facility which has been granted interim status under this subsection before the date of enactment of the Hazardous and Solid Waste Amendments of 1984, interim status shall terminate on the date 12 months after the date of enactment of such Amendments unless the owner or operator of such facility
>
> "(A) applies for a final determination regarding and issuance of a permit under subsection (c) for such facility before the date 12 months after the date of enactment of such Amendments; and
>
> "(B) certifies that such facility is in compliance with all applicable ground-water monitoring and financial responsibility requirements."

Interim status land disposal facilities must satisfy these requirements by November 8, 1985. Under section 3005(e)(3) each land disposal facility which is in existence on the effective date of statutory or regulatory changes under this Act that render the facility subject to the requirement to have a RCRA permit and which qualifies for interim status must apply for a final determination and submit the applicable certifications within twelve months after the date on which the facility first becomes subject to such RCRA permit requirements or interim status terminates.

The owner/operator of each interim status land disposal facility is responsible for applying for the final permit determination and satisfying certification requirements. In view of the importance of proper and timely filings of permit applications and certifications, and to provide an orderly process for

the submittal of both permit applications and compliance certifications for interim status land disposal facilities, the Agency is today publishing this policy on the Loss of Interim Status provision.

II. Statutory Interpretations

This section defines key terms which appear in the statute.

A. Land Disposal Facility

The statute specifies that ". . . all interim status land disposal facilities . . ." are subject to the requirements of the Loss of Interim Status provision. For the purpose of section 3005(e), the Agency interprets the term "land disposal facilities" to encompass the following types of facilities: landfills; land treatment units; surface impoundments for disposal, treatment, or storage; waste piles; and Class I hazardous waste underground injection wells. EPA believes this interpretaton is consistent with RCRA statutory definitions of land disposal (see sections 1004(3), 3004(k)), the legislative history of section 3005(e)(2) and (3) and the general objective of this provision (i.e., to facilitate prompt processing of permits for the compliance by land-based facilities).

B. Interim Status

A treatment, storage or disposal facility that was in existence on November 19, 1980, or on the effective date of statutory or regulatory changes that rendered the facility subject to the requirement to have a RCRA permit, notified EPA as required by RCRA section 3010, and filed a timely application for a RCRA permit (Part A application), is considered to be in interim status until final administrative disposition of the permit application or until interim status is terminated for failure to submit information required to process the permit application. These facilities are subject to the Loss of Interim Status provision. In addition, in States or territories with EPA-authorized RCRA programs, land disposal facilities that have not yet been granted or denied a final RCRA permit (including land disposal facilities that were issued State permits after November 8, 1984) are to submit certifications and Part B applications.

1. Class I Hazardous Waste Underground Injection Wells

Class I hazardous waste injection wells that were in existence on November 19, 1980, or the effective date of statutory or regulatory changes that rendered the facility subject to the requirement to have a RCRA permit, notified EPA as required by § 3010, and filed a Part A RCRA application are considered to be in interim status under RCRA until such time as final administrative disposition of a RCRA section 3005(c) permit application is made. Such facilities must comply with the applicable sections of Subparts A-E of Part 265 interim status requirements. They are exempted under 40 CFR 265.430 from the RCRA interim status closure/post-closure and financial responsibility requirements of Subpart G and H and are not subject to the ground-water monitoring requirements of Subpart F.

Every state and jurisdiction has an Underground Injection Control (UIC) program in place, either state-administered or EPA-administered, so that all Class I hazardous waste wells are also subject to the UIC requirements. The requirements at 40 CFR 144.21 authorize existing Class I injection wells to operate, subject to certain conditions, until the effective date of UIC permit issuance or denial, in States with approved UIC programs, for five years after approval or promulgation of the UIC program (but not thereafter unless a complete permit application is pending). In States with EPA-administered UIC programs, injection is authorized under the same section, subject to certain conditions, for one year after promulgation of the UIC program and is prohibited thereafter unless a complete permit application is pending. Therefore, until the UIC permit is issued as stated above, the Class I hazardous waste underground injection well is operating under authorization by rule and must comply with UIC program requirements specified, *inter alia*, under 40 CFR 144.28.

Under previous regulations, once a well received a UIC permit, the well was deemed to have a permit-by-rule under RCRA. However, the regulations have been changed due to the enactment of section 3004(u) of RCRA, which provides that corrective action requirements for all solid waste management units must be addressed in any section 3005(c) RCRA permit. The regulations, therefore, have been amended to provide that until such time as a corrective action plan at a given facility addresses corrective action for *all* units, UIC permits issued to Class I hazardous waste underground injection wells after November 8, 1984 will be considered valid permits under the Safe Drinking Water Act, but will not be section 3005(c) RCRA permits-by-rule. 50 FR 28702, 28715-16, 28752 (July 15, 1985) (amending 40 CFR 270.60(b)). Therefore, wells at facilities which have not yet met corrective action requirements for *all* units at the facility, consistent with State law under approved UIC program, retain RCRA interim status, whether or not they have been issued a UIC permit. Such well operators who have interim status must, therefore, certify compliance with the "applicable" ground-water monitoring and financial responsibility requirements. The specific ground-water monitoring and financial responsibility requirements with which the facility must certify compliance are discussed in detail below in section D.

2. Waste Exclusions

Sections 260.20 and 260.22 of EPA's hazardous waste regulations provide a regulatory mechanism whereby the Agency may temporarily exclude a hazardous waste generated at a specific facility from being treated as a hazardous waste under the RCRA regulations. Interim status land disposal facilities handling wastes that have received "temporary" exclusions are also subject to the Loss of Interim Status provision. A "temporary" exclusion granted under 40 CFR 260.20 and 260.22 by EPA does not terminate the interim status of facilities handling that waste. Thus, the requirements of section 3005(e)(2) apply to these facilities, including facilities where the temporarily excluded waste is the only "hazardous" waste managed.

Facilities which only handle "hazardous" waste subject to a temporary exclusion, however, are not considered to be managing hazardous waste under EPA regulations. Thus they are not currently required to meet Part 265 standards (including ground-water monitoring and financial responsibility requirements), or to obtain a permit. In order words, facilities whose only "hazardous" waste has been "temporarily" excluded, while subject to the Loss of Interim Status provision, are not required to certify compliance with groundwater monitoring and financial responsibility requirements and/or submit a Part B application by November 8, 1985 in order to retain interim status after that date unless their exclusion is revoked prior to this time. If such waste exclusion is revoked, this regulatory action will immediately subject the facility to the requirements of section 3005(e)(3) of RCRA.

3. Late and Non-Notifiers

The Agency believes that the intent of the Loss of Interim Status provision was to bring all unpermitted land disposal facilities into compliance with ground-water monitoring and financial responsibility requirements or to close them. In order to advance this purpose, the Agency believes that it should also

address the problem of those facilities which never qualified for interim status, or who are operating under Interim Status Compliance Letters or section 3008 compliance orders. 40 CFR 265.1(b) states that "the standards in this Part apply to those owners and operators of facilities in existence on November 19, 1980, who have failed to provide timely notification as required by Section 3010 of RCRA, and/or failed to file Part A of the Permit Application as required by 40 CFR 270.10 (e) and (g).

The December 12, 1981 "Guidance on the Applicability of the Interim Status Standards (40 CFR Part 265) to Facilities which have Failed to Qualify for Interim Status" to EPA Regional Enforcement Division Directors also addresses the problem of "non-notifiers." The guidance directed that the Agency would enforce the interim status requirements through the use of Interim Status Compliance Letters (ISCL) and 3008 compliance orders including the assessment of penalties, where appropriate. This use of penalties was emphasized to eliminate the competitive advantage that might otherwise be enjoyed by the "non-notifiers" over facilities that complied with all notification and filing requirements.

In keeping with that policy, EPA believes it reasonable to require owners and operators of land disposal facilities to submit a Part B application and the ground-water monitoring and financial responsibility compliance certifications as a condition of EPA's continued forbearance from enforcement action. Therefore, those facilities which have not fully qualified for interim status should also submit certifications and permit applications if they wish to continue operating.

4. Protective Filers

Protective filers, i.e., facilities that were in existence on November 19, 1980, notified the Agency of their activities according to section 3010, and submitted their Part A application, but have never conducted a regulated activity requiring a permit are not considered by the Agency to be in Interim Status and are not subject to the Loss of Interim Status provision.

C. Application for Final Determination Regarding the Issuance of a Permit

Prior to the enactment of the HSWA, land disposal facilities were not required to submit their Part B permit applications to EPA (or a State) until 6 months after EPA (or the State) requested it. Section 3005(e)(2) now provides that land disposal facilities must "apply for final determination regarding the issuance of a permit" by November 8, 1985 or lose their interim status, regardless of whether the EPA Regional Office or authorized State has requested the Part B application.

Land disposal facilities wishing to retain interim status and continue operations as a hazardous waste land disposal facility after November 8, 1985, are required to submit a Part B permit application (or in an authorized State, the State equivalent of the Part B application) by November 8, 1985, to satisfy this requirement. These permit applications need to address all applicable requirements, including those set forth in the Hazardous and Solid Waste Amendments of 1984. In States where EPA manages the RCRA program, the Part B application is to be sent to the EPA Regional Office. In authorized States that manage the RCRA program, the permit application is to be sent to both the EPA Regional Office and to the State.

Some facilities have indicated that they plan to continue receiving waste after November 8, 1985, but intend to stop waste receipt and close shortly thereafter. Such facilities must submit an application for a final operating permit, as noted above. This is necessary because, as of November 8, 1985, it is assumed that an operating permit of some kind will be issued to them if they have not closed in a manner that precludes the duty to obtain a permit. The content of the application, however, may be affected by the expected remaining operating life of the facility. For example, if the facility will close before November 1988 and this is reflected in the application (e.g., in the closure plan), then there would be no need to address the HSWA requirement to retrofit existing surface impoundments (section 3005(j)). Applicants planning to continue waste receipt after November 8, 1985, and to close shortly thereafter should discuss the applicability of permit provisions with the EPA Regional Office (and the Authorized State, if appropriate) as soon as possible.

D. Certification of Compliance With All Applicable Ground-Water Monitoring and Financial Responsibility Requirements

In accordance with the requirements of the Loss of Interim Status provision, land disposal facilities must also "certify compliance with all applicable ground-water monitoring and financial responsibility requirements." All applicable ground-water monitoring and financial responsibility requirements are defined as 40 CFR Part 265 Subparts F and H, or the State analogue thereto. The requirements that are considered applicable depend upon the authorization status of the State in which the facility is located.

- *Facilities located in a State with a Federally managed RCRA program* must certify compliance with 40 CFR Subparts F and H ground-water monitoring and financial responsibility requirements.
- *Facilities located in a State with Only Phase I Authorization* under the RCRA program must certify compliance with the authorized State ground-water monitoring requirements. In States with financial responsibility requirements incorporated as a part of their RCRA programs, facilities must certify compliance with authorized State financial responsibility requirements.
- *Facilities located in a State with Phase II or Final Authorization* must certify compliance with authorized State ground-water monitoring and financial responsibility requirements.

As stated in section II. A., Land Disposal Facility, Class I hazardous waste underground injection wells must comply with a different set of interim authorization requirements.

- Facilities located in States with Federally managed underground injection control (UIC) programs must certify compliance with 40 CFR 144.28(g)(1)(iii) ground-water monitoring requirements, as required by the Director. To certify compliance with financial responsibility requirements, Class I hazardous waste underground injection wells must be in compliance with 40 CFR 144.28(d) and 40 CFR Part 144 Subpart F financial responsibility requirements.
- In primacy States, facilities with Class I hazardous waste underground injection wells must certify compliance with requirements that are the equivalent of 40 CFR 144.28(g)(h)(iii) ground-water monitoring and Part 144 Subpart F and 144.28(d) financial responsibility requirements.
- Facilities issued a UIC permit after November 8, 1984, but which are still under RCRA interim status (see Section II. B. 1) must certify compliance with 40 CFR 146.13(b)(4), ground-water monitoring requirements, where applicable, and 40 CFR 144 Subpart F financial responsibility requirements; or, in primacy States, with equivalent State requirements.

To certify compliance with all applicable requirements a facility must be in "physical" compliance. "Physical" compliance, for the purpose of certification under this provision, means that a facility has "physically" in place all that is specified in the applicable Federal or State ground-water

monitoring and financial responsibility requirements.

A facility that is not in compliance with applicable ground-water monitoring and/or financial responsibility requirements of 40 CFR Part 265 or applicable State requirements may not certify compliance. For example, a facility lacking monitoring wells and a valid waiver may not certify. Similarly, a facility failing to meet financial responsibility requirements may not certify. If a representative of a facility has admitted noncompliance in an enforcement action the facility may not certify unless it achieves and maintains compliance.

Compliance with the financial responsibility requirements is the second pre-requisite for retaining interim status after November 8. The Agency recognizes that some facilities are encountering difficulties in obtaining insurance to satisfy the financial responsibility requirement governing liability coverage (40 CFR 264.17 and 265.17). EPA has recently published a proposed rule which solicits comment on five options the Agency is considering to remedy the problem regarding the availability of liability insurance for RCRA facilities. (See 50 FR 33907.)

For the purpose of this provision, facilities are urged to certify compliance with all applicable ground-water monitoring and financial responsibility requirements for the facility as a whole. If the owner/operator submits the application and the applicable certifications of compliance for some but not all land disposal units, the termination of Interim Status only affects the unit or units at the hazardous waste management facility for which the application and/or certification were not submitted.

EPA believes that this interpretation is reasonable. EPA sees no evidence in the legislative history to suggest that Congress meant to stop all operations at a multi-unit facility because a Part B or applicable certifications had not been properly submitted for one unit. Furthermore, this interpretation of taking action at facilities on a unit-by-unit basis has precedent in EPA's hazardous waste regulations. Section 270.1 allows EPA to deal with permit issuance to a facility on a unit-by-unit basis. With regard to permit issuance, § 270.1(c)(4) states that "EPA may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility."

Facilities should certify compliance by typing or printing a certification statement as shown in Appendix A. These forms should be signed by the individuals specified in 40 CFR 270.11. An original certification will be required for each submission (no photocopies of signatures will be acceptable).

Copies of a facility's certification and Part B or state final operating permit application must be submitted to both the EPA Regional Office *and* the State in which the facility is located. However, facilities in a State with a Federally run RCRA program need only submit these documents to the Region.

III. Failure To Satisfy Statutory Loss of Interim Status Requirements

All owners/operators of land disposal facilities or units that do not apply for a final determination with regard to a permit and certify compliance with all applicable ground-water monitoring and financial requirements, must comply with all applicable closure and post-closure requirements as specified in 40 CFR Part 265 Subpart G or the equivalent State requirement, as applicable, and must stop introducing wastes into facilities or units not retaining interim status on and after November 8, 1985. The owner/operator of the facility or affected units will be required to submit a closure plan within 15 days of loss of interim status (40 CFR 265.112), i.e., by November 23, 1985. In addition, facilities that closed after January 26, 1983, must submit their post-closure permit application (upon request by the Region or authorized States). Post-closure permit applications must address continuing releases as required by the newly amended section 3004(u) of RCRA. (Facilities losing interim status remain subject to corrective action orders and civil actions.)

Owners and operators of facilities should be aware that false certification and operation without interim status are criminal offenses. In addition, the Agency intends to take enforcement action regarding inadequate closures.

Dated: September 16, 1985.

Lee M. Thomas,

Administrator.

Appendix A—Certification Statement

I _____, am the owner/operator of _____ (EPA ID #) located at: _____. I certify that the _____ (name of unit(s) as identified on the attached surface topography map) at this facility is in compliance with: (1) (All applicable ground-water monitoring and financial responsibility requirements in 40 CFR Part 265 Subparts F and H; or (2) all applicable State ground-water monitoring and financial responsibility requirements which are part of the State's authorized hazardous waste program under section 3006 of RCRA.

I, _____, as owner-operator of _____, located at _____, knowingly and willfully make this true and accurate certification to the United States Environmental Protection Agency pursuant to section 3005(e) of the Hazardous and Solid Waste Disposal Act, as amended.

_____

(Date)

_____

(Signature)

Note: Federal Law subjects anyone who falsely makes or uses this certification to a fine and imprisonment under SWDA, 18 U.S.C. 1001 and 18 U.S.C. 1341.

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Federal Register

Wednesday
September 25, 1985

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States; Final Rule and Correction

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule and correction.

SUMMARY: This rule prescribes the late open seasons, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl seasons; special restrictions to reduce the black duck harvest; special seasons for scaup and goldeneyes; extra scaup and teal in regular seasons; experimental canvasback seasons; additional sandhill crane seasons in the Central Flyway and in Arizona; coots, common moorhens, and snipe in the Pacific Flyway; and additional special extended falconry seasons. Taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The rules will permit taking of the designated species during the 1985–86 season within specified periods of time beginning as early as September 28 and benefit the public by opening the seasons which are presently closed.

This rule also revises §§ 20.102, 20.103, and 20.109 of 50 CFR to correct the bag limits for pintails and the dates when Canada geese may not be taken in Units 5 and 6 in Alaska; the season dates for mourning doves in Florida; and the dates of extended falconry seasons for ducks, mergansers, coots, common moorhens, purple gallinules and geese in New Mexico, respectively, as published in the August 30, 1985, **Federal Register** (50 FR 35358). The final season framework for brant in Washington, Oregon and California as published in the September 5, 1985, **Federal Register** (50 FR 36217) is corrected.

EFFECTIVE DATE: September 25, 1985.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, Matomic Building Room 536, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C., telephone 202–254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

On March 14, 1985, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (50 FR 10276) a proposal to amend 50 CFR Part 20, with comment periods ending June 20, July 15 and August 19 (later extended to August 22), 1985, respectively, for the 1985–86 hunting season frameworks proposed for Alaska, Hawaii, Puerto Rico, and the Virgin Islands; other early seasons; and the late hunting season frameworks. That document dealt with the establishment of hunting seasons, hours, areas, and limits for migratory game birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. On June 4, 1985, the Service published in the **Federal Register** (50 FR 23459) a second document consisting of a supplemental proposed rulemaking dealing with both the early and late season frameworks. On July 5, 1985, the Service published for public comment in the **Federal Register** (50 FR 27638) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early season migratory bird hunting regulations. On July 26, 1985, the Service published in the **Federal Register** (50 FR 30424) a fourth document containing final frameworks for Alaska, Puerto Rico, and the Virgin Islands. On August 13, 1985, the Service published a fifth document (50 FR 32587) containing proposed frameworks for the late-season migratory bird hunting regulations. On August 21, 1985, the Service published in the **Federal Register** (50 FR 33737) a sixth document consisting of final frameworks for the early season migratory bird hunting regulations from which State wildlife conservation agency officials selected early season hunting dates, hours, areas, and limits for the 1985–86 season. On August 30, 1985, the Service published in the **Federal Register** (50 FR 35358) a seventh document consisting of a final rule amending Subpart K of 50 CFR Part 20 to set hunting seasons, hours, areas, and limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and common moorhens and purple gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in Florida, Iowa, Kentucky and Tennessee; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and special extended falconry seasons. On September 5, 1985, the Service published in the **Federal Register** an eighth document (50 FR 36198) consisting of a final rulemaking for the late-season frameworks for migratory game bird hunting regulations from which State wildlife conservation agency officials selected late season hunting dates, hours, areas, and limits for the 1985–86 season.

The final rule described here is the ninth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending Subpart K of 50 CFR Part 20 to set hunting seasons, hours, areas and limits for species subject to late hunting regulations.

These regulations will take effect immediately upon publication.

These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Nontoxic Shot Regulations

In the February 12, 1985, **Federal Register** (50 FR 5759–5764) and more recently the May 7, 1985, **Federal Register** (50 FR 19178–19182), the Service published a list of zones and areas where nontoxic shot will be required for waterfowl hunting in the 1985–86 hunting season.

More recently, on June 14, 1985, the National Wildlife Federation sued the Department of the Interior to block use of lead shotgun ammunition for waterfowl hunting in parts of 22 counties in California, Illinois, Missouri, Oklahoma, and Oregon. The issues in the case involve the protection of the endangered bald eagle from lead poisoning. The federal court has ordered that lead shot may not be allowed for the hunting of waterfowl in the disputed areas of California, Illinois, Missouri, Oklahoma, and Oregon unless and until the affected States authorize, agree to and aid the imposition of steel shot requirements by the Service. Missouri, Oklahoma, Oregon, and Illinois have agreed to the imposition of steel shot regulations in the disputed areas and the closure on waterfowl hunting in those disputed areas has been lifted with the exception that in Illinois the hunting closure was only lifted for the State's September teal season (September 7–15, 1985) because the State only agreed to the imposition of steel shot for that period. The waterfowl hunting closure

remains in effect until further notice in the disputed areas of Illinois for the remainder of its waterfowl seasons and in the disputed areas of California.

NEPA Consideration

The "Final Evironmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75-54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the Federal Register on June 13, 1975 (40 FR 24241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement.

Copies of assessments are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and] ". . . by taking such action necessary to insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical." The Service therefore initiated section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 18, 1985, the Acting Chief, Office of Endangered Species (OES), concluded that the proposed actions were not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats. Other biological opinions of relevance were issued January 25, April 18, and July 24, 1985.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior, Washington, D.C

Regulatory Flexibility Act and Executive Order 12291

In the Federal Register dated March 14, 1985 (at 50 FR 10282), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the Federal Register dated July 26, 1985 (at 50 FR 30425).

Authorship

The primary author of this final rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

After analysis of the migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the late season proposals (50 FR 10276, March 14, 1985; 50 FR 23459, June 4, 1985; and 50 FR 32587, August 13, 1985), the Service published in the Federal Register on September 5, 1985 (50 FR 36198) final late-season frameworks. Copies of the final frameworks were sent to the officials of the State conservation agencies who were invited to submit recommendations for hunting seasons which complied with the season times and lengths, hours, areas, and limits specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The following amendments will permit taking of the designated species within specified time periods beginning as early as September 28 and benefit the public by relieving existing restrictions.

The rulemaking process for migratory game bird hunting, must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when proposed rulemakings were published on March 14, June 4, and August 13, 1985, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that when the comment period closed time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to select their season dates, shooting hours, hunting areas, and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. (d)(3) (Administrative Procedure Act), and these regulations will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

On August 30, 1985, the Service published in the Federal Register seasons, areas, limits and shooting hours for certain migratory game birds in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands. In the table under § 20.102 where the limits are listed for waterfowl, sandhill cranes and common snipe in Alaska (50 FR 35360), Footnote 1 should include the following statement: In the Gulf Coast Area, the daily bag and possession limits may include no more than 3 and 9 pintails, respectively. In Footnote 2 of the same table, the period when the taking of Canada geese is prohibited in Units 5 and 6 is listed as September 1 through September 14. The dates should read September 1 through September 20.

In the table under § 20.103 (50 FR 35361) where the seasons, limits, and shooting hours are listed for mourning doves in Florida, the opening and closing dates for the second segment of the State's 3-segment season is listed as November 9 and November 24, respectively. The opening date should read November 16 and the closing date should read December 1.

In the table under § 20.109 (50 FR 35365) where the extended seasons, limits, and hours for taking migratory game birds by falconry are listed for the Central Flyway portion of New Mexico, the opening and closing dates for ducks,

mergansers and coots; and Canada and white-fronted geese is listed as October 15 and January 13, respectively. The opening date should read October 10 and the closing date should read January 12. The opening and closing dates for common moorhens and purple gallinules is listed as October 15 and January 19, respectively. The opening date should read October 10 and the closing date should read January 12. The opening date for snow, blue and Ross' geese is listed as November 15 but should read November 14.

In table under § 20.109 (50 FR 35365) where the extended seasons, limits, and hours for taking migratory game birds by falconry are listed for the Pacific Flyway portion of New Mexico the closing date for ducks, mergansers and coots is listed as January 13 but should read January 12. The opening and closing dates for common moorhens and purple gallinules is listed as October 5 and January 19, respectively. The opening date should be October 8 and the closing date should read January 12.

PART 20—MIGRATORY BIRD HUNTING

1. The Service corrects § 20.102 of 50 CFR Part 20 by amending Footnotes 1 and 2 for Alaska at 50 FR 35360, August 30, 1985, as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

* * * * *

[1] "In addition to . . . red-breasted mergansers. In the Gulf Coast Area, the daily bag and possession limits may include no more than 3 and 9 pintails, respectively."

[2] "No more than 4 . . . may be white-fronted geese. In Units 5 and 6, the taking of Canada geese is prohibited from September 1 through September 20. In Units 9(e) . . . is prohibited."

* * * * *

2. The Service corrects § 20.103 of 50 CFR Part 20 at 50 FR 35361 by revising the mourning dove season dates in Florida as follows:

§ 20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

* * * * *

(a) Mourning Doves—Eastern Management Unit.

* * * * *

Seasons in:

* * * * *

Florida: [2]	
12 noon to sunset	Oct. 5 to Oct. 27.
One half hour before sunrise to sunset.	November 16 to Dec. 1 & Dec. 14 to Jan. 13.

* * * * *

3. The Service corrects § 20.109 of 50 CFR Part 20 at 50 FR 35366 by revising the extended falconry seasons for ducks, mergansers and coots; common moorhens and purple gallinules; Canada and white-fronted geese; and snow, blue and Ross' geese in the Central Flyway portion of New Mexico, and by revising the extended falconry seasons for Ducks, mergansers and coots; and common moorhens and purple gallinules in the Pacific Flyway portion of New Mexico as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

* * * * *

Central Flyway

New Mexico

* * * * *

Ducks, mergansers and coots.	Oct. 10 to Jan. 12.
Common moorhens and purple gallinules.	Oct. 10 to Jan. 12.
Canada and white-fronted geese.	Oct. 10 to Jan. 12.
Snow, blue and Ross' geese.	Nov. 14 to Feb. 28.

Pacific Flyway

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New Mexico

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Ducks, mergansers and coots.	Oct. 8 to Jan. 12.
Common moorhens and purple gallinules.	Oct. 8 to Jan. 12.

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§ 20.108 [Corrected]

4. On September 5, 1985, (50 FR 36198), the Service published in the **Federal Register** Final Frameworks for Late Season Migratory Bird Hunting Regulations. The Service corrects the season framework for brant in Washington, Oregon and California. The following correction is made in 50 FR 36198 issued on September 5, 1985:

On page 36217 in the middle of the left hand column, under *Outside dates, season length, and limits, on geese (include brant):* "Between October 19 and November 29, 1985, Washington, Oregon and California. . . " is corrected to read "Between October 19, and November 30, 1985, Washington, Oregon and California . . ."

Date: September 20, 1985.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

BILLING CODE 4310-55-M

Accordingly, each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of Title 50, Chapter I, Subchapter B, Part 20, Subpart K, are hereby corrected and amended.

The hunting season regulations will not be included in the annual codification of Title 50 CFR, Wildlife and Fisheries, inasmuch as most seasons will have terminated by the time that the annual codification is issued.

Section 20.104 is revised to read as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Daily bag limit	25 (1)	See footnote (2)	5 (3)	8
Possession limit	25 (1)	See footnote (2).	10 (3)	16

Shooting and hawking hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in the Atlantic Flyway:

Connecticut	Sept. 2-Nov. 9.	Sept. 2-Nov. 9.	Oct. 19-Dec. 2.	Oct. 19-Dec. 2.
Delaware	Sept. 2-Nov. 9.	Sept. 2-Nov. 9.	Nov. 18-Jan. 1.	Nov. 18-Jan. 31.
Florida	Sept. 1-Nov. 9.	Sept. 1-Nov. 9.	Dec. 14-Jan. 27.	Nov. 2-Feb. 16.
Georgia	Sept. 14-Nov. 22.	Sept. 14-Nov. 22.	Nov. 30-Jan. 13.	Nov. 29-Feb. 28.
Maine	Sept. 1-Nov. 9.	Closed.	Oct. 1-Nov. 14.	Sept. 1-Dec. 16.
Maryland	Sept. 2-Nov. 9.	Sept. 2-Nov. 9	Oct. 21-Dec. 4.	Oct. 1-Jan. 15.
Massachusetts	Sept. 2-Nov. 9.	Closed.	Oct. 18-Nov. 23.	Sept. 2-Dec. 16.
New Hampshire	Closed.	Closed.	Oct. 1-Nov. 14.	Oct. 1-Dec. 4.
New Jersey (4):				
North Zone	Sept. 2-Nov. 9	Sept. 2-Nov. 9	Oct. 12-Nov. 15.	Oct. 5-Jan. 18.
South Zone	Sept. 2-Nov. 9	Sept. 2-Nov. 9	Nov. 11-Dec. 7 & Dec. 21-Dec. 28.	Oct. 5-Jan. 18.
New York (4):				
Long Island	Closed.	Closed.	Oct. 1-Nov. 14.	Closed.
Remainder of State	Sept. 1-Nov. 9.	Closed.	Oct. 1-Nov. 14.	Sept. 1-Dec. 16.
North Carolina	Sept. 23-Nov. 30.	Sept. 23-Nov. 30.	Nov. 23-Jan. 6.	Nov. 14-Feb. 28.
Pennsylvania	Sept. 2-Nov. 9.	Closed.	Oct. 19-Nov. 9.	Oct. 19-Dec. 14.
Rhode Island	Sept. 15-Nov. 23.	Sept. 15-Nov. 23.	Oct. 19-Dec. 2.	Sept. 15-Dec. 7 & Dec. 16-Jan. 7.
South Carolina	Sept.13-Oct. 18 & Nov. 11-Dec. 14.	Sept. 13-Oct.18 & Nov. 11-Dec. 14.	Nov. 28-Jan. 11.	Nov. 14-Feb. 28.
Vermont	Sept. 28-Dec. 6.	Closed.	Oct. 1-Nov. 14.	Sept. 28-Dec. 6.
Virginia	Sept. 9-Nov. 16.	Sept. 9-Nov. 16.	Oct. 28-Nov. 19 & Dec. 25-Jan. 15.	Oct. 17-Jan. 31.
West Virginia	Sept. 2-Nov. 9.	Closed.	Oct. 12-Nov. 23.	Sept. 2-Dec. 17.

Seasons in the Mississippi Flyway:

Alabama (5)	Nov. 19-Jan. 20	Nov. 19-Jan. 29.	Nov. 28-Jan. 31.	Nov. 14-Feb. 28.
Arkansas	Sept. 1-Nov. 9	Closed.	Nov. 9-Dec. 13 & Jan. 11-Feb. 9.	Sept. 14-Sept. 22 & Nov. 23-Feb. 28.
Illinois	Sept. 1-Nov. 9.	Closed.	Oct. 1-Dec. 4.	Sept. 7-Dec. 22.
Indiana	Sept. 1-Nov. 9.	Closed.	Sept.21-Sept.27 & Oct. 5-Dec. 1.	Sept. 1-Dec. 16.
Iowa (6)	Sept. 7-Nov. 15.	Closed.	Sept. 14-Nov. 17.	Sept. 7-Dec. 22.
Kentucky	Nov. 28-Jan. 20.	Closed.	Oct. 1-Dec. 4.	Oct. 1-Dec. 4.
Louisiana	Sept. 21-Sept.29 & Nov. 9-Jan. 8.	Sept. 21-Sept.29 & Nov. 9-Jan. 8.	Dec. 7-Feb. 9.	Nov. 9-Feb. 23.
Michigan (7)	Sept. 15-Nov. 14	Closed.	Sept. 15-Nov. 14	Sept. 15-Nov. 14.
Minnesota	Sept. 1-Nov. 4	Closed.	Sept. 1-Nov. 4.	Sept. 1-Nov. 4.
Mississippi	Oct. 19-Dec. 27.	Oct. 19-Dec. 27.	Dec. 21-Feb. 23.	Nov. 9-Feb. 23.
Missouri	Sept. 1-Nov. 9.	Closed.	Oct. 15-Dec. 18.	Sept. 1-Dec. 16.
Ohio	Sept. 2-Nov. 9	Closed.	Sept. 27-Nov. 30.	Sept. 2-Nov. 30 & Dec. 9-Dec. 25.
Tennessee	Dec. 5-Jan. 13.	Closed.	Oct. 12-Nov. 17 & Feb. 1-Feb. 28.	Nov. 19-Feb. 28.
Wisconsin:				
North Duck Zones	Oct.5(12)-Nov. 13.	Closed	Sept. 14-Nov. 17.	Oct.5(12)-Nov. 13.
South Duck Zones	Oct.5(12)-Oct. 13 & Oct. 19-Nov. 18.	Closed	Sept. 14-Nov. 17.	Oct.5(12)-Oct. 13 & Oct. 19 - Nov. 18.

Seasons in the Central Flyway:

Colorado (8)	Sept. 1-Nov. 9.	Closed.	Closed.	Sept. 1-Dec. 1.
Kansas	Sept. 14-Nov. 22.	Closed.	Oct. 1-Dec. 4.	Sept. 14-Dec. 29.
Montana (8)	Closed.	Closed.	Closed.	Sept. 28-Nov. 26.
Nebraska (9)	Sept. 1-Nov. 9	Closed.	Sept. 15-Nov. 18.	Sept. 1-Dec. 15.
New Mexico (8)	Sept. 7-Nov. 15.	Closed.	Closed.	Sept. 7-Dec. 8.
North Dakota	Closed.	Closed.	Closed.	Sept. 28-Nov. 24.
Oklahoma	Sept. 1-Nov. 9.	Closed.	Nov. 28-Jan. 30.	Oct. 20-Feb. 3.
South Dakota(10)	Closed.	Closed.	Closed.	Sept. 1-Oct. 31.
Texas	Sept. 1-Nov. 9.	Sept. 1-Nov. 9.	Nov. 23-Jan. 26.	Nov. 1-Feb. 12.
Wyoming (8)	Sept. 21-Nov. 29.	Closed.	Closed.	Sept. 21-Jan. 5.

Seasons in the Pacific Flyway:

Arizona	Closed.	Closed.	Closed.	Oct. 11-Dec. 1 & Dec. 18-Jan. 13.
California:				
Northeastern Zone (4)	Closed.	Closed.	Closed.	Oct. 12-Dec. 29.
Colorado River Zone (4)	Closed.	Closed.	Closed.	Oct. 11-Dec. 1 & Dec. 18 - Jan. 13.
Southern Zone (5)	Closed.	Closed.	Closed.	Oct. 19-Dec. 1 & Dec. 9-Jan. 12.
Balance of the State Zone	Closed	Closed.	Closed.	Oct. 26-Jan. 13.
Colorado (8)	Sept. 1-Nov. 9.	Closed.	Closed.	Sept. 1-Dec. 1.
Idaho	Closed.	Closed.	Closed.	Oct. 12-Dec. 1 & Dec. 16-Jan. 12.
Montana (8)	Closed.	Closed.	Closed.	Sept. 28-Dec. 29.
Nevada (11):				
Clark County	Closed.	Closed.	Closed.	Oct. 26-Jan. 12.
Remainder of State	Closed.	Closed.	Closed.	Oct. 12-Dec. 29.
New Mexico (8)	Sept.7-Nov. 15.	Closed.	Closed.	Sept. 7-Dec. 8.
Oregon:				
Morrow and Umatilla Counties	Closed.	Closed.	Closed.	Oct. 12-Nov. 10 & Nov. 18 - Jan. 12.
Remainder of State	Closed.	Closed.	Closed.	Oct. 12-Nov. 10 & Nov. 28 - Jan. 12.
Utah (11)	Closed.	Closed.	Closed.	Oct. 12-Dec. 29.
Washington:				
Eastern Washington (4),(11)	Closed.	Closed.	Closed.	Oct. 12-Jan. 5.
Western Washington (4), (11)	Closed.	Closed.	Closed.	Oct. 12-Nov. 1 & Nov. 16-Jan. 12.
Wyoming (8)	Sept. 21-Nov. 29.	Closed.	Closed.	Sept. 21 - Dec. 22.

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.

(2) In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.

(3) In States of the Atlantic Flyway, the woodcock bag limit is 3 daily and 6 in possession.

(4) For description of zones or management units within a State, see State regulations.

(5) In Alabama, the rail limits are 15 daily and 15 in possession.

(6) In Iowa, shooting hours are sunrise to sunset. Rail limits are 15 daily and 25 in possession.

(7) See State regulations for listing of certain Great Lakes waters where the season is to open concurrently with the duck season.

(8) The Central Flyway portion consists of: Colorado and Wyoming — the area lying east of the Continental Divide; Montana — the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; New Mexico — the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remaining portions of these States are in the Pacific Flyway.

(9) In Nebraska the rail limits are 10 daily and 20 in possession.

(10) In South Dakota, the snipe limits are 5 daily and 15 in possession.

(11) In Nevada, the shooting hours are from sunrise to sunset throughout the season. In Utah and Eastern Washington, on the opening day, the season opens at 12 noon. In Western Washington, on the opening day, the season opens at 8 a.m.

(12) On the first day the season opens at 12 noon.

Section 20.105 is amended to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) Waterfowl, coots and gallinules in Atlantic, Mississippi, Central, and Pacific Flyways.

ATLANTIC FLYWAY

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and West Virginia.

Flywaywide Restrictions.

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

Black ducks — When the black duck is permitted in the daily bag, it is part of the daily and possession limits for ducks.

Wood ducks — No more than 2 wood ducks may be taken daily nor more than 4 wood ducks may be possessed. Exceptions: during duck seasons prior to October 16, in Georgia, North Carolina, South Carolina, and Virginia. See State footnotes.

Hooded mergansers — In States selecting conventional regulations, no more than 1 hooded merganser may be taken daily nor more than 2 hooded mergansers may be possessed.

Canvasbacks and redheads — Except in closed areas, the limit on canvasbacks is 1 daily and 1 in possession. The limit on redheads throughout the flyway is 2 daily, except that in areas open to canvasback harvest the daily bag limit is 2 redheads, or 1 redhead and 1 canvasback. The canvasback possession limit is equal to the daily bag limit. The possession limit on redheads is twice the daily bag limit under conventional regulations. Under the point system, canvasbacks (except in closed areas) count 100 points each and redheads flywaywide count 70 points each. Areas closed to canvasback hunting are:

New York — Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey — Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland, Virginia and North Carolina — Those portions of the State lying east of U.S. Highway 1.

Portions of these areas otherwise closed to taking of canvasback, are open to hunting of canvasback at the end of the regular season State permits required in Maryland, New Jersey, New York and North Carolina. See sections below for these States for seasons and bag limits.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

The season dates for mergansers and coots are the same as those for ducks in the following tables:

	Season Dates	Limits Bag	Limits Possession
Connecticut			
Ducks:			
North Zone (1)			
Black Ducks	Nov. 27-Dec. 28	1	2
Ducks	Oct. 19-Oct. 26 & Nov. 27-Dec. 28.	4(25)	8(25)
Extra teal during regular season	Oct. 19-Oct. 26.	2(2)	4(2)
South Zone (1)			
Black Ducks	Dec. 4-Jan. 11.	1	2
Ducks	Oct. 19 & Dec. 4-Jan. 11.	4(25)	8(25)
Scaup-only season (3)	Jan. 16-Jan. 31.	5	10
Extra teal during regular season	Oct. 19.	2(2)	4(2)
Sea ducks (4X5X6)	Sept. 20-Jan. 4.	7	14
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 2-Nov. 9.	15 (7)	30(7)
Geese:			
North Zone	Oct. 19-Jan. 16.		
South Zone	Oct. 19 & Nov. 4-Jan. 31.		
Canada		3	6
Snow (including blue)		4	8
Brant:		4	8
North Zone	Nov. 27-Jan. 15.		
South Zone	Nov. 30-Jan. 18.		
Delaware			
Ducks:			
Black Ducks	Nov. 28-Nov. 30 & Dec. 7-Jan. 4.	1	2
Ducks	Nov. 4-Nov. 9 & Nov. 26-Nov. 30 & Dec. 7-Jan. 4.	4(25)	8(25)
Extra teal during regular season	Nov. 4-Nov. 9 & Nov. 26-Nov. 28.	2(2)	4(2)
Extra scaup during regular season	Nov. 4-Nov. 9 & Nov. 26-Nov. 30 & Dec. 7-Jan. 4.	2(2)	4(2)
Sea ducks(4X5X6)	Sept. 21-Jan. 4.	7	14
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 2-Nov. 9.	15(7)	30(7)
Geese:			
Canada	Nov. 4-Jan. 31.		
Snow (including blue)	Nov. 4-Jan. 31.	4	8
Brant	Nov. 26-Nov. 30 & Dec. 7-Jan. 20.	4	8
Florida			
Ducks, no more than 1 of which may be a species other than teal or wood ducks, and the possession limit will be double the daily bag limit	Sept. 21-Sept. 25.	4	8
Ducks:	Nov. 27-Dec. 1 & Dec. 10-Jan. 13.	Point system.	
Scaup-only season(3)	Jan. 16-Jan. 31	5	10
Coots		15	30
Gallinules (7)/Moorhens(7)	Sept. 1-Nov. 9.	15(7)	30(7)
Geese	Closed.	-	-
Georgia			
Ducks	Oct. 12 & Nov. 29-Nov. 30 & Dec. 7-Jan. 12.	4(8X25)	8(8X25)
Extra teal during regular season	Dec. 7-Dec. 15.	2(2)	4(2)
Extra scaup during regular season (24)	Oct. 12 & Nov. 29-Nov. 30 & Dec. 7-Jan. 12.	2(2)	4(2)
Sea ducks(4X5X6)	Nov. 29-Jan. 12.	7	14
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Oct. 4-Oct. 6 & Nov. 28-Nov. 30 & Dec. 7-Jan. 19.	15(7)	30(7)
Geese	Closed.	-	-
Brant	Closed.	-	-

Maine			
North Zone (Wildlife Management Units 1-5)			
Black Ducks:		1	2
Units 1-3	Oct. 5-Oct. 19.		
Units 4 & 5	Oct. 15-Nov. 13.		
Ducks	Oct. 5-Nov. 13	5	10
Extra teal during regular season	Oct. 5-Oct. 13.	2(2)	4(2)
South Zone (Wildlife Management Units 6-8)			
Black Ducks	Nov. 20-Dec. 14	1	2
Ducks	Oct. 5-Oct. 19 & Nov. 20-Dec. 14.	5	10
Extra teal during regular season	Oct. 5-Oct. 13.	2(2)	4(2)
Scaup only season	Oct. 28-Nov. 12.	2(2)	4(2)
Sea ducks(4X5X6)	Oct. 1-Jan. 15.	7	14
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(7)	30(7)
Geese:			
Canada	Oct. 5-Dec. 13.	3	6
Snow (including blue)	Oct. 5-Jan. 2.	4	8
Brant	Oct. 5-Nov. 23.	4	8
Maryland			
Ducks			
Black Ducks	Nov. 19-Nov. 29 & Dec. 9-Jan. 4.	1	2
Ducks	Oct. 11-Oct. 12 & Nov. 19-Nov. 29 & Dec. 9-Jan. 4.	4(25)	8(25)
Extra teal during regular season	Nov. 19-Nov. 27.	2(2)	4(2)
Special Canvasback Season	Dec. 30-Jan. 4.	4(10)	8(10)
Scaup only season (in sea duck zone)(3)	Jan. 6-Jan. 21.	5	10
Sea ducks(4X5X6)	Oct. 4-Jan. 18.	7	14
Coots		15	30
Gallinules/Moorhens	Sept. 2-Nov. 9.	15(7)	30(7)
Geese:			
Canada:			
Delmarva Peninsula (11)	Oct. 25-Nov. 29 & Dec. 9-Jan. 31.	3	6
Remainder of State	Nov. 1-Nov. 29 & Dec. 9-Jan. 18.	3	6
Snow (including blue)	Oct. 25-Nov. 29 & Dec. 9-Jan. 31.	4	8
Brant	Nov. 9-Nov. 29 & Dec. 9-Jan. 4.	4	8
Massachusetts			
Ducks:			
Western (Berkshire) Zone (1)			
Black Ducks	Oct. 15-Nov. 23.	1	2
Ducks	Oct. 15-Nov. 23.	5	10
Extra teal during regular season	Oct. 15-Oct. 23.	2(2)	4(2)
Coastal Zone (1)			
Black Ducks	Oct. 21-Oct. 26 & Nov. 25-Dec. 8 & Dec. 19-Dec. 28.	2	4
Ducks	Oct. 21-Oct. 26 & Nov. 25-Dec. 28.	4	8
Extra teal during regular season	Oct. 21-Oct. 26.	2(2)	4(2)
Central Zone (1)			
Black Ducks	Octo. 21-Nov. 2 & Nov. 25-Dec. 21.	1	2
Ducks	Oct. 21-Nov. 2 & Nov. 25-Dec. 21.	5	10
Extra teal during regular season	Oct. 21-Oct. 29.	2(2)	4(2)
Scaup-only season(3)	Jan. 3-Jan. 18.	5	10
Sea ducks(4X5X6)	Oct. 1-Jan. 15.	7	14
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Closed		
Geese:			
Western (Berkshire) Zone (1)	Oct. 15-Dec. 23.		
Coastal Zone (1)	Oct. 21-Nov. 2 & Nov. 25-Jan. 20.		
Central Zone (1)	Oct. 21-Nov. 2 & Nov. 25-Jan. 20.		
Canada		3	6
Snow (including blue)		4	8
Brant:			
Inland & Central Zone	Closed		
Coastal Zone	Nov. 25-Jan. 13.	4	8
New Hampshire			
Ducks:			
Inland Zone (1)			
Black Ducks	Oct. 5-Oct. 27 & Nov. 28-Dec. 14.	1	2
Ducks	Oct. 5-Oct. 27 & Nov. 28-Dec. 14.	5	10
Extra teal during regular season	Oct. 5-Oct. 13.	2(2)	4(2)
Scaup only season	Dec. 29-Jan. 13.	5	10
Coastal Zone (1)			
Black Ducks	Nov. 28-Dec. 28.	2	4
Ducks	Oct. 26-Nov. 3 & Nov. 28-Dec. 28.	4	8
Extra teal during regular season	Oct. 26-Nov. 3.	2(2)	4(2)
Extra scaup during regular season	Oct. 6-Oct. 14 & Nov. 18-Dec. 26.	2(2)	4(2)
Sea ducks(4X5X6)	Sept. 15-Dec. 30.	7	14
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Closed.		
Geese:			
Canada		3	6
Inland Zone	Oct. 5-Dec. 13.		
Coastal Zone	Oct. 19-Dec. 27.		
Snow (including blue)		4	8
Inland Zone	Oct. 5-Jan. 2.		
Coastal Zone	Oct. 5-Jan. 2.		
Brant:		4	8
Inland Zone	Oct. 5-Nov. 23.		
Coastal Zone	Oct. 19-Dec. 7.		
New Jersey			
Ducks:			
North Zone (1)			
Black Ducks	Oct. 12-Oct. 26 & Nov. 23-Dec. 17.	1	2
Ducks	Oct. 12-Oct. 26 & Nov. 23-Dec. 17.	4(25)	8(25)
Extra teal during regular season	Oct. 12-Oct. 19.	2(2)	4(2)
South Zone (1)			
Black Ducks	Oct. 26-Nov. 2 & Nov. 27-Dec. 28.	1	2
Ducks	Oct. 12-Oct. 19 & Nov. 27-Dec. 28.	4(25)	8(25)
Extra teal during regular duck season	Oct. 12-Oct. 19.	2(2)	4(2)
Coastal Zone (1)			
Black Ducks	Oct. 26-Nov. 2 & Nov. 27-Dec. 28.	1	2
Ducks	Oct. 26-Nov. 2 & Nov. 27-Dec. 28.	4(25)	8(25)
Extra teal during regular duck season	Oct. 26-Nov. 2.		
Special Canvasback Season	Dec. 18-Dec. 28.	4(10)	8(10)
Scaup only season (3)	Jan. 10-Jan. 25.	5	10
Sea ducks(4X5X6)	Oct. 5-Jan. 18.	7	14
Coots		15	30
Gallinules/Moorhens	Sept. 2-Nov. 9.	15(7)	30(7)
Geese:			
Canada		4	8
North Zone (1)	Oct. 12-Nov. 6 & Nov. 23-Jan. 25.		
South Zone (1)	Oct. 12-Nov. 4 & Nov. 27-Jan. 31.		
Coastal Zone (1)	Oct. 4-Nov. 2 & Nov. 27-Jan. 25.		
Snow (including blue)	Oct. 12-Jan. 9.	4	8
Brant	Oct. 26-Nov. 12 & Nov. 27-Dec. 28.	4	8
New York			
Long Island Zone:			
Ducks:			
Black Ducks	Nov. 13-Dec. 1 & Dec. 12-Jan. 1.	1	2
Ducks	Nov. 13-Dec. 1 & Dec. 12-Jan. 1.	4(25)	8(25)
Scaup only season(3)	Jan. 11-Jan. 26.	5	10
Extra teal during regular season	Nov. 13-Nov. 21.	2(2)	4(2)
Sea ducks (4X5X6)	Sept. 23-Jan. 7.	7	14
Mergansers		5	10
Coots		15	30
Geese:	Nov. 13-Jan. 31.		
Canada		3	6
Snow (including blue)		4	8
Brant	Nov. 13-Jan. 1.	4	8

Lake Champlain Zone: (12)			
Ducks:			
Black Ducks	Oct. 9-Oct. 13 & Oct. 26-Nov. 29.	1	2
Ducks	Oct. 9-Oct. 13 & Oct. 26-Nov. 29.	5	10
Special seaup and goldeneye season (13)	Nov. 30-Dec. 15.	3	6
Extra teal during regular season	Oct. 9-Oct. 13.	2(2)	4(2)
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(7)	30(7)
Geese	Oct. 9-Dec. 17.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 9-Nov. 27.	4	8
Northeastern Zone (1):			
Ducks:			
Black Ducks	Oct. 10-Oct. 27 & Nov. 10-Nov. 17.	1	2
Ducks	Oct. 10-Oct. 27 & Nov. 10-Dec. 1.	4(25)	8(25)
Extra teal during regular season	Oct. 10-Oct. 18.	2(2)	4(2)
Extra seaup during regular season	Oct. 10-Oct. 27 & Nov. 10-Dec. 1.	2(2)	4(2)
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(7)	30(7)
Geese:	Oct. 2-Dec. 30.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 2-Nov. 20.	4	8
Southeastern Zone (1):			
Ducks:			
Black Ducks	Nov. 15-Dec. 15.	1	2
Ducks	Oct. 12-Oct. 20 & Nov. 15-Dec. 15.	4(25)	8(25)
Extra teal during regular season	Oct. 12-Oct. 20.	2(2)	4(2)
Extra seaup during regular season	Oct. 12-Oct. 20 & Nov. 15-Dec. 15.	2(2)	4(2)
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(7)	30(7)
Geese:	Oct. 2-Dec. 30.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 2-Nov. 20.	4	8
Western Zone (1):			
Ducks:			
Black Ducks	Oct. 15-Nov. 12.	1	2
Ducks	Oct. 15-Nov. 12 & Dec. 26-Jan. 5.	4(25)	8(25)
Extra teal during regular season	Oct. 15-Oct. 23.	2(2)	4(2)
Extra seaup during regular season	Oct. 15-Nov. 12 & Dec. 26-Jan. 5.	2(2)	4(2)
Special Canvasback season	Dec. 26-Jan. 5.	4(10)	8(10)
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(7)	30(7)
Geese:	Oct. 2-Dec. 30.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 2-Nov. 20.	4	8
North Carolina			
Ducks:			
Black Ducks	Oct. 10-Oct. 12 & Nov. 28-Nov. 30 & Dec. 9-Jan. 11.	1	2
Ducks	Oct. 10-Oct. 12 & Nov. 28-Nov. 30 & Dec. 9-Jan. 11.	4(8X25)	8(8)
Special Canvasback season	Jan. 1-Jan. 11.	4(10)	8(10)
Extra seaup during regular season (14)	Oct. 10-Oct. 12 & Nov. 28-Nov. 30 & Dec. 9-Jan. 11.	2(2)	4(2)
Extra teal during regular season	Oct. 10-Oct. 12 & Nov. 28-Nov. 30 & Dec. 9-Dec. 11.	2(2)	4(2)
Sea ducks(4X5X6)	Oct. 1-Jan. 11.	7	14
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 23-Nov. 30.	15	30
Geese:			
Canada	Dec. 20-Jan. 31.	1	2
Snow (including blue)	Nov. 4-Jan. 31.	4	8
Brant	Oct. 10-Oct. 12 & Nov. 28-Nov. 30 & Dec. 9-Jan. 11.	4	8
Tundra swan	Nov. 4-Jan. 31	only by permit: 1 swan per season	
Pennsylvania			
Ducks:			
North Zone (1)			
Black Ducks	Nov. 1-Nov. 25.	1	2
Ducks	Oct. 17-Nov. 25.	4(25)	8(25)
Extra teal during regular season	Oct. 17-Oct. 26.	2(2)	4(2)
South Zone (1)			
Black Ducks	Nov. 14-Dec. 7.	1	2
Ducks	Oct. 24-Oct. 30 & Nov. 14-Dec. 16.	4(25)	8(25)
Extra teal during regular season	Oct. 24-Oct. 30.	2(2)	4(2)
Northwest Zone (1)			
Black Ducks	Nov. 7-Dec. 7.	1	2
Ducks	Oct. 17-Oct. 25 & Nov. 7-Dec. 7.	4(25)	8(25)
Extra teal during regular season	Oct. 17-Oct. 25.	2(2)	4(2)
Lake Erie Zone (1)			
Black Ducks	Oct. 29-Dec. 7.	1	2
Ducks	Oct. 29-Dec. 7.	4(25)	8(25)
Extra teal during regular season	Oct. 29-Nov. 5.	2(2)	4(2)
Extra seaup during regular season	Oct. 29-Dec. 7.	2(2)	4(2)
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 2-Nov. 9.	15(7)	30(7)
Geese:			
Canada and		3	6
Snow (including blue)		3	6
North Zone (1)	Oct. 5-Dec.13.		
South Zone (1)	Oct. 12-Dec. 20.		
Northwest Zone (1)	Oct. 12-Dec. 20.		
Lake Erie Zone (1)	Oct. 12-Dec. 20.		
Southeastern Zone (1)	Oct. 12-Jan. 9.		
Brant	Oct. 21-Nov. 18.	2	4
Rhode Island			
Ducks:			
Black Ducks	Oct. 11-Oct. 13 & Nov. 27-Dec. 1 & Dec. 7-Jan. 7.	1	2
Ducks	Oct. 11-Oct. 13 & Nov. 27-Dec. 1 & Dec. 7-Jan. 7.	5	10
Extra teal during regular season	Oct. 11-Oct. 13 & Nov. 27-Dec. 1.	2(2)	4(2)
Seaup-only season (3)	Jan. 11-Jan. 26.	5	10
Sea ducks(4X5X6)	Oct. 11-Jan. 20.	7	14
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 15-Nov. 23.	15(7)	30(7)
Geese:	Oct. 11-Oct. 13 & Nov. 6-Jan. 31.		
Canada		3	6
Snow (including blue)		4	8
Brant	Dec. 1-Jan. 19.	4	8
South Carolina(15X16)			
Ducks:			
Black Ducks (17)	Oct. 12 & Dec. 9-Jan. 13.	1	2
Ducks	Oct. 12 & Nov. 28-Nov. 30 & Dec. 9-Jan. 13.	4(8X25)	8(8X25)
Extra teal during regular season	Jan. 3-Jan. 11.	2(2)	4(2)
Extra seaup during regular season (18)	Oct. 12 & Nov. 28-Nov. 30 & Dec. 9-Jan. 13.	2(2)	4(2)
Mottled duck	Closed.	-	-
Sea ducks(4X5X6)	Oct. 4-Jan. 18.	7	14
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 13-Oct. 18 & Nov. 11-Dec. 14.	15(7)	30(7)

Geese:			
Canada	Closed		
Snow (including blue)	Oct. 12 & Nov. 28-Nov. 30 & Dec. 9-Jan. 13.	4	8
Brant	Oct. 12 & Nov. 28-Nov. 30 & Dec. 9-Jan. 13.	4	8
Vermont (12)			
Ducks:			
Black Ducks	Oct. 9-Oct. 13 & Oct. 26-Nov. 29.	1	2
Lake Champlain Zone (1)			
Ducks	Oct. 9-Oct. 13 & Oct. 26-Nov. 29.	5	10
Extra teal during regular season	Oct. 9-Oct. 13	2(2)	4(2)
Special seaup and goldeneye season	Nov. 30-Dec. 15.	3	6
Interior Vermont Zone (1)			
Black Ducks	Oct. 9-Nov. 17.	1	2
Ducks	Oct. 9-Nov. 17.	5	10
Extra teal during regular season	Oct. 9-Oct. 17	2(2)	4(2)
Extra seaup during regular season	Oct. 9-Nov. 17.	2(2)	4(2)
Mergansers		5	10
Coots		15	30
Gallinules/Moorhens	Sept. 28-Dec. 6.	15(7)	30(7)
Geese (19):			
Canada and snow		3	6
		4	8
Lake Champlain Zone	Oct. 9-Dec. 17.		
Interior Vermont Zone	Oct. 9-Dec. 17.		
Brant		4	8
Lake Champlain Zone	Oct. 9-Nov. 27.		
Interior Vermont Zone	Oct. 9-Nov. 27.		
Virginia			
Ducks:			
Black Ducks	Oct. 9-Oct. 12 & Nov. 27-Nov. 30 & Dec. 13-Jan. 13.	1	2
Ducks	Oct. 9-Oct. 12 & Nov. 27-Nov. 30 & Dec. 13-Jan. 13.	4(25)	8(25)
Extra teal during regular duck season	Oct.9-Oct. 12 & Nov. 27-Nov. 30 & Dec. 13.	2(2)	2(20
Special Canvasback season	Jan. 8-Jan. 13.		
Seaup only season(3)	Jan. 14-Jan. 29.	5	10
Sea ducks(4)(5)(6)	Oct. 7-Jan. 20.	7	14
Coots		15	30
Gallinules/Moorhens	Oct. 9-Oct. 12 & Nov. 27-Nov. 30 & Dec. 13-Jan. 13.	15(7)	30(7)
Geese:			
Canada:			
Back Bay Area (20)	Nov. 27-Nov. 30 & Dec. 8-Jan. 20.	2	4
Delmarva Peninsula Area	Nov. 1-Nov. 2 & Nov. 4-Nov. 9 & Nov. 11-Jan. 31	4	8
Remainder of State	Nov. 11-Nov. 16 & Nov. 18-Jan. 20.	3	6
Snow (including blue):			
Back Bay Area (21)	Nov. 27-Nov. 30 & Dec. 13-Jan. 13.	4	8
Remainder of State	Nov. 1-Nov. 2 & Nov. 4-Nov. 9 & Nov. 11-Jan. 31.	4	8
Brant	Nov. 30-Jan. 18	4	8
West Virginia			
Ducks:			
Allegheny Mountain Upland Zone (Zone 2) (1)			
Black Ducks	Oct. 8-Oct. 19 & Nov. 11-Dec. 7.	1	2
Ducks	Oct. 8-Oct. 19 & Nov. 11-Dec. 7.	4(25)	8(25)
Extra teal during regular season	Oct. 8-Oct. 16.	2(2)	4(2)
Extra seaup during regular season	Oct. 8-Oct. 19 & Nov. 11-Dec. 7.	2(2)	4(2)
Gallinules/Moorhens	Oct. 8-Oct. 19 & Nov. 11-Dec. 7.	15(7)	30(7)
Remainder of State (Zone 1X1)			
Black Ducks	Oct. 8-Oct. 19 & Dec. 17-Jan. 13.	1	2
Ducks	Oct. 8-Oct. 19 & Dec. 17-Jan. 13.	4(25)	8(25)
Extra teal during regular season	Oct. 8-Oct. 16.	2(2)	4(2)
Extra seaup during regular season	Oct. 8-Oct. 19 & Dec. 17-Jan. 13.	2(2)	4(2)
Gallinules/Moorhens	Oct. 8-Oct. 19 & Dec. 17-Jan. 13.	15(7)	30(7)
Mergansers		5	10
Coots		15	30
Geese:			
Allegheny Mountain Upland Zone (1)	Oct. 8-Oct. 19 & Nov. 11-Dec. 7.		
Remainder of State	Oct. 8-Oct. 19 & Dec. 17-Jan. 13.		
Canada		1(22)	2(22)
Snow (including blue)		4	8
Brant		4	8
Allegheny Mountain Upland Zone	Oct. 8-Oct. 19 & Nov. 11-Dec. 7.		
Remainder of State	Oct. 8-Oct. 19 & Dec. 17-Jan. 13.		

Point system — Ducks, mergansers and coots. The Atlantic Flyway States selecting the point system bag limits on designated species are listed in the table above.

The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sex which could have legally been taken in 2 days. The shooting (including hawking) hours are one-half hour before sunrise until sunset daily unless otherwise indicated.

The point values assigned to the species and sexes are as follows:

Atlantic Flyway

100 points	70 points	20 points	35 points
Canvasback (except where closed)	Wood duck	Blue-winged teal	Male mallard
	Redhead	Green-winged teal	Pintail
	Hooded merganser	Shoveler	Ring-necked duck
Female mallard		Gadwall	Bufflehead
Black duck		Wigeon	and all other species of ducks
Fulvous tree duck (only in Florida)		Scaup	
		Sea ducks (23)	
Mottled Duck (except South Carolina)		Mergansers (except hooded)	

(1) Described in the September 5, 1985, Federal Register (50 FR 36198). See State Regulations for zone/area boundaries.

(2) The daily bag and possession limits specified here are in addition to any other bag and possession limits specified elsewhere.

(3) A special hunting season for seaup only is prescribed in those areas which are described, delineated and designated in the hunting regulations of the State.

(4) An open season for taking scoter, eider, and oldsquaw ducks is prescribed according to the following table during the period between September 15, 1985, and January 20, 1986, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Mismogue Point in the Town of Riverhead to Red Cedar Point in the Town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

(5) The daily bag limit is 7 and possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

(6) Notwithstanding the provisions of this Part 20 the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

(7) Bag and possession limits are 15 and 30 common moorhens and purple gallinules, singly or in the aggregate of the two species. In Florida, the gallinule season applies to the common gallinule only. There is no open season on the purple gallinule in Florida.

(8) No special daily bag and possession limit restrictions apply to wood ducks in Georgia on October 12, in North Carolina during October 10-October 12, in South Carolina on October 12 and in Virginia during October 9-October 12.

(9) Only in coastal waters and the waters of the rivers and streams seaward from the first upstream bridge and includes all tidal waters bounded by ME 182 and 200 north of U.S. 1 in Hancock County.

(10) In Maryland, New Jersey, New York, North Carolina and Virginia the daily bag may include no more than 4 canvasbacks, not more than one of which may be a female. Areas open to canvasbacks hunting during the special season are:

New York - Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls, and all waters of Lake Cayuga.

North Carolina - That portion of Pamlico Sound and its tributaries designated as coastal fishing waters within two miles of the mainland, extending from Long Shoal Point on north side of Long Shoal River to that point of land near Whortonville on the north side of Broad Creek known as Piney Point and upstream in the Pamlico River to the Aurora-Bellhaven Ferry crossing.

New Jersey- East of the Garden State Parkway from Route 440, south to Route 36 (Raritan and Sandy Hook Bays, Navesink, and Shrewsbury Rivers); east of the Garden State Parkway from Route 88 south to Route 72 (Barnegat, Silver and Manahawkin Bays, Metedeconk and Toms Rivers).

Maryland - The waters of Chesapeake Bay and its tributaries to the first upstream bridge, except on the Patuxent River the boundary is the second upstream bridge (Maryland Route 231 bridge near Benedict, MD); including Potomac River and its tributaries upstream to U.S. Route 301 bridge.

Virginia - Starting at the Virginia-Maryland line (301 bridge) those lands and waters enclosed in the area bounded by: U.S. Highway 301 south to Route 207 and continuing to the junction of U.S. Route 1, south on Route 1 to Route 460, then southeast on 460 to Route 13, then east and north on Route 13 to the Maryland line, then westward on the Maryland-Virginia line to Route 301.

The remaining portions of New Jersey, New York, North Carolina, Maryland and Virginia presently closed to the taking of canvasbacks will remain closed.

(11) In Maryland, the Delmarva Peninsula includes the counties of Caroline, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico and Worcester.

(12) Throughout Vermont and in that part of New York in the Lake Champlain Zone, on opening day, October 9, shooting hours are from 7 a.m. to sunset. Shooting hours are one-half hour before local sunrise to local sunset throughout the remainder of the season.

(13) In the Lake Champlain Zone (described and delineated in the hunting regulations of New York and Vermont) a special hunting season for scaup and goldeneye is prescribed with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and 6 scaup or 6 goldeneyes or 6 in the aggregate in possession.

(14) Only in waters east of U.S. Highway 17, except Currituck Sound north of U.S. Highway 158.

(15) Except on January 5 and January 12 there will be no Sunday hunting in Georgetown County or Charleston County from the Georgetown County line (South Santee River) to the Wando River, east of Highway U.S. 17. The shooting hours in this area will be 1/2 hour before sunrise to 12:00 noon daily, except on October 12, November 30 and January 13, when shooting hours will be 1/2 hour before sunrise to sunset.

(16) During the period December 7-January 13, the shooting hours are 1/2 hour before sunrise to 1:00 p.m. daily on all lands and waters of: that portion of Lake Marion and Santee Swamp west of Interstate 95 bridge upstream to the confluence of the Wateree and Congaree Rivers. The affected area being further described as all land west of I-95 within or adjacent to Lake Marion which is owned by Santee Cooper or the State of South Carolina in the Counties of Clarendon, Sumter, Orangeburg and Calhoun. This regulation shall apply to all land in the area described above, whether such land shall be exposed or inundated.

NOTE: These regulations shall apply to land owned by Santee-Cooper or the State of South Carolina ONLY.

In Hampton, Colleton, Dorchester, Jasper, Beaufort and Charleston (that area not covered above) Counties: The shooting hours in this area will be 1/2 hour before sunrise to 12 noon daily except on October 12, November 30, and January 13 when shooting hours will be 1/2 hour before sunrise to sunset.

(17) In South Carolina, there is no open season on black ducks in Georgetown, Charleston, Colleton, and Beaufort Counties.

(18) Only in waters east of U.S. Highway 17, north of Charleston, and east of the Seaboard Railroad bed south of Charleston.

(19) See State regulations for further limit restrictions for Dead Creek Area, Addison County, Vermont.

(20) In Virginia, the Back Bay Area is defined for Canada geese as those portions of the cities of Virginia Beach and Chesapeake lying east of U.S. Highway 17 and Interstate 64. Geese may not be taken on the waters of Back Bay, December 6-12 and January 14-20.

(21) In Virginia, the Back Bay Area is defined for snow (including blue) geese as the waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Lake Tecumseh and Red Wing Lake and the marshes adjacent thereto.

(22) In West Virginia, the daily bag and possession limits on Canada geese is 1 and 2, respectively, in both zones during the first half of the split season. During the second half of the split season in both zones, the daily bag and possession limit on Canada geese is 2 and 4, respectively.

(23) In all areas outside of special sea duck areas, sea ducks are included in the regular duck season conventional or point-system daily bag and possession limits.

(24) East of Intercoastal Waterway in Chatham, Bryan, Liberty, McIntosh, Glynn and Camden Counties.

(25) The daily bag limit may include no more than 3 mallards of which only 1 may be a hen, 2 pintails, and 1 black duck. The possession limit is twice the daily bag limit. Except in closed areas, the limit on canvasbacks is 1 daily and 1 in possession. The limit on redheads is 2 daily, except that in areas open to canvasback hunting the daily bag limit is 2 redheads, or 1 redhead and 1 canvasback.

MISSISSIPPI FLYWAY

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee and Wisconsin.

Shooting hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

The season dates for mergansers and coots are the same as those for ducks in the following tables.

	Season Dates	Limits Bag	Limits Possession
Alabama			
Ducks:		Point system.	
North Zone (1)	Dec. 5-Jan. 13.		
South Zone (1)	Nov. 14-Nov. 24 & Dec. 16-Jan. 13.		
Coots		15	30
Gallinules/Moorhens	Nov. 12-Jan. 20.	15(11)	15(11)
Geese:		5	10
Remainder of State	Nov. 12-Jan. 20.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Arkansas			
Ducks	Nov. 23-Dec. 8 & Dec. 21-Jan. 13.	Point system.	
Coots		15	30
Gallinules	Sept. 1-Nov. 9.	15	30
Geese:		5	10
Canada	Closed.	-	-
Other geese	Nov. 12-Jan. 20.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Illinois (12)			
Ducks (2h		Point system.	
North Zone (1)	Oct. 16-Nov. 24.		
Central Zone (1)	Oct. 24-Dec. 2.		
South Zone (1)	Oct. 31-Dec. 9.		
Coots		15	30
Geese (4h		5	10
Canada			
North Zone (1)			
Tri-County Area (1)	Nov. 1-Nov. 20.	1	4
Remainder of North Zone	Oct. 16-Nov. 4.	1	4
Central Zone (1)			
Tri-County Area (1)	Nov. 1-Nov. 20.	1	4
Remainder of Central Zone	Oct. 24-Nov. 12.	1	4
South Zone (1)			
Southern Illinois Quota Zone (Alexander, Jackson, Union, and Williamson Counties)(4)(5)	Nov. 11-Dec. 20.	2	4
Remainder of South Zone	Nov. 26-Dec. 15.	1	4
Other Geese			
North Zone (1)	Oct. 16-Nov. 24.		
Central Zone (1)	Oct. 24-Dec. 2.		
South Zone (1)	Oct. 31-Dec. 9.		
Limits include no more than:			
White-fronted geese		2	4
Snow (including blue) and brant		5	10

Indiana			
Ducks:		Point system.	
North Zone (1)	Oct. 11-Oct. 13 & Nov. 1-Dec. 7.		
South Zone (1)	Oct. 19-Oct. 23 & Nov. 23-Dec. 27.		
Ohio River Zone (1)	Oct. 26-Oct. 30 & Dec. 10-Jan. 13.		
Sheup-only season (Lake Michigan only) (6)	Dec. 14-Dec. 29.	5	10
Coots		15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(11)	30(11)
Geese:		5	10
Canada:			
North Zone	Oct. 11-Oct. 13 & Nov. 1-Jan. 6.	2	4
South Zone:			
Posey County	Dec. 12-Jan. 20.	1	2
Remainder of South Zone	Oct. 19-Oct. 23 & Nov. 17-Jan. 20.	2	4
Ohio River Zone:			
Posey County	Dec. 12-Jan. 20.	1	2
Remainder of Ohio River Zone	Oct. 26-Oct. 30 & Nov. 17-Jan. 20.	2	4
Other Geese:			
North Zone	Oct. 11-Oct. 13 & Nov. 1-Jan. 6.		
South Zone	Oct. 19-Oct. 23 & Nov. 17-Jan. 20.		
Ohio River Zone	Oct. 26-Oct. 30 & Nov. 17-Jan. 20.		
Limits include no more than:			
White-fronted geese		2	4
Snow (including blue) and brant		5	10
Iowa			
Ducks (2)		Point system.	
North Zone	Oct. 19-Nov. 24.		
South Zone	Oct. 25-Dec. 1.		
Coots		15	30
Geese:		5	10
Southwest Zone (1)	Oct. 12-Dec. 20.		
Remainder of State	Sept. 28-Dec. 6.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Kentucky			
Ducks	Nov. 28-Dec. 1 & Dec. 9-Jan. 13.	4	8
Limits include no more than:			
Mallards (no more than 1 female mallard daily or 2 in possession)		2	4
Pintails		2	4
Black ducks		1	2
Wood ducks		2	4
Canvasbacks (except in closed areas)		1	2
Redheads		1	2
Coots		15	30
Gallinules/Moorhens	Nov. 28-Jan. 20.	15(11)	30(11)
Geese:		5	10
Western Zone (1) (3)(4)	Dec. 23-Jan. 31.		
Remainder of State	Nov. 28-Jan. 20.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Louisiana			
Ducks:		Point system.	
East Zone (1)	Nov. 23-Dec. 1 & Dec. 14-Jan. 13.		
West Zone (1)	Nov. 9-Dec. 1 & Dec. 21-Jan. 11.		
Sheup only season (6)	Jan. 15-Jan. 30.	5	10
Coots		15	30
Gallinules/Moorhens	Sept. 21-Sept. 29 & Nov. 9-Jan. 8.	15(11)	30(11)
Geese:			
Canada	Closed.	-	-
Other Geese:		5	10
East Zone(1)	Nov. 23-Dec. 1 & Dec. 14-Feb. 12.		
West Zone (1)	Nov. 9-Dec. 1 & Dec. 21-Feb. 5.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Michigan			
Ducks (2):		Point system	
North Zone (1)	Oct. 5-Nov. 13.		
Middle Zone (1)	Oct. 5-Nov. 13.		
Southeast Zone (1)	Oct. 5-Nov. 13.		
Sheup only season (6)	Nov. 16-Dec. 1.	5	10
Coots		15	30
Gallinules/Moorhens		15(11)	30(11)
North Zone	Oct. 5-Nov. 13		
Middle Zone	Oct. 5-Nov. 13.		
Southeast Zone	Oct. 5-Nov. 13.		
Geese:			
Canada			
North Zone (9):			
Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, and Ontonagon Counties	Sept 26-Oct. 15.	1	2
Remainder of North Zone	Sept. 28-Oct. 17.	1	2
Middle Zone (1):			
Southern Michigan Goose Management Area (1)	Oct. 5-Nov. 3.	1	2
	Jan. 1-Feb. 16.	3	6
Allegan County Goose Management Area	Oct. 5-Nov. 13.	1	2
Muskegon Wastewater GMA	Oct. 15-Nov. 13.	1	2
Remainder of Middle Zone	Oct. 5-Nov. 3.	1	2
Southeast Zone (1)			
Southern Michigan Goose Management Area (1)	Oct. 5-Nov. 13.	1	2
	Jan. 1-Feb. 16.	3	6
Remainder of Southeast Zone	Oct. 5-Nov. 13.	1	2
Other geese:			
North Zone (1):			
Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, Ontonagon Counties	Sept. 28-Nov. 13.		
Remainder of North Zone	Sept. 28-Nov. 13.		
Middle Zone (1)	Oct. 5-Nov. 13.		
Southeast Zone (1)	Oct. 5-Nov. 13.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Minnesota (7)			
Ducks:	Oct. 5-Nov. 13.	4	8
Limits include no more than:			
Mallards (no more than 1 female mallard daily or 2 in possession)		2	4
Pintails		2	4
Black ducks		1	2
Wood ducks		2	4
Canvasbacks (except in closed areas)		1	2
Redheads		1	2
Mergansers (no more than 1 hooded merganser daily or 2 in possession)		5	10
Coots		15	30
Gallinules/Moorhens	Oct. 5-Nov. 13.	15(11)	30(11)
Geese:			
Canada:			
Lac Qui Parle Quota Zone (1) (4)	Sept. 28-Nov. 16	1	2
Southeastern Zone (1)	Sept. 28-Dec. 6.	2	4
Remainder of State	Sept. 28-Nov. 16.	1	2
Other geese:			
Southeastern Zone	Sept. 28-Dec. 6.		
Remainder of State	Sept. 28-Nov. 16.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Mississippi			
Ducks	Nov. 30-Dec. 1 & Dec. 7-Jan. 13.	Point system.	
Coots		15	30
Gallinules/Moorhens	Oct. 19-Dec. 27.	15	30
Geese:		5	10
Canada:			
Sardis Zone (1)	Dec. 5-Dec. 14 & Jan. 12-Jan. 31.	1	2

Remainder of State	Dec. 30-Jan. 13.	1	2
Other geese	Nov. 12-Jan. 20.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Missouri			
Ducks:		Point system.	
North Zone (1)	Oct. 19-Oct. 21 & Nov. 2-Dec. 8.		
South Zone (1)	Nov. 2-Dec 1 & Dec. 27-Jan. 5.		
Coots		15	30
Geese:		5	10
Canada (3)			
North Zone (1)			
Swan Lake Zone (1) (4)	Nov. 2-Dec. 21.	2	4
Southeastern Zone (east of U.S. Highway 67 and south of Crystal City)	Dec. 2-Jan. 20.	1	2
Remainder of North Zone	Nov. 2-Dec. 21.	1	2
South Zone (1)			
Southeastern Zone (1)	Dec. 2-Jan. 20.	1	2
Remainder of South Zone	Nov. 2-Dec. 1 & Dec. 27-Jan. 15.	1	2
White-fronted	Nov. 1-Jan. 9.	2	4
Snow (including blue) and brant	Nov. 2-Jan. 10.	5	10
Ohio			
Pymatuning Area (1):			
Ducks:			
Black Ducks	Nov. 7-Dec. 7.	1	2
Other Ducks	Oct. 17-Oct. 25 & Nov. 7-Dec. 7.	4	8
Limits include no more than:			
Mallards (no more than 1 female daily or 2 in possession)		3	6
Black Ducks		1	2
Wood Ducks		2	4
Canvasbacks		1	1
Redheads		2	4
Canvasbacks and Redheads combined		2	4
Extra teal during regular season	Oct. 17-Oct. 25.	2(2)	4(2)
Coots		15	30
Gallinules/Moorhens	Sept. 2-Nov. 9.	15(11)	30(11)
Mergansers (except hooded)		5	10
Hooded mergansers		1	2
Geese:			
Brant	Oct. 21-Nov. 18.		
Other Geese	Oct. 12-Dec. 20.		
Limits include no more than:			
Canada		3	6
Snow (including blue)		4	8
Brant		4	8
Remainder of State:			
Ducks:		4	8
North Zone (1)	Oct. 21-Nov. 23 & Dec. 9-Dec. 14.		
South Zone (1)	Oct. 21-Nov. 2 & Dec. 9-Jan. 4.		
Ohio River Zone (1)	Oct. 21-Nov. 2 & Dec. 16-Jan. 11.		
Limits include no more than:			
Mallards (no more than 1 female mallard daily or 2 in possession		2	4
Black ducks		1	2
Wood ducks		2	4
Canvasbacks		1	2
Redheads		1	2
Scaup-only (North Zone only) (6)	Dec. 16-Dec. 31.	5	10
Coots		15	30
Gallinules/Moorhens	Sept. 2-Nov. 9.	15(11)	30(11)
Geese	Oct. 21-Nov. 30 & Dec. 9-Jan. 6.	5	10
Limits include no more than:			
Canada:			
Ashtabula, Auglaize, Erie, Lucas, Marion, Mercer, Ottawa, Sandusky, Trumbull, and Wyandot Counties		1	2
Remainder of State		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Tennessee			
Ducks:		Point system	
Reelfoot Zone (1)	Nov. 2-Nov. 5 & Dec. 9-Jan. 13.		
Remainder of State Zone (1)	Dec. 5-Jan. 13.		
Coots		15	30
Gallinules/Moorhens	Dec. 5-Jan. 13.	15(11)	30(11)
Geese:		5	10
Canada(8)			
Northwest Zone (4)	Dec. 23-Jan. 31.	1	2
Southwest Zone	Jan. 17-Jan. 31.	1	2
Remainder of State			
West of State Highway 13	Nov. 12-Jan. 20.	2	4
East of State Highway 13	Nov. 12-Jan. 20.	1	2
Other geese	Nov. 12-Jan. 20.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Wisconsin			
Ducks (2):		Point system (10)	
North Duck Zone (1)	Oct. 5 (13)-Nov. 13.		
South Duck Zone (1)	Oct. 5 (13)-Oct. 13 & Oct. 19-Nov. 18.		
Coots		15	30
Scaup-only season (6)			
North Duck Zone	Nov. 14-Nov. 29.	5	10
South Duck Zone	Nov. 19-Dec. 4.	5	10
Gallinules/Moorhens			
North Duck Zone (1)	Oct. 5(13)-Nov. 13.	15(11)	30(11)
South Duck Zone (1)	Oct. 5(13)-Oct. 13 & Oct. 19-Nov. 18.	15(11)	30(11)
Geese:			
Canada:		5	10
North Duck Zone (1)			
Brown County	Oct. 5 (13)-Oct. 24.	1	2
	Dec. 1-Dec. 31.	2	4
Mississippi River Zone	Oct. 5 (13)-Dec. 13.	1	2
Remainder of North Zone	Oct. 5 (13)-Oct. 24.	1	2
South Duck Zone (1)			
Horicon and Central Zones (1)(4)	Oct. 5(13)-Nov. 6 & Dec. 7-Dec. 13.	Tag system - see State regulations.	
Rock Prairie Zone (1)	Oct. 19-Nov. 7	1	2
	Nov. 16-Dec. 15.	2	4
Mississippi River Zone	Oct. 5(13)-Oct. 13	1	2
	Oct. 19-Dec. 15.	2	4
Remainder of South Zone	Oct. 19-Nov. 7.	1	2
Other geese			
North Duck Zone (1)	Oct.5(13)-Nov. 13.		
South Duck Zone (1)	Oct. 5 (13)-Oct. 13 & Oct. 19-Nov. 18.		
Mississippi River Zone	Nov. 25-Dec. 15.		
Rock Prairie Zone	Nov. 16-Dec. 15.		
Brown County Zone	Dec. 1-Dec. 31.		
Limits include no more than:			
White-fronted		2	4
snow (including blue) and brant		5	10

The point values assigned to the species and sexes are as follows:
Mississippi Flyway (14)

100 points	70 points	20 points	35 points
Canvasback (except where closed)	Wood duck	Blue-winged teal	Male mallard
	Redhead	Green-winged teal	Pintail
	Hooded merganser	Cinnamon teal	and all other species of ducks.
Black duck		Wigeon	
Female mallard		Shoveler	
		Gadwall	
		Scaup	
		Mergansers (except hooded).	

(1) Described in the September 5, 1985, Federal Register (50 FR 36198). See State regulations for zone/area boundaries.

(2) The areas closed to canvasback hunting are:

Mississippi River - (1) Entire river, both sides, from Lock and Dam 9 upstream to the confluence of the Chippewa River. (2) Pool 19 bordering Iowa and Illinois.

Michigan - Macomb and St. Clair Counties, including the adjacent Great Lakes waters and interconnecting waterways under the jurisdiction of the State of Michigan.

Wisconsin - In the Mississippi River Zone, all that part of Wisconsin west of the Burlington-Northern Railroad from Lock and Dam 9 north to the centerline of the Chippewa River.

(3) Geese taken in Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped or delivered for transportation for shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

(4) Harvests of Canada geese will be limited as follows:

Illinois: Southern Illinois Quota Zone—17,500.
Kentucky: West Kentucky Zone—7,000.
Wisconsin: Horicon and Central Zones combined—15,000.
Missouri: Swan Lake Zone—16,000.
Minnesota: Lac qui Parle Zone—4,500.
Tennessee: Northwest Zone—1500.

Missouri, Illinois, Minnesota, Kentucky and Tennessee Quota Zone Closures: When it has been determined that the quota of Canada geese allotted to the Southern Illinois Quota Zone, the Swan Lake Zone in Missouri, the Lac qui Parle Zone in Minnesota, the West Kentucky Zone and the Northwest Zone in Tennessee will have been filled, the season for taking Canada geese in the respective area will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

(5) Shooting hours for geese are sunrise until 3 p.m.

(6) A special hunting season for scaup only is prescribed in those areas which are described, delineated and designated in the hunting regulations of the State.

(7) In Minnesota, the shooting hours for waterfowl vary as follows: Ducks - October 5—12 noon to 4 p.m.; October 6 through October 18 - 1/2 hour before sunrise to 4 p.m.; and October 19-November 13 - 1/2 hour before sunrise to sunset. Geese - September 28 — 12 noon to 4 p.m.; September 29 - October 18 - 1/2 hour before sunrise to 4 p.m.; and October 19 - December 8 - 1/2 hour before sunrise to sunset.

(8) Local restrictions, including closures, apply in specified areas. Consult State regulations. Tagging of Canada geese is required in designated zones.

(9) On the first day the season opens at 12 noon.

(10) In Wisconsin, point values for some species change during the season. See State Regulations.

(11) The daily bag and possession limit for purple gallinules and common moorhens is singly or in the aggregate of the two species.

(12) No hunting of ducks, coots, geese and brant is authorized in the following area of Illinois unless and until the State authorizes, agrees to and aids the Service in establishing steel-shot only zones encompassing that area: Illinois: Henderson, Peoria, Fulton, Mason, Calhoun, Pike, Alexander, Jackson, Union and Williamson Counties.

CENTRAL FLYWAY

The Central Flyway consists of Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Geese include all species of geese and brant.
Dark Geese include Canada geese, white-fronted geese, and "black" brant.
Light Geese include all other species.

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise noted.

Mergansers — All mergansers are to be included within the daily bag and possession limits under conventional and point system regulations.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

	Season Dates	Limits Bag	Possession
Colorado			
Ducks	Oct. 5-Oct. 19 & Nov. 3-Nov. 29 & Dec. 14-Jan. 5.	Point system.	
Coots	Same as for ducks.	15	30
Geese (1):		2	4
North-Central Unit	Sept. 28-Oct. 11 & Oct. 26-Jan. 12.		
South Park Unit (special permit)	Sept. 28-Oct. 11 & Oct. 26-Dec. 30.		
San Luis Valley Unit (special permit)	Nov. 2-Dec. 31.		
Remainder of State in Central Flyway	Nov. 2-Jan. 12.		
Kansas			
Ducks(2):		Point system.	
High Plains Area (west of U.S. 283)	Oct. 19-Nov. 3 & Nov. 9-Dec. 15 & Dec. 21-Jan. 1.		
Low Plains Area (east of U.S. 283)	Oct. 26-Nov. 3 & Nov. 9-Dec. 8 & Dec. 26-Jan. 5.		
Coots	Same as for ducks.	15	30
Dark geese (2)	Oct. 26-Jan. 5.	2	4
including no more than:			
White-fronted	Oct. 26-Jan. 5.	1	2
Canada	Nov. 25-Jan. 5.	1	2
Light geese			
Unit 1 (east of U.S. 75 and north of I-70)	Nov. 16-Dec. 11 & Dec. 19-Feb. 16.	5	10
Unit 2 (remainder of State)	Nov. 2-Dec. 8 & Dec. 14-Jan. 31.		
Montana			
Ducks			
Zone 1 (3)	Oct. 12-Nov. 24 & Dec. 7-Dec. 27.	Point system (12)	
Zone 2 (3)	Oct. 12-Oct. 20 & Nov. 2-Dec. 27.		
Coots	Same as for ducks.	15	30
Geese:	Sept. 28-Dec. 29.		
Sheridan County		2	4
Remainder of State in Central Flyway		3	6
Tundra swans	Sept. 28-Dec. 29.	Only by permit; 1 swan per season	
Nebraska			
Ducks		Point system.	
High Plains Area	Oct. 19-Dec. 7 & Dec. 22-Jan. 5.		
Low Plains Area			
Zones 1 and 2 (4)	Oct. 19-Oct. 20 & Oct. 29-Dec. 15.		
Zones 3 and 4 (4)	Oct. 12-Nov. 30.		
Coots	Same as for ducks.	15	30
Dark geese			
North Unit (5)	Oct. 5-Dec. 22.	2	4
including no more than:			
White-fronted	Oct. 5-Dec. 22.	1	2
Canada	Oct. 5-Nov. 8.	1	2
East Unit (5)	Sept. 28-Dec. 8.	2	4
including no more than:			
White-fronted	Sept. 28-Dec. 8.	1	2
Canada	Nov. 18-Dec. 8.	1	2
Central Unit (5)	Oct. 26-Jan. 5.	2	4
including no more than:			
White-fronted	Oct. 26-Jan. 5.	1	2
Canada	Nov. 18-Jan. 5.	1	2
Panhandle Unit (5)	Nov. 10-Jan. 5.	2	4
including no more than:			
White-fronted	Nov. 10-Jan. 5.	1	2
Canada	Nov. 18-Jan. 5.	1	2
Sandhills Unit(5)	Nov. 2-Dec. 31.	Only by permit - 1 Canada goose per season.	
Light Geese	Sept. 28-Dec. 22.	5	10
New Mexico			
Ducks :		Point system.	
Zone 1 (6)	Nov. 2-Jan. 5.		
Zone 2 (6)	Nov. 9-Jan. 12.		
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Oct. 15-Dec. 23.	15(16)	30(16)
Geese:			
Dark geese (7)	Oct. 19-Jan. 19.	2	4
Light geese:	Oct. 29-Nov. 10 & Dec. 11-Feb. 28.	5	10
North Dakota			
Ducks:	Oct. 5-Nov. 23.	4	8
including no more than:			
Mallards (no more than 1 female mallard daily and 1 in possession)		3	6
Pintails (no more than 1 female pintail daily and 2 in possession)		3	6
Canvasbacks		1	1
Redheads		1	2
Wood ducks		2	4
Hooded Mergansers		1	2

Additional blue-winged teal	Oct. 5-Oct. 13.	2(8)	4(8)
Additional scaup	Oct. 26-Nov. 23.	2(8)	4(8)
Coots	Same as for ducks.	15	30
Dark geese (8)	Sept. 28-Nov. 17.	2	4
including no more than:			
Canada	Sept. 28-Nov. 3.	1	2
Light geese (8)	Sept. 28-Nov. 23.	5	10
Oklahoma			
Ducks:		Point system.	
High Plains Area (9)	Oct. 12-Nov. 10 & Nov. 23-Dec. 27.		
Low Plains			
Zone 1 (9)	Oct. 12-Nov. 3 & Nov. 30-Dec. 26.		
Zone 2 (9)	Oct. 26-Nov. 10 & Nov. 30-Jan. 2.		
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(16)	30(16)
Dark geese (10)		2	4
including no more than:			
White-fronted		1	2
Unit 1 (10)	Nov. 9-Jan. 19.		
Unit 2 (10)	Oct. 26-Nov. 10 & Nov. 25-Jan. 19.		
Light geese	Oct. 26-Nov. 10 & Nov. 30-Feb. 7.	5	10
South Dakota			
Ducks:		Point system (12)	
High Plains Area (11)	Oct. 12-Nov. 30 & Dec. 14-Dec. 28.		
Low Plains Area			
North Zone (11)	Oct. 5-Nov. 23.		
South Zone (11)	Oct. 26-Dec. 14.		
Coots	Same as for ducks.	15	30
Dark geese (12)			
Missouri River Unit (13)	Oct. 5-Dec. 22.	2	4
including no more than:			
Canada	Oct. 5-Nov. 8.	1	2
White-fronted	Oct. 5-Dec. 22	1	2
Remainder of State	Sept. 28-Dec. 8.	2	4
including no more than:			
Canada		1	2
White-fronted		1	2
Light geese (12)	Sept. 28-Dec. 22.	5	10
Texas			
Ducks (except masked duck):		Point system.	
High Plains Area (14)	Nov. 9-Jan. 12.		
Remainder of State	Nov. 2-Nov. 5 & Nov. 23-Dec. 8 & Dec. 14-Jan. 12.		
Masked duck	Closed season.	-	-
Coots	Same as for ducks.	15	30
Gallinules/Moorhens	Sept. 1-Nov. 9.	15(16)	30(16)
Geese:			
East of U.S. Highway 81:			
Dark geese	Nov. 2-Dec. 8 & Dec. 16-Jan. 19.	2	4
including no more than:			
Canada		1	2
White-fronted		1	2
Light geese	Nov. 2-Jan. 26.	5	10
West of U.S. Highway 81:			
Geese:	Oct. 29-Jan. 19.	5	10
including no more than:			
Dark geese		2	4
Wyoming			
Ducks and coots		Point system (9).	
Zone 1 (15)	Oct. 12-Nov. 24 & Dec. 7-Dec. 27.		
Zone 2 (15)	Oct. 12-Nov. 24 & Dec. 7-Dec. 27.		
Zone 3 (15)	Oct. 12-Dec. 15.		
Zone 4 (15)	Oct. 12-Nov. 29 & Dec. 14-Dec. 29.		
Geese:		2	4
Zone 1 (15)	Oct. 12-Jan. 5.		
Zone 2 (15)	Nov. 16-Jan. 12.		
Zone 3 (15)	Sept. 28-Dec. 29.		
Zone 4 (15)	Sept. 28-Dec. 29.		

Point system - Ducks, mergansers and coots. The Central Flyway States selecting the point system bag limits on designated species are listed in the table above.

The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sex which could have legally been taken in 2 days. The shooting (including hawking) hours are one-half hour before sunrise until sunset daily unless otherwise indicated.

The point values assigned to the species and sexes are as follows:

Central Flyway

100 points	70 points	20 points	35 points
Canvasback	Wood duck	Blue-winged teal	Male mallard
Female mallard	Redhead	Green-winged teal	Pintail
	Hooded merganser	Cinnamon teal	and all other
Texas only:	Texas only:	Shoveler	species of
Mottled duck	Black duck	Gadwall	ducks*
	Black bellied and fulvous whistling (tree) ducks	Wigeon	
		Scaup	
		Merganser (except hooded).	

* In Texas only, there is no open season on the Masked duck.

(1) North Central unit: Bounded by the Continental Divide, the northern State line, and highways US-85 to I-76, I-76 to I-25, I-25 to I-70, and I-70 to the Continental Divide. South Park Unit: Chaffee, Fremont, Lake, Park, and Teller Counties. San Luis Valley Unit: Alamosa, Conejos, Costilla, and Rio Grande Counties and the portions of Hinsdale, Mineral, and Saguache Counties east of the Continental Divide.

(2) Dark geese may not be hunted in (a) an area, including the Marais des Cygnes Waterfowl Refuge, bounded by the eastern State line and highways K-68 to US-169, US-169 to K-7, K-7 to K-31, K-31 to US-69, US-69 to K-239, and K-239 to the State line and (b) an area southwest of Emporia bounded by highways K-57 to US-75, US-75 to K-39, K-39 to K-96, K-96 to US-77, US-77 to US-50, and US-50 to K-57.

(3) Zone 1: The Central Flyway portion, except Zone 2, of Montana. Zone 2: The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure, and Wibaux.

(4) High Plains: West of Highways US-183 and US-20 from the northern State line to Ainsworth, N-7 and N-91 to Dunning, N-2 to Merna, N-70 to Arnold, N-40 and N-47 and N-47 through Gothenburg to N-23, N-23 to Elwood, and US-283 to the southern State line. Zone 1: Keya Paha (east of US-183) and Boyd Counties including all waters of the Niobrara River. Zone 2: Bounded by Highways and political boundaries starting at the State line near Falls City, US-73 north to N-67; north through Nemaha to US-73-75; north to US-34; west to the Alvo Road; north to US-6; northeast to N-63; north and west to US-77; north to N-92; west to US-81; south to N-66; west to N-14; south to I-80; west to US-34; west to N-10; south to the State line; west to US-283; north to N-23; west to N-47; north to US-30; east to N-14; north to N-52; northwesterly to N-91; west to US-281; north to and including Wheeler, Garfield, and Loup (east US-183) Counties; east on N-70 from Wheeler County to N-14; south to N-39; southeast to N-22; east to US-81; southeast to US-30; east to US-73; north to N-51; east to the State line; and south and west along the State line to US-73. Zone 3: The area, excluding Zone 1, north of Zone 2. Zone 4: The area south of Zone 2.

(5) North Unit: Boyd (west of US-81), Keya Paha (east of US-183), and Knox Counties. East Unit: The area, excluding the North Unit, east of highways US-183 and US-20 from the northern State line to Atkinson, N-11 to Burwell, N-91 to near Taylor, US-183 to Ansley, N-2 to Grand Island, and US-281 to the southern State line. Panhandle Unit: South and west of the northern boundaries of Scotts Bluff, Morrill, and Garden Counties and highways N-2 from Garden County to N-61, N-61 to Grant, N-23 to the State line. Central Unit: The remainder of the State.

(6) Zone 1: North of highways I-40 and US-54. Zone 2: South of highways I-40 and US-54.

(7) Dark geese may not be hunted in Bernalillo, Sandoval, Sierra, Socorro, and Valencia Counties.

(8) Goose hunting is permitted daily only before 1:00 PM CDT through October 26 and only before 2:00 PM CST the remainder of the season.

(9) High Plains: Beaver, Cimarron, and Texas Counties. Zone 1: Northwestern Oklahoma, except the Panhandle, bounded by highways OK-33 from the western State line ot Roll, OK-47 to US-183, US-183 to Clinton, I-40 to US-177, US-177 to Perkins, OK-33 to Guthrie, I-35 to US-60, US-60 to US-64, US-64 to Nash, and OK-132 to the northern State line. Zone 2: The remainder of the State south and east of Zone 1.

(10) Unit 1: West and south of highways US-77 from the northern State line to Ponca City, US-177 to Perkins, OK-33 to US-75, US-75 and the Indian Nation Turnpike to Hugo, and US-271 to the southern State line. Unit 2: East and north of Unit 1.

(11) High Plains: West of highways and political boundaries starting at the State line north of Herreid; US-83 and US-14 to Blunt, Blunt-Canning Road to SD-34, a line across the Missouri River to the northwestern corner of the Lower Brule Indian Reservation, the Reservation Boundary and Lyman County Road through Presho to I-90, and US-183 to the southern State line. North Zone: East of the High Plains except the South Zone. South Zone: The Counties of Gregory, Charles Mix (south and west of highways SD-50 from the northern County line to Geddes, CFAS-6198 and FAS-3207 to Lake Andes, and SD-50 to Choteau Creek), Bon Homme (south of highway SD-50), and Yankton (south and west of highways SD-50 and US-81).

(12) Goose hunting is permitted only until 12:00 noon daily through November 1 in the Counties of Brookings, Clark, Codington, Day, Deuel, Edmunds, Grant, Hamlin, Kingsbury, Marshall, McPherson, and Roberts. Canada geese may not be hunted in the Counties of Clark (south of US-212), Harding, Lake, McCook, Minnehaha (west of highway I-29), and Moody (west of highway I-19). Canada goose hunting is by special permit only in the Counties of Bennett, Brookings, Codington (south of US-212 and south and east of SD-20 and 29), Deuel, Edmunds (north and west of highways US-12 and SD-45), Grant (south of highway SD-20), Hamlin, Kingsbury, McPherson (west of highways SD-45 and County 19) and Perkins.

(13) Missouri River Unit: The Counties of Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson (east of highway SD-65), Dewey, Gregory, Haakon (north of Kirley Road and part of Plum Creek), Hughes, Hyde, Lyman (north and east of highways I-90 and US-183), Potter, Stanley, Sully, Tripp (east of highway US-183), Walworth, and Yankton (west of highway US-81).

(14) High Plains: West of highways US-183 from the northern State line to Vernon, US-283 to Albany, T-6 and T-351 to Abilene, US-277 to Del Rio, and the Del Rio International Toll Bridge access road.

(15) The Counties of Campbell, Converse, Crook, Johnson, Natrona, Niobrara, Sheridan, and Weston. Zone 2: The Counties of Goshen, Laramie, and Platte. Zone 3: The Counties of Albany and Carbon. Zone 4: The Counties of Big Horn, Fremont, Hot Springs, Park and Washakie. Goose management units, respectively, coincide with duck zones.

(16) The daily bag and possession limit of purple gallinules and common moorhens is singly or in the aggregate of the two species.

PACIFIC FLYWAY

The Pacific Flyway includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily, except as noted for Montana, Nevada, Utah and Washington.

Aleutian Canada Geese: The season is closed on Aleutian Canada geese throughout the Flyway.

White Geese and Dark Geese: Unless otherwise noted, seasons and limits for white geese are for snow, including blue, and Ross' geese, either singly or in the aggregate; and seasons and limits for dark geese are for Canada and white-fronted geese, brant, and all other species of geese, either singly or in the aggregate, except in Washington, Oregon, and California where there are separate seasons and limits on brant.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATION OF GEOGRAPHICAL AREAS OR ZONES WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

	Season Dates	Limits Bag	Limits Possession
Arizona (2)			
Ducks	Oct. 11-Dec. 1 & Dec. 18-Jan. 13.	See footnote (1).	
Geese:	Nov. 15-Jan. 19.	6	6
Including no more than:			
Dark (no more than 2 Canada geese)		3	3
White		3	3
Coots and common moorhens (singly or in the aggregate)	Same as for ducks.	25	25
Common Snipe	Same as for ducks.	8	16
Sandhill cranes (only in Game Management Units 30A, 30B, 31, and 32)	Nov. 9-Nov. 11 & Nov. 16-Nov. 18.	Only by permit; 2 cranes per season.	
California (21)			
Ducks:			
Northeastern Zone	Oct. 12-Dec. 29.	See footnote (1)	
Colorado River Zone	Oct. 11-Dec. 1 & Dec. 18-Jan 13.	See footnote (1)	
Southern Zone	Oct. 19-Dec. 1 & Dec. 9-Jan. 12.	See footnote (1)	
Balance of State Zone	Oct. 26-Jan. 12.	See footnote (1)	
Geese (except cackling Canada, Aleutian Canada and brant):			
Northeastern Zone	Oct. 12-Jan. 12.	3	6
Including no more than:			
Canada geese(except Aleutian and Cackling)		2	4
White fronted geese except that the season shall be Oct. 12-Nov. 3.		1	2
White		3	6
Colorado River Zone:	Nov. 15-Jan. 19.	6	6
Including no more than:			
Dark (but no more than 2 Canada geese)(3)		3	3
White		3	3
Southern Zone:	Oct. 19-Jan. 12.	6	6
Including no more than:			
Dark (except that Canada geese shall not exceed 2 in the daily bag and possession limits; but in that portion of District 22 within the Southern Zone, Canada geese may not exceed 1 in daily bag and 2 in possession)(3)		3	3
White		3	3
Balance-of-the-State Zone:	Nov. 2-Jan. 19.	3	3
Including no more than:			
Dark (3)(4):		1	1
Except that the season on Canada geese (3)(4) shall be:			
Counties of Del Norte and Humboldt	Closed.	-	-
Sacramento Valley Area (5)	Closed.		
San Joaquin Valley Area (6)	Nov. 2-Nov. 22.		
Except that the season on white-fronted geese shall be:	Nov. 2-Jan. 5.		
White		3	3
Cackling Canada geese and Aleutian Canada geese:	Closed.	-	-
Brant	Oct. 19-Nov. 30.	2	4
Coots and common moorhens, singly or in the aggregate.	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Colorado			
Ducks (7)	Oct. 8-Oct. 20 & Nov. 9-Jan. 12.	See footnote (1)	
Geese (7):			
Brown's Park, Moffat County	Oct. 26-Dec. 8.	1	2
Delta and Montrose Counties	Nov. 16-Jan. 5.	Only by permit; 2 geese per day; 3 per season.	
Mesa County	Nov. 16-Jan. 5.	Only by permit; 2	4 6 geese per season.
Dolores, Gunnison, and Montezuma Counties	Closed.	-	-
Remainder of State in Pacific Flyway	Oct. 12-Jan. 5.	2	4
Coots (7)	Same as for ducks.	25	25
Common snipe(7)	Sept. 1-Dec. 1.	8	16
Sora and Virginia rails(7)	Sept. 1-Nov. 9.	25	25
Idaho (8)			
Ducks	Oct. 12-Dec. 1 & Dec. 16-Jan. 12.	See footnote (1)	
Geese:			
Goose Area 1 (9)	Oct. 14-Jan. 5.	3	6
Goose Area 2 (9)(10)	Oct. 14-Jan. 5	2	2
Goose Area 3 (9)	Oct. 26-Jan. 5.	2	2
Goose Area 4 (9)(10)	Oct. 14-Dec. 8	2	2
Goose Area 5 (9)	Oct. 14-Dec. 22.	2	2
Coots	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Montana			
Ducks(11)	Oct. 12-Dec. 29.	See footnote (1)	
Geese (11):			
East of the Continental Divide	Sept. 28-Dec. 29.	6	6
Including no more than:			
Dark		3	6
White		3	6
West of the Continental Divide (11)	Sept. 28-Dec. 29.	5	6
Including no more than:			
Dark		2	2
White		3	6
Coots	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Whistling swans, only in Teton and Cascade Counties	Oct. 12-Dec. 29.	Only by permit; 1 swan per season.	
Nevada			
Ducks (12):			
Clark County	Oct. 26-Jan. 12.	See footnote (1)	
Remainder of State	Oct. 12-Dec. 29.	See footnote (1)	
Dark geese:			
Clark County	Nov. 23-Jan. 19.	2	2
Elko County and portion of Ruby Lake National Wildlife Refuge in White Pine County	Oct. 5-Jan. 5.	2	2
White River Valley in Nye County and Pahranagat Valley in Lincoln County	Dec. 7-Dec. 29.	2	2
Remainder of State	Oct. 19-Jan. 19.	2	2
White geese:			
Clark County	Nov. 23-Jan. 19.	3	3
Elko County, except Ruby Valley	Oct. 5-Jan. 5.	3	3

Ruby Valley in Elko and White Pine Counties, White River Valley in Nye County, and Pahranagat Valley in Lincoln County	Closed.	-	-
Remainder of State	Oct. 19-Jan. 19.	3	3
Coots and common moorhens, singly or in the aggregate	Same as for ducks.	25	25
Common snipe	Same as for ducks.	8	16
Whistling swans, only in Churchill, Lyon, and Pershing Counties	Oct. 19-Dec. 29.	Only by permit; 1 swan per season.	
New Mexico			
Ducks	Oct. 12-Oct. 27 & Nov. 12-Jan. 12.	See footnote (1)	
Geese:			
North of Interstate 40	Jan. 11-Jan. 19.	2 geese per season.	
South of Interstate 40	Oct. 26-Jan. 16.	6	6
Including no more than:			
Dark (no more than 2 Canada geese)		3	3
White		3	3
Coots and common moorhens (singly or in the aggregate)	Same as for ducks.	25	25
Common snipe	Sept. 7-Dec. 8.	8	16
Virginia and sora rails (singly or in the aggregate)	Sept. 7-Nov. 15.	25	25
Oregon			
Ducks:			
Entire State, except Morrow and Umatilla counties	Oct. 12-Nov. 10 & Nov. 28-Jan. 12.	See footnote (1)	
Morrow and Umatilla counties	Oct. 12-Nov. 10 & Nov. 18-Jan 12.	See footnote (1)	
Geese (except cackling Canada, Aleutian Canada and brant):			
Western Oregon (3)(14)(13)	Nov. 12-Dec. 12.	2	4
Eastern Oregon, except the Columbia Basin counties and Baker, Malheur, Klamath, and Lake Counties	Oct. 12-Jan. 12.	6	6
Including no more than:			
Dark(3)		3	6
White		3	6
Columbia Basin counties (13)	Oct. 12-Jan. 19.	6	6
Including no more than:			
Dark(3)		3	6
White		3	6
Baker and Malheur Counties(3)	Oct. 12-Jan. 5.	2	2
Klamath and Lake Counties		6	6
Including no more than:			
Dark (3), except the season on white-fronted geese does not open until Oct. 26.	Oct. 12- Jan. 12.	3	6
White	Oct. 12-Jan. 12.	3	6
Cackling Canada geese, Aleutian Canada geese and Brant	Closed.	-	-
Coots	Same as for ducks	25	25
Common snipe	Same as for ducks	8	16
Utah			
Ducks (15)	Oct. 12-Dec. 29.	See footnote (1)	
Geese (15)(16):			
General Season:	Oct. 12-Jan. 5.	5	6
Including no more than:			
Canada geese		2	4
White geese		3	6
Special Seasons:			
Daggett County east of State Highway 44 and 260	Oct. 26-Dec. 8.		
Including no more than:			
Canada geese		1	2
Washington County	Oct. 19-Jan. 12.		
Including no more than:			
Canada geese		2	2
Coots (15)	Same as for ducks.	25	25
Common snipe (15)	Same as for ducks.	8	16
Whistling swans (15)	Oct. 12-Dec. 29.	Only by permit; 1 swan per season.	
Washington			
Ducks (17):			
Eastern Washington (18)	Oct. 12-Jan. 5.	See footnote (1)	
Western Washington (18)	Oct. 12-Nov. 1 & Nov. 16-Jan. 12.	See footnote (1)	
Geese (except cackling Canada Aleutian Canada, and brant) (17):			
Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima Counties (19)	Oct. 12-Jan. 19.	3	6
Island, Skagit, Snohomish and Whatcom Counties	Oct. 12-Dec. 29.	3	6
Clark, Cowlitz and Wahkiakum Counties	See footnotes 3 & 20.		
Remainder of State (3)(19)	Oct. 12-Jan. 12.	3	6
Cackling Canada geese, Aleutian Canada geese and Brant:	Closed.	-	-
Coots (17)	Same as for ducks.	25	25
Common snipe (17)	Same as for ducks.	8	16
Wyoming			
Ducks and coots, singly or in the aggregate	Oct. 12-Dec. 29.	See footnote (1)	
Canada Geese	Sept. 28-Dec. 14.	3	3
Common snipe	Sept. 21-Dec. 22.	8	16
Sora and Virginia rails, singly or in the aggregate	Sept. 21-Nov. 21.	25	25

(1) Duck Limits. Basic daily bag and possession limits on ducks (including mergansers) throughout the entire Flyway is 5, including no more than 1 female (hen) mallard, 1 female (hen) pintail and either 2 canvasbacks or 2 redheads or 1 of each. The possession limit is twice the daily limit. Additionally, the following restrictions apply to limits in Arizona and Idaho. In Arizona, the daily limit may include no more than either 1 female (hen) mallard or 1 Mexican-like duck, but not both; and not more than 2 female (hen) mallards or 2 Mexican-like ducks may be in possession. In Idaho, in the counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone, the daily bag and possession limits, each, may not include more than two wood ducks.

(2) The Imperial, Cibola, Buenos Aires and Havasu National Wildlife Refuges, Arizona, are open to waterfowl hunting except for posted portions. Ashurst Lake in Game Management Unit 5B is closed to all waterfowl and common snipe hunting. Unit 1, Unit 27, and those portions Units 3A and 3B lying east of Highways 77 and 260 are closed to the taking of Canada geese and its subspecies.

(3) The season on both cackling Canada geese and Aleutian Canada geese is closed.

(4) The dark goose limits may be expanded to 2 per day and 4 in possession provided they are Canada geese, except for cackling Canada and Aleutian Canada geese for which the season is closed.

(5) The Sacramento Valley Area is bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River, then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45-162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows.

(6) The San Joaquin Valley Area is bounded by a line beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly on State Highway 99 to the point of beginning in Modesto.

(7) Special closures and restrictions apply to hunting ducks, coots, rails, snipe, and geese in the following areas: the Colorado River, Highline State Recreation Area, Mack Mesa Reservoir, all in Mesa County; Sweitzer Lake and Crawford State Recreation Area in Delta County; and Yampa River, Moffat County. Special closures and restrictions also apply to goose hunting on the Colorado River in Eagle and Grand Counties, on the Eagle River in Eagle County, on Granby Reservoir, Grand Lake, and Shadow Mountain Reservoir in Grand County, on the Yampa River, Routt County, and on Windy Gap Reservoir in Grand County. Consult State regulations for description of areas and nature of closure.

(8) Waterfowl may not be taken in the Pend Oreille Waterfowl Closure, Kootenai County Waterfowl Closure-Thompson Lake, Hells Canyon Waterfowl Closure, Mormon Reservoir Waterfowl Closure, Black Canyon Reservoir-Payette River Waterfowl Closure, Ada County Waterfowl Closure, Fort Hall Indian Reservation Closure, and Hagerman Wildlife Management Area. Geese may not be hunted in the Canyon County Goose Closure, Minidoka-Cassia Goose Closure, or Hagerman Valley Goose Closure. See State regulations for descriptions of these areas.

(9) Goose Area 1 is Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties. Goose Area 3 is Blaine County lying south and east of U.S. Highway 93, and the Counties of Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls. Goose Area 4 is that portion of Fremont County within the North Fork of the Snake River drainage above the new Wendell Bridge near Ashton. Goose Area 5 is the counties of Ada, Adam, Canyon, Elmore, Gem, Owyhee, Payette and Washington. Goose Area 2 is the remainder of the State.

(10) The season on white geese is closed in Fremont and Teton Counties.

(11) Exceptions to the general duck and goose seasons in the following management areas (see State regulations for descriptions of areas): Shooting hours in the Canyon Ferry Goose Zone are from one-half hour before sunrise to 12 noon daily during Sept. 28-Nov. 9 and from one-half hour before sunrise to sunset during the remainder of the seasons; the goose season in the Flathead Goose Zone is Sept. 28-Nov. 25; the goose season in the Deer Lodge County Goose Zone is Oct. 12-Dec. 29; the season on dark geese in the Benton Lake Goose Zone is Nov. 1-Dec. 29; the goose season is closed in the Missoula County Goose Zone; and the Canada goose season is closed in the Kleinschmidt Lake Goose Zone. See State regulations for description of zones.

(12) The shooting hours for ducks, coots, common moorhens, common snipe and tundra swans is from sunrise to sunset throughout the season. The shooting hours for geese is from one-half hour before sunrise to sunset throughout the season.

(13) Columbia Basin counties are Wasco, Sherman, Gilliam, Morrow, and Umatilla Counties. Western Oregon consists of all counties west of the summit of the Cascades excluding Klamath and Hood River Counties. Those portions of Coos and Curry Counties lying west of U.S. Highway 101, that portion of western Oregon north of the Lane-Douglas County line are closed to all goose hunting, except for a special permit goose hunt on Sauvie Island.

(14) On Sauvie Island, by permit, at places, at times, on days, and other conditions specified in State regulations, 3 geese may be taken daily and 6 may be in possession. The season will open on October 12 and end on January 19, or earlier if emergency closure is necessitated by attainment of harvest quotas.

(15) Shooting hours are from 12 noon through sunset on October 12, from 8 a.m. through sunset on November 2, and from one-half hour before sunrise through sunset on all other days of the seasons.

(16) Goose hunting is prohibited within the boundaries of the Desert Lake Waterfowl Management Area in Emery County, Fish Springs National Wildlife Refuge in Juab County, and Ouray National Wildlife Refuge in Uintah County.

(17) In Western Washington the shooting hours are from 8 a.m. through sunset on the opening day, and in Eastern Washington the shooting hours are from 12 noon through sunset the opening day.

(18) Eastern Washington includes all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County. Western Washington includes all areas lying to the west of Eastern Washington.

(19) Geese may be hunted only on Saturdays, Sundays, and Wednesdays, and on November 11, 28 and 29, and December 25 and January 1 in Adams, Benton, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanagan, Spokane, and Walla Walla Counties and east of Satus Pass (U.S. Highway 97) in Klickitat County. Geese may be hunted every day during January 13-19 in Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima Counties.

(20) In Cowlitz, Wahkiakum, and Clark Counties the season is closed, except for all lands south of the Kalama grain elevator in Cowlitz County and west of Interstate Highway 5 in Cowlitz and Clark Counties, where by permit, at times, on days, and conditions specified in State regulations, 3 geese may be taken daily and 6 may be in possession. The season will open on November 17 and end on December 29, or earlier if emergency closure is necessitated by attainment of harvest quotas.

(21) No hunting of ducks, coots, geese and brant is authorized in the following area of California unless and until the State authorizes, agrees to and aids the Service in establishing steel-shot only zones encompassing that area: California: That portion of the Lower Klamath Basin (including all of Lower Klamath National Wildlife Refuge) beginning at the junction of Highway 161 (State Line Road) and the Dorris-Brownell Road at the northwest corner of Indian Tom Lake, thence south and east of the Dorris-Brownell Road as it makes a semicircle and unites again with Highway 161; thence west along Highway 161 to the point of origin at the northwest side of Indian Tom Lake. Also included is the Tule Lake National Wildlife Refuge (excluding Refuge lands on Sheepy Ridge) in the Tule Lake portionof the Klamath Basin.

Section 20.106 is amended to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Central Flyway: Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of 3 and a possession limit of 6 cranes, and with shooting (including hawking) hours from one-half hour before sunrise until sunset, in the following areas for the dates indicated:

(a) In Colorado (the Central Flyway portion except the San Luis Valley and North Park) the inclusive season dates are September 28 through November 24, 1985.

(b) In the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt the inclusive dates are October 26, 1985, through January 26, 1986.

(c) In Oklahoma (that portion west of I-35) the inclusive dates are October 12, 1985, through January 12, 1986.

(d) In Texas, in Zone A the inclusive dates are November 9, 1985, through February 9, 1986. In Zone B the inclusive dates are November 30, 1985, through February 9, 1986. In Zone C the inclusive dates are January 11, 1986, through February 9, 1986. In the remainder of the State, the season is closed. See State regulations for description of zones.

(e) In North Dakota, sandhill crane hunting shall be from one-half hour before sunrise to 1:00 p.m. each day from the opening day through October 26 and from one-half hour before sunrise to 2:00 p.m. from October 27 through the remainder of the season. In Zone 1, the inclusive season dates are September 7 through November 3, 1985. In Zone 2, the inclusive season dates are September 7 through September 27, 1985. In the remainder of the State, the season is closed. See State regulations for description of zones and prohibited means of hunting sandhill cranes.

(f) In South Dakota, the inclusive dates are September 28 through November 3, 1985.

(g) In Montana (the Central Flyway), the inclusive season dates are September 28 through November 24, 1985; except in that area south and west of I-90 and the Bighorn River, the season is closed and in Sheridan County the inclusive season dates are November 1 through November 24, 1985.

(h) In Wyoming, in Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties, the inclusive season dates are September 21 through November 17, 1985.

(i) Each hunter participating in the regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to an authorized law enforcement official upon request.

Pacific Flyway: In Arizona (within Game Management Units 30A, 30B, 31, and 32), the season dates are November 9-11 and November 16-18, 1985. Hunting will be by special permit to be issued by the State. Each permittee may take 2 sandhill cranes per season.

Section 20.107 is revised as follows.

§20.107 Seasons, limits, and shooting hours for tundra (whistling) swans.

Whistling swans may be taken only by State-issued permit. Permittees may take only one whistling swan per season. Successful permittees must immediately validate their harvest by that method required in State regulations. Shooting hours are from one-half hour before sunrise to sunset daily except as noted below. Seasons are:

Central Flyway: (a) In Montana, tundra swans may be hunted from September 28, 1985, through December 29, 1985.

Pacific Flyway: (a) In Montana, whistling swans may be hunted only in Teton and Cascade Counties from October 12, 1985 through December 29, 1985;

(b) In Nevada, tundra swans may be hunted only in Churchill, Lyon and Pershing Counties from October 19, 1985, through December 29, 1985.

(c) In Utah, tundra swans may be hunted from October 12, 1985, through December 29, 1985. Shooting hours on the first day of the season are from noon to sunset.

Atlantic Flyway: (a) In North Carolina, tundra swans may be hunted from November 4, 1985 through January 31, 1986.

Section 20.108 Non-toxic shot zones.

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Section 20.109 is revised as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit	3 singly or in the aggregate(1).
Possession limit	6 singly or in the aggregate(1).

These limits apply during both regular hunting seasons and extended falconry seasons.

Hawking hours: One-half hour before sunrise until sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Atlantic Flyway	
Florida:	
Mourning and white-winged doves	Sept. 28-Dec. 6.
Woodcock	Oct.26-Dec. 9.
Snipe	Nov. 2-Feb. 16.
Rails and common moorhens	Sept.28-Dec. 6.
Ducks, merganser, and coots	Oct. 8-Nov. 22.
Maryland:	
Mourning doves	Sept.2-Oct. 26 & Nov. 25-Jan. 5.
Rails and gallinules/moorhens	Sept. 2-Dec. 17.
Woodcock	Oct. 21-Jan. 31.
Snipe	Oct. 1-Jan. 15.
Ducks, coots, and mergansers	Oct. 8-Jan. 13.
Canada geese	
Eastern Shore	Oct.17-Jan. 31.
Remainder of State	Oct. 6-Jan. 20.
Snow geese	Oct. 17-Jan. 31.
Brant	Oct. 6-Jan. 20.
Massachusetts:	
All permitted ducks, geese, mergansers and coots	Oct. 12-Jan. 13.
Pennsylvania:	
Mourning doves	Sept. 2-Dec. 14.
Ducks, mergansers, coots and geese	Oct. 8-Jan. 13.

Virginia:	
Mourning doves	Sept. 2-Nov. 30 & Dec. 19-Jan. 4.
Rails	Sept. 2-Nov. 30 & Dec. 19-Jan. 4.
Woodcock	Oct. 17-Jan. 31.
Snipe	Oct. 17-Jan. 31.
Ducks	Oct. 8-Jan. 13.
All geese	Oct. 17-Jan. 31.
Mississippi Flyway	
Illinois:	
Mourning doves, rails, and woodcock	Sept. 1-Dec. 16.
Snipe	Sept. 7-Dec. 22.
Ducks, mergansers, and coots	Oct. 8-Jan. 13.
Indiana:	
Ducks, mergansers, and coots	
North Zone	Oct. 5-Oct 10 & Oct. 14-Oct. 31.
South Zone	Oct. 5-Oct. 18 & Oct. 24-Nov. 20.
Ohio River Zone	Oct. 5-Oct. 25 & Oct. 31-Nov. 20.
Woodcock	Sept. 1-Sept. 20.
Mourning doves	Oct. 31-Nov. 27.
Iowa:	
Ducks, coots, mergansers	Sept. 21-Jan. 6.
Snipe	Sept. 7-Dec. 22.
Woodcock	Sept. 14-Nov. 17.
Rails	Sept. 7-Nov. 15.
Geese	Sept. 28-Jan. 6.
Kentucky:	
Ducks, mergansers, coots rails, and gallinules/moorhens	Nov. 1-Nov. 27.
Geese	
Western Zone	Nov. 1-Dec. 22.
Eastern Zone	Nov. 1-Nov. 27.
Michigan:	
Woodcock, rails, and snipe	Sept. 1-Dec. 16.
Geese and gallinules/moorhens	Sept. 28-Jan. 6.
Ducks, coots and mergansers	Oct. 5-Jan. 12.
Minnesota:	
Woodcock, rails, and snipe	Sept.1-Dec. 16.
Ducks, mergansers, geese, coots and gallinules/moorhens	Oct. 5-Jan. 13.
Mississippi:	
Mourning doves	Sept. 30-Oct. 13 & Nov. 22-Dec. 13.
Ducks, mergansers, and coots	Nov. 2-Dec. 13.
Missouri:	
Mourning doves	Sept.1-Dec. 16.
Ducks, mergansers, coots, and geese	Oct. 19-Oct. 21 & Nov. 2-Jan. 13.
Wisconsin:	
Rails, woodcock, snipe, and gallinules	Sept. 1-Dec. 16.
Ducks, mergansers, and coots	Oct. 8-Jan. 13.
Central Flyway	
Colorado(1):	
Ducks, mergansers, coots, and geese	Oct. 26-Nov. 2 & Nov. 30-Dec. 13.
Montana (1):	
All permitted migratory birds	Oct. 12-Jan. 12.
New Mexico (2):	
Mourning doves and white-winged doves	Sept. 1-Nov. 6 & Nov. 22-Dec. 30.
Band-tailed pigeons	Sept. 1-Nov. 30.
Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties	Oct. 13-Jan. 27.
Ducks, mergansers and coots	Oct. 10-Jan. 12.
Common moorhens and purple gallinules	Oct. 10-Jan. 12.
Canada and white-fronted geese	Oct. 10-Jan. 12.
Snow, blue, and Ross' geese	Nov. 14-Feb. 28.
Oklahoma:	
Ducks, mergansers, and coots	Oct. 12-Jan. 13.
Texas:	
Mourning doves	Sept. 1-Nov. 30 & Jan. 4-Jan. 19.
Rails and gallinules/moorhens	Sept. 1-Dec. 16.
White-winged doves	Sept. 1-Nov. 30 & Jan. 4-Jan. 19.
Ducks, geese, and coots	Oct. 19-Jan. 13.
Sandhill cranes (Zones A, B, and C)	Nov. 1-Feb. 12.
Woodcock	Nov. 1-Feb. 15.
Snipe	Nov. 1-Feb. 15.
Wyoming (1):	
Ducks, merganser, geese, and coots	Sept. 28-Jan. 12.
Mourning doves	Sept. 1-Oct. 15.
Snipe and rails	Sept. 21-Nov. 29.
Pacific Flyway	
Colorado:	
Ducks, mergansers, coots, and geese	Oct. 21-Nov. 8.
Idaho:	
Mourning doves only	Sept. 1-Oct. 30.
Ducks, merganser, coots, and snipe	Oct. 8-Jan. 13.
Geese (1)	Concurrent with firearm seasons.
Montana (1):	
All permited migratory birds	Oct. 12-Jan. 12.
New Mexico (2):	
Mourning doves, and white-winged doves	Sept. 1-Nov. 6 & Nov. 22-Dec. 30.
Band-tailed pigeons	Sept. 1-Nov. 30.
Common moorhens and purple gallinules	Oct. 9-Jan. 12.
Ducks, coots, mergansers and gallinules	Oct. 8-Jan. 12.
Geese	Oct. 5-Jan. 19.
Oregon:	
Mourning doves and band-tailed pigeons	Sept. 1-Dec. 16.
Snipe	Oct. 8-Jan. 12.
Ducks, geese, and coots	Oct. 8-Jan. 12.
Utah:	
Mourning doves	Sept. 2-Sept. 30.
Ducks, geese, coots, and snipe	Oct. 8-Jan. 13.
Washington:	
Ducks, geese, mergansers and coots	Oct. 8-Jan. 13.
Wyoming (1):	
Mourning doves	Sept. 1-Oct. 15.
Rails and snipe	Sept. 21-Nov. 29.
Ducks, coots and geese	Oct. 9-Jan. 12.

(1) In Idaho, the aggregate daily bag and possession limits may not include more than 1 and 2 geese, respectively. In Montana, the aggregate daily bag and possession limits of all species are 2 and 6, respectively, except in Sheridan County where the aggregate daily bag and possession limits for geese and 2 and 4, respectively. In Wyoming, the aggregate daily bag and possession limits of all species are 2.

(2) Daily bag and possession limits are for permitted species of migratory birds and resident game, either singly or in the aggregate.

Note: See waterfowl season footnotes for descriptions of zones. For some States, the extended falconry season dates also include general season dates.

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