9-26-85
Vol. 50 No. 187
Pages 38969-39072

Federal Register

Thursday
September 26, 1985

Selected Subjects

Administrative Practice and Procedure
Federal Communications Commission

Aliens
Immigration and Naturalization Service

Animal Diseases
Animal and Plant Health Inspection Service

Aviation Safety
Federal Aviation Administration

Conflict of Interests
Federal Emergency Management Agency

Customs Duties and Inspection
Customs Service

Exports
Customs Service

Hazardous Materials Transportation
Research and Special Programs Administration

Income Taxes
Internal Revenue Service

Marine Safety
Coast Guard

Milk Marketing Orders
Agricultural Marketing Service

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

CONTINUED INSIDE

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

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

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

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

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

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

Selected Subjects

Contents

Federal Register
Vol. 50, No. 187
Thursday, September 26, 1985

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR

Proposed Rules

1102 39017
1106 39017

8 CFR

204 38969

9 CFR

81 38969

10 CFR

50 38970

14 CFR

71 (3 documents) 38971-38973
75 38973
97 38974

19 CFR

10 38975
101 (2 documents) 38977-38978
142 38979

20 CFR

416 38981

26 CFR

Proposed Rules

1 39018

33 CFR

100 38983

36 CFR

223 38984

43 CFR

Public Land Order:

6610 38984

Proposed Rules

5400 39024
5440 39024

44 CFR

3 38985

47 CFR

0 38999
1 38999
21 39000
22 39000
23 39000
25 (2 documents) 39000, 39004
73 39000
90 39000
94 39000

49 CFR

171 39005
172 39005
173 39005
174 39005
195 (2 documents) 39008
901 39015
903 39015
905 39015
921 39015
922 39015
931 39015
932 39015
941 39015

Proposed Rules

232 (2 documents) 39204-39025

Rules and Regulations

Federal Register
Vol. 50, No. 187
Thursday, September 26, 1985

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

Petition To Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends 8 CFR 204.2(j)(2) to require that certification of documents be authenticated by an original signature. This will alleviate the possible unauthorized misuse of a rubber stamp facsimile signature.

EFFECTIVE DATE: September 26, 1985.

FOR FURTHER INFORMATION CONTACT:
For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone (202) 633–3048.
For Specific Information: Lloyd W. Sutherland, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone (202) 633–3946.

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service will accept copies of documents submitted in support of a visa petition filed pursuant to section 204 of the Act if these copies are properly certified by an attorney or an accredited representative of a recognized nonprofit voluntary agency. The present regulation does not clarify the need for an original signature on the authentication. A facsimile signature on a rubber stamp could easily be misused by unauthorized persons. The General Counsel of the Service has also advised that a facsimile signature may not be binding in the event of litigation. To avoid such situations, the Service is amending the regulation to require an original signature on the authentication of copies of documents.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unecessary as this amendment merely clarifies an existing regulation. In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have a significant impact on a substantial number of small entities. This is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Alien, Petitions.

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

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. The authority citation for Part 204 continues to read as follows:

Authority: Secs. 103 and 204 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1154).

2. Section 204.2 is amended by adding a new paragraph (j)(4) to read as follows:

§ 204.2 Documents.

* * * * *

(j) * * *

(4) *Authentication.* Certification of documents must be authenticated by an original signature. A facsimile signature on a rubber stamp will not be acceptable.

Dated: September 17, 1985.

Marvin J. Gibson,

Acting Associate Commissioner Examinations, Immigration and Naturalization Service.

[FR Doc. 85–22992 Filed 9–25–85; 8:45 am]
BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 85–090]

Lethal Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which removed the Lethal Avian Influenza regulations. The regulations were established for the purpose of preventing the artificial spread of lethal avian influenza. It has been determined that lethal avian influenza no longer occurs in the United States and and the regulations are no longer necessary for this purpose. The effect of the interim rule was to a delete prohibitions and restrictions on the movement of live poultry and certain other items and to delete other unnecessary provisions.

EFFECTIVE DATE: September 26, 1985.

FOR FURTHER INFORMATION CONTACT:
Dr. H. A. McDaniel, Chief Staff Officer, Technical Support Staff, VS, APHIS, USDA, Room 757, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8087.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on May 24, 1985 (50 FR 21419–21420), removed the Lethal Avian Influenza regulations contained in 9 CFR Part 81. Lethal avian influenza is defined as a disease of poultry caused by any form of H5 influenza virus that is determined by the Deputy Administrator to have spread from the 1983 outbreak in poultry in Pennsylvania. Based on extensive surveys, it has been determined that lethal avian influenza no longer occurs in the United States. The interim rule was made effective upon signature, May 21, 1985. Comments were solicited for 60 days after publication of the interim rule. One comment was received. The comment was in favor of the interim rule. The factual situation which was set forth in the document of May 24, 1985, still provides a basis for the removal of the Lethal Influenza regulations.

Executive Order and Regulatory Flexibility Act

This rule has been reviewed in accordance with Executive Order 12291 and has been determined to be not a major rule. The Department has determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual

industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The portion of the poultry industry affected by this rule represents less than one percent of the poultry industry in the United States.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985).

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

PART 81—LETHAL AVIAN INFLUENZA

Accordingly, the interim rule removing 9 CFR Part 81 which was published at 50 FR 21419–21420 on May 24, 1985, is adopted as a final rule.

Authority: 7 U.S.C. 450; 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 18th day of September, 1985.

Gerald J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85-23028 Filed 9-25-85; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Codes and Standards for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to incorporate by reference the Winter 1982 Addenda, Summer 1983 Addenda, Winter 1983 Addenda, Summer 1984 Addenda and 1983 Edition of Section III, Division 1, of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), and the Winter 1982 Addenda, Summer 1983 Addenda, and 1983 Edition of Section XI, Division 1, of the ASME Code. The sections of the ASME Code being incorporated provide rules for the construction of light-water-cooled nuclear power plant components and specify requirements for inservice inspection of those components. Adoption of these amendments would permit the use of improved methods for construction and inservice inspection of nuclear power plants.

EFFECTIVE DATE: October 28, 1985. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 28, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. G. C. Millman, Division of Engineering Technology, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 443–7862.

SUPPLEMENTARY INFORMATION: On May 17, 1985, the Nuclear Regulatory Commission published in the Federal Register (50 CFR 20574) a proposed amendment to its regulation, 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," to update existing references to specific editions and addenda of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), to make editorial corrections to the existing rule; to simplify the language of the rule; and to delete two obsolete provisions.

This amendment revises § 50.55a to incorporate by reference all editions through the 1983 Edition and all addenda through the Summer 1984 Addenda that modify Division 1 rules of Section III, "Rules for the Construction of Nuclear Plant Components," and all editions through the 1983 Edition and all addenda through the Summer 1983 Addenda that modify Division 1 rules of Section XI, "Rules for the Inservice Inspection of Nuclear Power Plant Components," of the ASME Code. The Summer 1983 Addenda for Section XI does not include technical requirements related to Division 1, but is included in the reference to prevent the confusion that might occur with a lack of continuity in the addenda references.

Editorial revisions are included in this amendment to correct certain existing footnote and paragraph references that are inconsistent with the last amendment (49 FR 9711) this rule and to simplify the language. These editorial revisions are contained entirely in § 50.55a(g).

For facilities whose operating licenses were issued prior to March 1, 1976, this rule provided the effective date for implementing the inservice inspection requirements and for defining the effective edition and addenda of the Code for the start of the next one-third of a 120-month inspection interval after September 1, 1976. Since this one-third of an inspection interval has already been completed for all applicable facilities, § 50.55a(g)(4)(iii) which addresses the implementation of that inspection is unnecessary and is deleted by this amendment.

Power reactors for which a notice of hearing on an application for a provisional construction permit or a construction permit had been published on or before December 31, 1970, were permitted to use the rules for construction permits prior to January 1, 1971. This amendment deletes § 50.55a(i) which covers this provision because it is no longer necessary. Section 50.55a(c)(4) provides that for these and other facilities that received a construction permit prior to May 14, 1984, the applicable Code Edition and Addenda for a component of the reactor coolant pressure boundary continue to be that Code Edition and Addenda that were required by Commission regulations for the component at the time of issuance of the construction permit.

Interested persons were invited to submit written comments for consideration in connection with the proposed amendments and the draft regulatory analysis by July 16, 1985. No adverse comments or significant questions were received in response to the notice of proposed rulemaking.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this regulation. The analysis examines the costs and

benefits of the alternatives considered by the Commission. Interested persons may examine a copy of the regulatory analysis at the NRC Public Document Room, 1717 H St. NW., Washington, DC. Single copies of the analysis may be obtained from Mr. G.C. Millman, Division of Engineering Technology, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Telephone (301) 443-7862.

Paperwork Reduction Act Statement

This final rule incorporates by reference information collection requirements that were reviewed by the Office of Management and Budget. The OMB approval number is 3150-0011.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

List of Subjects in 10 CFR Part 50

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

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorgnization Act of 1974, as amended, and 5 U.S.C 553, the NRC is adopting the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

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

Authority: Sections 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); sections 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

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

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73 and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 50.55a is amended as follows: Paragraph (b)(1) and the introductory text of paragraph (b)(2) are revised; Reference to footnote 2 in paragraph (g)(1) is deleted; References to footnote 3 in paragraph (g)(2) and in paragraphs (g)(3)(ii) and (iv) are deleted; Paragraphs (g)(3)(i) and (iii) are revised; Paragraph (g)(4)(iii) is deleted and reserved; and Paragraph (i) is deleted.

§ 50.55a Codes and standards.

* * * * *

(b) * * *

(1) As used in this section, references to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1983 Edition and Addenda through the Summer 1984 Addenda.

(2) As used in this section, references to Section XI of the ASME Boiler and Pressure Vessel Code refer to Section XI, Division 1, and include editions through the 1983 Edition and Addenda through the Summer 1983 Addenda, subject to the following limitations and modifications:

* * * * *

(g) * * *

(3) * * *

(i) Components which are classified as ASME Code Class 1 shall be designed and be provided with access to enable the performance of inservice examination of such components and shall meet the preservice examination requirements set forth in Section XI of editions of the ASME Boiler and Pressure Vessel Code and Addenda[6] applied to the construction of the particular component.

* * * * *

(iii) Pumps and valves which are classified as ASME Code Class 1 shall be designed and be provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in Section XI of editions of the ASME Boiler and Pressure Vessel Code and Addenda[6] applied to the construction of the particular pump or valve or the Summer 1973 Addenda, whichever is later.

* * * * *

(4) * * *

(iii) [Reserved]

* * * * *

Dated at Bethesda, MD, this 4th day of September 1985.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 85-23070 Filed 9-25-85; 8:45 am].

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-ANM-15]

Alteration of VOR Federal Airways V-269 and V-357—OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Federal Airways V-269 and V-357 by deleting reference to the airway not being in effect when the Juniper Military Operations Area (MOA) is activated. A recent change to the lateral boundaries of the Juniper MOA resulted in removing the airspace conflict within these airways. This action will allow better utilization of the navigable airspace and simplify flight planning.

EFFECTIVE DATE: 0901 G.m.t., November 21, 1985.

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

SUPPLEMENTARY INFORMATION:

History

On August 19, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend VOR Federal Airways V-269 and V-357 by deleting reference to the airway not being in effect from 42 miles northwest of Wildhorse VOR to 41 miles southeast of Redmond VORTAC 11,000 feet MSL and above and from 32 miles southwest of the Wildhorse VOR to 13 miles northeast of Lakeview VORTAC (50 FR 33352). A recent change to the lateral boundaries of the Juniper MOA resulted

in removing the airspace conflict with V–269 and a portion of V–357. This allows better utilization of navigable airspace and aids in flight planning. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations would amend VOR Federal Airways V–269 and V–357 by deleting reference to the airway not being in effect from 42 miles northwest of Wildhorse VOR to 41 miles southeast of Redmond VORTAC 11,000 feet MSL and above and from 32 miles southwest of the Wildhorse VOR to 13 miles northeast of Lakeview VORTAC. A change to the lateral boundaries of the Juniper MOA resulted in removing the airspace conflict with V–269 and a portion of V–357. This will allow better utilization of navigable airspace and aid in flight planning.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 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 71.123 is amended as follows:

V–269 [Amended]

By removing the words "That portion of the airway 11,000 feet MSL and above from 42 miles northwest of Wildhorse VOR to 41 miles southeast of Redmond VORTAC is suspended during the time that the Juniper MOA is activated by NOTAM."

V–357 [Amended]

By removing the words "from 32 miles southwest of Wildhorse VOR" and substituting the words "from 26 miles southwest of Wildhorse VOR".

Issued in Washington, DC, on September 19, 1985.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85–22963 Filed 9–25–85; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 85–AWA–27]

Alteration of VOR Federal Airways—NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of Federal Airways V–1 and V–70 located in the vicinity of Kinston, NC. This action eliminates an alternate route designation by renaming the route segment, but does not alter the airway or any controlled airspace.

EFFECTIVE DATE: 0901 G.m.t., November 21, 1985.

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

SUPPLEMENTARY INFORMATION:

History

On August 19, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airway V–1 by renumbering V–1E between Kinston, NC, and Cofield, NC (50 FR 33355). This action would extend VOR Federal Airway V–70 from Kinston to Cofield via the current alignment of V–1E. This action is consistent with our agreement to eliminate all alternate route designations from the National Airspace System. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the descriptions of VOR Federal Airways V–1 and V–70 located in the vicinity of Kinston, NC, to eliminate an alternate airway designation. This action is consistent with our agreement with the International Civil Aviation Organization (ICAO) to eliminate alternate route designations within the United States. This action does not change the route itself.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (49 FR 48532 and 50 FR 14090), is further amended, as follows:

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 71.123 is amended as follows:

V-1 [Amended]

By removing the words "including an east alternate segment from Kinston to Cofield via the intersection of Kinston 050° and Cofield 186° radials;"

V-70 [Amended]

By removing the words "to Kinston, NC." and substituting the words "Kinston, NC; INT Kinston 050° and Cofield, NC, 186° radials; to Cofield."

Issued by in Washington, DC, on September 19, 1985.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-22964 Filed 9-25-85; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Parts 71 and 75

[Airspace Docket No. 84-AWP-3]

Alteration of VOR Federal Airways, Jet Routes and Tucson, AZ, Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter Federal Airways V-66, V-105, V-393, V-395, V-202 and Jet Routes J-11 and J-92. These actions result from the relocation of the Tucson Very High Frequency Omni-Directional Range and Tactical Air Navigation facility (VORTAC) approximately 2½ nautical miles west, southwest of its present location. Associated actions in this docket are the redescription of the Tucson, AZ, Control Zone and Transition Area.

EFFECTIVE DATE: 0901 G.m.t., November 21, 1985.

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

SUPPLEMENTARY INFORMATION:

History

On August 19, 1985, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to (1) alter VOR Federal Airways V-16, V-66, V-105, V-202, V-393, V-395; (2) standardize the width of V-393 between the relocated Tucson VORTAC and Nogales VORTAC as a result of the Tucson relocation; (3) reduce the airway width of V-66 on the south side of the airway between the relocated Tucson VORTAC and Douglas VORTAC to prevent airway penetration of Restricted Area R-2303B; (4) replace alternate airway V-16S between Cochise and Tucson VORTACs with V-202 consistent with the agency's overall effort to replace or delete alternate airways; (5) amend the Tucson International Airport, AZ, Control Zone; (6) amend Tucson, AZ, Transition Area; and (7) alter Jet Routes J-11 and J-92 (50 FR 33351). All proposed actions were associated with the relocation of the Tucson VORTAC approximately 2½ miles west, southwest of its current location. 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. These amendments are the same as those proposed in the notice, except for the following changes: (1) No action is taken in this docket to replace V-16S with V-202 between the Tucson and Cochise VORTACs since this was accomplished in Airspace Docket 84-AWA-13, effective date June 6, 1985. However, the relocation of Tucson VORTAC does necessitate realignment of V-202 between Tucson and Cochise which is accomplished in this docket; (2) the rule contains an alteration of V-105 by changing "308°T" to "300°T"; (3) the rule also makes alterations to the original proposal on V-66 and V-105; and (4) a separate nonrule action is being taken to change the name of the Casa Grande VORTAC to Stanfield; to be effective concurrently with this action. Consistent with the name change, references to Casa Grande in § 71.123 (V-105) and § 75.100 (J-92) are changed to Standfield. Sections 71.123, 71.171, 71.181 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations alter Federal Airways V-66, V-105, V-202, V-393, V-395 and Jet Routes J-11 and J-92.

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

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal airways, Control zones, Transition areas and jet routes.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as amended (50 FR 11845, 50 FR 14089, 50 FR 14091 and 50 FR 14092) are further amended, 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 71.123 is amended as follows:

V-66 [Amended]

After the words "Gila Bend; Tucson, AZ" add the words ", 7 miles wide (3 miles south and 4 miles north of centerline)"

V-105 [Amended]

By removing the words "INT Tucson 298° and Casa Grande, AZ, 145° radials; Casa Grande;" and substituting the words "INT Tucson 300° and Stanfield, AZ, 145° radials; Stanfield;"

V-393 [Amended]

By removing the words ", (3 miles east and 4 miles west of centerline)"

V-395 [Amended]

After the words "INT Tucson" remove "198°" and substitute "188°"

V-202 [Amended]

By removing the words "INT Tucson 122° and Cochise, AZ, 257° radials;" and substituting the words "INT Tucson 119° and Cochise, AZ, 258° radials;"

3. Section 71.171 is amended as follows:

Tucson International Airport, AZ [Amended]

By removing the words "within 3 miles each side of the Tucson VORTAC 273° radial extending from the 5-mile radius zone to 15 miles west of the VORTAC;" and substituting

the words "within 3 miles each side of the 273° bearing from lat. 32°07'21"N., long. 110°49'12"W.; extending from the 5-mile radius zone to 15 miles west of lat. 32°07'21"N., long. 110°49'12"W.;"

4. Section 71.181 is amended as follows:

Tucson, AZ [Amended]

By removing the words "within 16 miles NE and 13 miles SW of the Tucson VORTAC 138° radial extending from the 10-mile radius area to 16 miles SE of the VORTAC, within 1 mile NE and 9 miles SW of the Tucson VORTAC 318° radial, extending from the 10-mile radius area to 22 miles NW of the VORTAC and within 16 miles NE of the Tucson VORTAC 318° radial extending from the Tucson VORTAC to 30 miles NW of the VORTAC" and substituting the words "within 16 miles NE and 13 miles SW of the 138° bearing from lat. 32°07'21"N., long. 110°49'12"W.; extending from the 10-mile radius area to 16 miles SE of lat. 32°07'21"N., long. 110°49'12"W.; within 1 mile NE and 9 miles SW of a 318° bearing from lat. 32°07'21"N., long. 110°49'12"W.; extending from the 10-mile radius area to 22 miles NW of lat. 32°07'21"N., long. 110°49'12"W.; and within 16 miles NE of the 318° bearing from lat. 32°07'21"N., long. 110°49'12"W.; extending from lat. 32°07'21"N., long. 110°49'12"W.; to 30 miles NW of lat. 32°07'21"N., long. 110°49'12"W."

PART 75—[AMENDED]

5. The authority citation for Part 75 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.

6. Section 75.100 is amended as follows:

J-11 [Amended]

By removing the words "via INT Tucson 316°" and substituting the words "via INT Tucson 320°"

J-92 [Amended]

By removing the words "INT of Casa Grande 145° and Tucson, AZ, 298° radials; Tucson; to the INT of the Tucson 185° radial and the United States/Mexican Border." and substituting the words "INT of Stanfield 145° and Tucson, AZ, 300° radials; Tucson; to the INT of Tucson 179° radial and the United States/Mexican Border."

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

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-22965, Filed 9-25-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 24777; Amdt. No. 1304]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

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

For Examination—

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

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

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

For Purchase—

Individual SIAP copies may be obtained from:

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

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

By Subscription—

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

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

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

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

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

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these

SIAPs, the TERPS critria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, if find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Issued in Washington, DC, on September 20, 1985.

John S. Kern,

Acting Director of Flight Operations.

Adoption of the Amendment

PART 97—[AMENDED]

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

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

2. By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective November 21, 1985

Caro, MI—Caro Muni, VOR/DME-A, Amdt. 2
Pembina, ND—Pembina Muni, VOR Rwy 33, Amdt. 3
Ada, OK—Ada Muni, NDB-A, Amdt. 2
Cushing, OK—Cushing Muni, NDB Rwy 35, Amdt. 3
Chandler, OK—Chandler Muni, NDB Rwy 17, Amdt. 2
Chickasha, OK—Chickasha Muni, VOR/DME Rwy 17, Orig., Cancelled
Chickasha, OK—Chickasha Muni, VOR/DME-A, Orig.
Chickasha, OK—Chickasha Muni, RNAV Rwy 35, Orig., Cancelled
Chickasha, OK—Chickasha Muni, RNAV Rwy 35, Orig.
Guthrie, OK—Guthrie Muni, NDB Rwy 16, Amdt. 2
McAlester, OK—McAlester Muni, VOR/DME Rwy 19, Amdt. 1
McAlester, OK—McAlester Muni, LOC Rwy 1, Amdt. 2
Seminole, OK—Seminole Muni, NDB Rwy 16, Amdt. 1
Huron, SD—Huron Regional, ILS Rwy 12, Amdt. 6
Neillsville, WI—Neillsville Muni, NDB Rwy 27, Amdt. 3
Sheboygan, WI—Sheboygan County Memorial, VOR Rwy 3, Amdt. 4
Sheboygan, WI—Sheboygan County Memorial, VOR Rwy 21, Amdt. 4

. . . Effective October 24, 1985

Petaluma, CA—Petaluma Muni, VOR Rwy 29, Orig.
Harlingen, TX—Rio Grande Valley Intl, VOR Rwy 13, Amdt. 9
Harlingen, TX—Rio Grande Valley Intl, VOR/DME Rwy 31, Orig.

. . . Effective September 11, 1985

Roanoke, VA—Roanoke Regional/Woodrum Field, VOR Rwy 33, Amdt. 5

. . . Effective September 6, 1985

Kelso, WA—Kelso-Longview, NDB-A, Amdt. 4

. . . Effective September 5, 1985

Lompoc, CA—Lompoc, VOR/DME-A, Amdt. 2
Washington, DC—Dulles Intl, ILS/DME Rwy 1L, Amdt. 2
Baytown, TX—RWJ Airpark, VOR/DME Rwy 33, Amdt. 2

[FR Doc. 85-22962 Filed 9-25-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 85-162]

Customs Regulations Amendments Relating To Waiver of Certificate of Registration for Articles Exported for Repairs, Alterations, or Processing

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide for waiver of the Certificate of Registration required for entry of articles exported from the U.S., for repair, alteration, or processing abroad, upon payment of duty on only the value of the work done abroad, when the importer satisfies Customs that exportation of the articles from the U.S. occurred. These amendments are necessary because, in many instances, the carrier or shipper of the exported article fails to properly register them with U.S. Customs before exportation. This must be done for the importer to claim entry of the articles under special tariff provisions subjecting them to duty only on the work done abroad, not on the value of the articles.

EFFECTIVE DATE: October 28, 1985.

FOR FURTHER INFORMATION CONTACT: Leo Wells, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229 (202-566-2957).

SUPPLEMENTARY INFORMATION:

Background

Section 10.8(a), Customs Regulations (19 CFR 10.8(a)), provides that before exporting articles which are subject on return to the U.S. to duty on the value of repairs or alterations performed abroad, as provided for in item 806.20, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), a Certificate of Registration (the top portion of Customs Form 4455) shall be filed (in an original only) by the owner or exporter with the district director of Customs before the departure of the exporting conveyance. Section 10.9(a), Customs Regulations (19 CFR 10.9(a)), sets forth similar requirements for articles exported for processing and later returned to the U.S. under item 806.30, TSUS, except that the Customs Form 4455 must include a statement by the exporter or owner on the reverse side, containing the name and address of the U.S manufacturer and other U.S. processing details. The requirements for supervision by Customs before exportation of the articles are intended to aid Customs officials in determining what repairs, alterations, or processing were done abroad and what their cost or value was, and to ensure that the returned articles are the same articles that were exported.

Waiver of the Certificate of Registration is provided for by both §§ 10.8(k) and 10.9(k), Customs Regulations, provided the district director is satisfied that the returned articles are entitled to entry under either item 806.20 or 806.30, TSUS, and that the failure to comply with registration requirements was due to inadvertence,

mistake, or inexperience, and not to negligence or bad faith.

Customs brokers along the U.S./Canadian border claim that they, acting on behalf of the importer and/or exporter, are often unable to comply with the registration requirements because the carrier or shipper of the articles exported for work abroad fails to present the registration form to U.S. Customs at the border crossing station before exportation. Thus, there is no record of Customs supervision or approved waiver of this supervision before exportation. Therefore, the importer's subsequent claim for entry under item 806.20 or 806.30, TSUS, and duty only on the foreign work performed, is not allowed unless the failure to register with Customs is attributed to inadvertence, mistake, or inexperience, and not to negligence or bad faith. Since, in many cases, it is the shipper's or carrier's negligence which caused the failure to register with Customs, the registration form may not be waived and the requested entry under 806.20 or item 806.30, TSUS, is denied.

To relieve the importer of the consequences of the negligence of the carrier or shipper, over whom the importer may have no control, by notice published in the Federal Register on September 10, 1984 (49 FR 35509), it was proposed that §§ 10.8(k) and 10.9(k) be amended to allow for waiver of the Customs Form 4455 in instances where the importer provides sufficient documentation to Customs to prove actual exportation of the articles from the U.S., such as a Canadian landing certificate, or similar acceptable documentary proof. Interested parties were given until November 9, 1984, to submit written comments on the proposal. Of the seven comments received in response to the notice, all were in favor of the suggested change. A discussion of these comments and our responses follows:

Discussion of Comments

Comment: Two commenters requested that the waiver of the Certificate of Registration be extended to importations under item 810.20, TSUS, for tools of the trade. Another commenter believed that the proposed rule should apply to § 10.68, Customs Regulations (19 CFR 10.68), relating to articles taken abroad for exhibition or temporary use (*e.g.*, theatrical effects, commercial travelers samples, tools of trade), because the circumstances of § 10.68 are similar to those in §§ 10.8 and 10.9.

Response: Although the circumstances covered by these sections are similar in that they involve situations in which a Custom Form 4455 is used for the duty-free importation of articles taken abroad for repair, alteration, use, or exhibition and then returned to the U.S., the suggestion is beyond the scope of the proposal. The proposal dealt only with possible changes to §§ 10.8 and 10.9. However, Customs will study this matter separately, to determine what action, if any, should be taken.

Comment: One commenter suggested that the words "and not to negligence or bad faith" be eliminated from proposed §§ 10.8(k)(1) and 10.9(k)(1) because this phrase is not in conformity with the intent of the proposed amendments.

Response: Customs agrees. Accordingly, proposed §§ 10.8(k) and 10.9(k) have been modified in the final rule by removing that portion of the section which provided for waiver of Customs Form 4455 if the district director is satisfied that the failure to comply with the registration requirement was due to inadvertence, mistake or inexperience, and not to negligence or bad faith.

Comment: Another commenter suggests that Canadian Customs entries and Canadian Customs invoices, as well as bills of lading and airway bills, be included as documents acceptable to Customs as proof of exportation.

Response: Customs agrees. However, it is Customs opinion that the district director should have discretion to require additional documentation if believed necessary as proof of exportation. Further, while the commenter is concerned about articles exported to Canada, the provisions of §§ 10.8 and 10.9 are applicable to articles exported to any foreign country. Accordingly, the documentary examples in §§ 10.8 and 10.9 have been modified in the final rule to relate to *any* particular country. Sections 10.8(k) and 10.9(k) are revised in the final rule to reflect these changes.

After consideration of the comments received, and upon further review of the matter, it has been determined advisable to adopt the amendments with the modification noted above.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b), Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal authors of this document were Susan Terranova and John Elkins, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 10

Exports, Imports, Repairs, Alterations, Processing abroad.

Amendments to the Regulations

Part 10, Customs Regulations (19 CFR Part 10), is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for Part 10 is revised to read as set forth below. Authority citations appearing elsewhere in Part 10 are removed.

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1623, 1624.

a. Section 10.17 also issued under 19 U.S.C. 1401a, 1402;

b. Section 10.22 also issued under 19 U.S.C. 1304;

c. Sections 10.41, 10.41a, 10.107 also issued under 19 U.S.C. 1322;

d. Section 10.53 also issued under 16 U.S.C. 1521, *et seq;*

e. Section 10.59 also issued under 19 U.S.C. 1309, 1317;

f. Sections 10.61, 10.62, 10.63, 10.64, 10.64a also issued under 19 U.S.C. 1309;

g. Sections 10.62a, 10.65 also issued under 19 U.S.C. 1309, 1317, 1555, 1556, 1557, 1646a;

h. Sections 10.70, 10.71 also issued under 19 U.S.C. 1486;

i. Sections 10.80, 10.81, 10.82, 10.83 also issued under 19 U.S.C. 1313 (e) and (i);

j. Sections 10.152, 10.153 also issued under 19 U.S.C. 1321;

k. Sections 10.171–10.178 also issued under 19 U.S.C. 2461 *et seq;*

l. Sections 10.191–10.198 also issued under 19 U.S.C. 2701 *et seq.*

2. The first sentence of § 10.8(k) is revised to read as follows:

§ 10.8 Articles exported for repairs or alterations.

* * * * *

(k) In any case where an imported article was exported for repairs or alterations without compliance with the registration requirements of this section, the district director, only if satisfied that the returned article is entitled to entry under item 806.20, TSUS, may waive the production of the Customs Form 4455. The importer may establish eligibility

for entry under item 806.20, TSUS, by providing sufficient documentation to Customs to prove actual exportation of the article from the U.S., such as a foreign customs entry, a foreign customs invoice, a foreign landing certificate, bill of lading, or airway bill. The district directors may require such additional documentation as is deemed necessary as proof of exportation. * * *

* * * * *

3. The first sentence of § 10.9(k) is revised to read as follows:

§ 10.9 Articles exported for processing.

* * * * *

(k) In any case where an imported article was exported for processing without compliance with the registration requirements of this section, the district director, only if satisfied that the returned article is entitled to entry under item 806.30, TSUS, may waive the Customs Form 4455. The importer may establish eligibility for entry under item 806.30, TSUS, by providing sufficient documentation to Customs to prove actual exportation of the article from the U.S., such as foreign customs entry, a foreign customs invoice, a foreign landing certificate, bill of lading, or airway bill. The district director may require such additional documentation as is deemed necessary as proof of exportation. * * *

* * * * *

William von Raab,
Commissioner of Customs.

Approved: August 28, 1985.

David D. Queen,
Acting Assistant Secretary of the Treasury.

[FR Doc. 85-23007 Filed 9-25-85; 8:45 am]

BILLING CODE 4820-02-M

---

19 CFR Part 101

[T.D. 85-163]

Changes in the Customs Service Field Organization; San Diego, CA

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document finalizes an interim rule which amended the Customs Regulations to change the Customs Service field organization by extending and redefining the geographical limits of the port of entry of San Diego, California. The changes, which extend the existing port limits to include the new Customs station at Otay Mesa, California, also allow Customs to maintain control of the San Diego port limits since they are currently identified with the city limits of San Diego, National City, and Chula Vista, California. This document also adds San Ysidro, California, to the list of Customs stations.

EFFECTIVE DATE: January 24, 1985.

FOR FURTHER INFORMATION CONTACT: Denise Crawford, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs is amending §§ 101.3 and 101.4, Customs Regulations (19 CFR 101.3, 101.4), by extending and redefining the geographical limits of the port of entry of San Diego, California.

T.D. 54741, published in the **Federal Register** on December 9, 1958 (23 FR 9508), extended the limits of the port of San Ysidro, California. This extension was the result of an ordinance, adopted by the City Council of San Diego, pursuant to the Annexation Act of 1913 of the State of California, to extend the corporate limits of San Diego by annexing certain additional territory, including the territory within the boundaries of the port of San Ysidro, California. Since the boundaries of a Customs port of entry have been held to coincide with the territory within the corporate limits of the city or town designated as a Customs port, the port of San Ysidro thus fell within the San Diego port limits.

By T.D. 66-229, published in the **Federal Register** on October 25, 1966 (31 FR 13721), the port limits of San Diego were further expanded to include the cities of Chula Vista and National City, California, in order to provide for the increasing need for Customs services in this area.

The changes set forth in this document extend the existing San Diego port limits to include the new Customs station on the U.S.-Mexico border at Otay Mesa, California. In addition, specific boundary lines are proposed demarcating the port limits of San Diego. These limits are no longer associated with the corporate limits of the cities of San Diego, National City, and Chula Vista, California.

These changes were published as interim regulation T.D. 85-21 in the **Federal Register** on January 31, 1985 (50 FR 4504), and public comments were solicited. No comments were received. Accordingly, Customs has determined to adopt the interim regulation as a final rule. This document also adds San Ysidro, California, to the list of Customs stations. Although San Ysidro has been established and operating as a Customs station for many year, it has not been officially listed as such in the Customs Regulations.

Change in the Customs Service Field Organization

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp. Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449), the existing geographical limits of the port of entry of San Diego, California, are extended to include the new Customs station at Otay Mesa, California. Accordingly, the following territory is included within the extension of the port of San Diego:

Beginning at the U.S.-Mexico international boundary at the Pacific Ocean; then north along the Pacific Ocean coastline to Zunia Point (on the southwest corner of the U.S. Naval Air Station at North Island, California); then across the entrance of San Diego Bay to Ballast Point (on the western side of Point Loma); then south on Point Loma to its southern tip; then north along the Pacific Ocean coastline to Township line T13S/T14S; then east along T13S/T14S to where it intersects San Diego County Highway S6; then east and then north along San Diego County Highway S6 to Via Rancho Parkway; then generally in an easterly direction along Via Rancho Parkway to where it meets Bear Valley Parkway; then north on Bear Valley Parkway to San Pasqual Valley Road; then east on San Pasqual Valley Road to Rangeline 1W/2W; then north on Rangeline 1W/2W to where it intersects Township line 13S; then east along Township line 13S to Rangeline 1E/2E; then south along Rangeline 1E/2E to where it intersects with State Highway 67; then south on State Highway 67 to where it intersects the San Bernardino Meridian; then south on the San Bernardino Meridian to the U.S.-Mexico international boundary; then west on the U.S.-Mexico international boundary to where it meets the Pacific Ocean.

Note.—All Rangelines and the Meridian are based on the San Bernardino Baseline and Meridian.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization.

Amendment to the Regulations

PART 101—GENERAL PROVISIONS

1. The authority citation for Part 101 continues to read as follows:

Authority.—5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624, Reorganization Plan 1 of 1965; 3 CFR Part 1965 Supp.

2. To reflect these changes, the list of Customs regions, districts, and ports of entry in § 101.3, Customs Regulations (19 CFR 101.3), is amended by removing "T.D. 85–21" under the column headed "Ports of entry" after "San Diego" and inserting, in its place, "(T.D. 85–163)", in the San Diego, California, Customs district in the Pacific Region.

3. To reflect the addition of a new Customs station at Otay Mesa, the list of Customs stations, in § 101.4, Customs Regulations (19 CFR 101.4), is amended by inserting "Otay Mesa, Calif." under "Campo, Calif.", under the column headed "Customs stations" and "San Diego" under the column headed "Port of entry having supervision" in the San Diego, California, Customs district.

4. To reflect the operation of a Customs station at San Ysidro, the list of Customs stations, in § 101.4, Customs Regulations (19 CFR 101.4), is amended by inserting "San Ysidro, Calif." under "Otay Mesa, Calif.", under the column headed "Customs stations" and "San Diego" under the column headed "Ports of entry having supervision" in the San Diego, California, Customs district.

Executive Order 12291

Because this amendment relates to the organization of the Customs Service, pursuant to section 1(a)(3) of E.O. 12291, it is not subject to that Executive Order.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this amendment. Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although these changes may have a limited effect upon some small entities in the San Diego area, they are not expected to be significant because the extension of the limits of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act. Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendment will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service Headquarters. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: August 28, 1985.

David D. Queen,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85–23006 Filed 9–25–85; 8:45 am]

BILLING CODE 4820-02-M

---

19 CFR Part 101

[T.D. 85–164]

Customs Regulations Amendment Relating to a Change in the Customs Service Field Organization—Hidalgo and Progreso, TX

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: The document amends the Customs Regulations to change the Customs field organization by extending and redefining the geographical limits of the ports of entry of Hidalgo and Progreso, Texas. The change will enable importers, now operating produce sheds outside the port limits, to apply for a special permit for the immediate delivery for the transportation of fresh fruits and vegetables arriving from Mexico for human consumption.

EFFECTIVE DATE: October 28, 1985.

FOR FURTHER INFORMATION CONTACT: Denise Crawford, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs is amending § 101.3, Customs Regulations (19 CFR 101.3), by extending and redefining the geographical limits of the ports of entry of Hidalgo and Progreso, Texas.

In the list of Customs regions, districts, and ports of entry set forth in § 101.3(b), Customs Regulations, the ports of Hidalgo and Progreso, Texas, are listed in the Laredo, Texas, Customs District in the Southwest Region. Customs had been requested to extend the geographical limits of both ports so that importers, now operating produce sheds located outside the port limits, will be able to take advantage of the privileges of § 142.21(b), Customs Regulations (19 CFR 142.21(b)). Specifically, § 142.21(b) authorizes the filing of an application with Customs for a special permit for the immediate delivery for the transportation of fresh fruits and vegetables for human consumption arriving from Canada or Mexico to the importer's premises, if within the port of importation.

After a review of the matter, Customs published a notice in the **Federal Register** on September 5, 1984 (49 FR 35026) proposing expanded port limits for both Hidalgo and Progreso. These proposed boundaries were designed to accommodate all active produce sheds and to simplify the descriptions of the port limits. Customs believes these proposed boundaries will be sufficient to allow all active produce sheds the privilege of operating under § 142.21(b), Customs Regulations, without the need for further expansion in the near future. Customs also believes the existing staffs at both ports will be sufficient to accommodate any additional workload.

Discussion of Comments

Four comments were received in response to the notice, all in favor of the changes. After a further review of the matter, Customs has determined to adopt the proposal as described in the notice. The list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations, are amended accordingly.

Hidalgo

By E.O. 3609, dated January 9, 1922, and effective February 1, 1922, the port of Hidalgo, Texas, was established. However, the geographic limits of the port were undefined.

Under this amended the port limits of Hidalgo will include the following territory:

On the south, the Rio Grande River, on the east, FM (Farm to Market)–1423 from the Rio Grande River north to State Highway 107, east on State Highway 107 to FM–493 and north on FM–493 to FM–2812; on the north, FM–2812 west to U.S. Highway 281 then south on U.S. Highway 281 to FM–1925 and west on

FM–1925 to FM–881; on the west, south on FM–681 to FM–492 then west on FM–492 to FM–2894; south on FM–2894 to old U.S. Highway 83; west on old U.S. Highway 83 to FM–2062; south on FM–2062 to the Rio Grande River.

Progreso

By T.D. 76–339, published in the Federal Register on December 16, 1976 (41 FR 54927), the geographical limits of Progreso, Texas, included the following territory:

Beginning at the intersection of Mile 9 North Road and the Cameron County and Hidalgo County line proceeding in a westerly direction along Mile 9 North Road to its intersection with Mile 6½ West Road, then proceeding in a southerly direction along Mile 6½ West Road and a continuation thereof to its intersection with the United States-Mexico international boundary to its intersection with the Cameron County and Hidalgo County Line, then proceeding in a northerly direction on the Cameron County and Hidalgo County Line, to its intersection with Mile 9 North Road.

The amendment will extend the existing port limits of Progreso to include the following territory:

On the south, the Rio Grande River; on the east, the county line separating Hidalgo and Cameron Counties from the Rio Grande River north to State Highway 107; on the north, State Highway 107 west from the county line to FM (Farm to Market)–1423; and on the west, FM–1423 south from State Highway 107 to the Rio Grande River.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization.

Authority

This change is adopted under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by E.O. No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp. Ch. II) and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

Amendments to the Regulations

PART 101—GENERAL PROVISIONS

1. The authority citation for Part 101, Customs Regulations (19 CFR Part 101), continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1, 66, 1202 (Gen. Hdnote 11), 1624, Reorganization Plan 1 of 1965; 3 CFR 1965 Supp.

2. To reflect these changes, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended as follows:

a. By removing "(E.O. 3609, Jan. 9, 1922)." from the column headed "Ports of entry" after "Hidalgo" in the Laredo, Texas, Customs district of the Southwest Region, and inserting, in its place, "T.D. 85–164."

b. By removing "including territory described in T.D. 76–339." from the column headed "Ports of entry" after "Progreso" in the Laredo, Texas, Customs district of the Southwest Region, and inserting, in its place, "T.D. 85–164".

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this amendment. Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although this change may have a limited effect upon some small entities in the Hidalgo and Progreso, Texas, areas, it is not expected to be significant because the extension of the limits of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Accordingly, it is certified under the provisions of section 3 of the Act (5 U.S.C. 605(b)) that the amendment will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because the amendment relates to the organization of the Customs Service, pursuant to section 1(a)(3) of E.O. 12291 this proposal is not subject to the E.O.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: August 28, 1985.

David D. Queen,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85–23005 Filed 9–25–85; 8:45 am]

BILLING CODE 4820–02–M

19 CFR Part 142

[T.D. 85–161]

Customs Regulations Amendments Relating to Acceptance of Formal Entries With Unsecured Bonds for Certain Importations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to acceptance of formal entries with unsecured bonds for certain importations. The amendment gives district directors authority to waive the necessity of having surety or cash deposit on formal entry bonds for commercial importations valued over $250 but not over $2,500. This waiver could only be granted when the importer has not been delinquent or otherwise remiss in any transaction with Customs and the entry summary documentation is filed and estimated duties, if any, are deposited prior to release of the merchandise. Further, the waiver would not apply to (1) quota merchandise, (2) any type of merchandise which cannot be easily appraised or classified, or (3) any type of merchandise where there may be, based on past experience, a question of redelivery. Customs does not believe the minimal risk to the revenue justifies the increased cost to the importing community for a surety on a bond covering merchandise valued at not more than $2,500.

EFFECTIVE DATE: This rule is effective on October 28, 1985.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: William Rosoff, Carriers, Drawback and Bonds Division (202–566–5856).

Operational Aspects: Herbert Geller, Duty Assessment Division, (202–535–4161). U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

SUPPLEMENTARY INFORMATION:

Background

Section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484) generally requires that all commercial imports be covered by a formal entry. One of the listed exceptions in 19 U.S.C. 1484 is for entry under regulations prescribed pursuant to section 498, Tariff Act of 1930, as amended (19 U.S.C. 1498). Section 498 was amended by Pub. L. 98–573, the Trade and Tariff Act of 1984, signed October 30, 1984, to increase to $1,250 the amount of merchandise which

may be imported under the informal entry procedures in certain instances.

Section 142.4, Customs Regulations (19 CFR 142.4), provides that, with certain exceptions, merchandise shall not be released from Customs custody at the time Customs receives the entry documentation or the entry summary documentation which serves as both the entry and the entry summary, unless covered by a bond executed by an approved corporate surety or secured by cash deposits or obligations of the United States.

While the imposition of bonding and surety requirements is necessary both in terms of import control and revenue protection for large commercial shipments, Customs believes that the same rationale does not apply to small shipments.

Since February 4, 1980, the North Central Customs Region (Chicago) has been conducting a pilot program of accepting formal entries valued not more than $1,000 without surety on the required bond. The program has been running smoothly with no incidents requiring redelivery of merchandise or the imposition of a penalty.

For the foregoing reasons, Customs believed that there was no justification in terms of cost benefit or public service to support the continued imposition of the bonding requirement for certain entries. Accordingly, on December 21, 1983, a notice of proposed rulemaking (NPRM) was published in the **Federal Register** (48 FR 56401) in which Customs proposed to amend § 142.4, to eliminate the necessity of providing a bond supported by surety or cash deposit on small value shipments (i.e. those valued in excess of $250 but not more than $1,000) which, by law, require a formal entry.

The NPRM proposed to give district directors authority to waive the necessity of having surety or cash deposit on formal entry bonds for commercial importations valued over $250 but not more than $1,000. The NPRM provided that this waiver could only be granted if the importer had not been delinquent or otherwise remiss in any transaction with Customs. Further the waiver would not apply to (1) quota merchandise, (2) any type of merchandise which could not be easily appraised or classified, or (3) any type of merchandise where there may be, based on past experience, a question of redelivery.

Several comments were received in response to the NPRM. Based upon those comments, which are discussed below, and further review of the matter, certain changes have been made to the proposed regulations.

Discussion of Comments

Several commenters were concerned about the possibility of loss of revenue to the Government and suggested that the proposal be modified to require the deposit of duties prior to release of goods.

While it was Customs intention to require deposit of estimated duties prior to release of the merchandise, this was not explicitly stated in the NPRM. To insure that this is understood, § 142.4(c) has been modified to include the requirement for deposit of estimated duties, if any, prior to release of the merchandise. Customs believes that this requirement will not only protect the revenue but will also increase cash flow.

One commenter indicated that, in its opinion, Customs will require additional manpower to enforce the proposal.

Customs does not agree. Customs experience in the Chicago test has not borne out this comment. The purpose of the proposal was to implement Customs operational philosophy of selectivity (i.e. the assessment of risk matched with appropriate enforcement response). Experience demonstrates low delinquency risk in the $251–$2,500 formal entries range. Personnel freed up from review in this area will be more able to concentrate on higher risk activities in merchandise entry. Because the risk has been shown to be minimal up to $2,500, it has been decided to increase the dollar limitation from the $1,000 level proposed in the NPRM to $2,500 in the final rule.

Two commenters raised concern regarding import-sensitive merchandise and opined that liberalizing procedures will increase document irregularities and increase opportunities for fraud.

Customs does not agree. There will be no change in the documentation requirements (i.e. formal entry requirements) under this procedure. The procedure, primarily aimed at one time or infrequent importers, requires documentation currently required to be filed and estimated duty payment, if any, to be made prior to the merchandise being released. This results in better enforcement. An importer following the procedures set forth in this document will be filing an entry summary and relinquishing the immediate release of the merchandise until the documentation is approved by Customs.

Another commenter stated that statistics on imported commodities would be skewed by not including nonsurety bond entries.

Statistical reporting is in no way affected by this procedure. Since entry summary documents are required, Customs will still be in a position to gather statistics on imported commodities.

One commenter stated that the proposal would put Customs in the position of competing with sureties.

Customs is not competing with sureties. Customs will treat low value importations in the same manner as informal entries (i.e. duties paid prior to release of merchandise). This procedure will benefit one time or infrequent importers in clearing Customs with little expense for low value shipments. Further, as other commenters pointed out, the preponderance of formal entries are covered by term bonds. These commenters further noted that the cost for a bond for a regular importer is, considering all other costs, insignificant. Thus, for the routine importer, this procedure will have little or no effect on the costs associated with importing. It is doubtful a regular importer would want a delay, however slight, in the release of its shipment pending documentation review. However, for the one time or infrequent importer, for which this procedure is primarily aimed, the delay may not be considered significant.

Another commenter wanted to know how Customs would regulate entries that fall within the proposal and keep large shipments from being split into low value increments to avoid the need for surety.

Customs will review each entry prior to release of the merchandise to assure compliance with appropriate statutes and regulations. Since this procedure is primarily for one time or infrequent importers, it is doubtful that regular importers, already possessing bonds, would go to the extra expense of splitting shipments to save on surety costs which are probably far less than the costs involved in splitting shipments.

Two commenters suggested that the Chicago pilot program could have been severely abused.

Customs analysis of the Chicago pilot program revealed no abuse or potential for abuse.

Another commenter stated that examination of imports under the procedure should include compliance with marking requirements before release.

Customs agrees. Marking requirements must be met prior to release or a bond with surety will be required. This would fall within the requirement in the final rule that the merchandise not be of a type that could be subject to redelivery.

Finally, one commenter stated that this proposal was one of the alternatives proposed in an October 14, 1983, Federal

Register advanced notice of rulemaking (48 FR 46805) relating to the necessity of requiring surety on Customs bonds, and that no action should be taken until the issues set forth in that document are resolved.

Customs does not agree. The subject matter of this final rule was under development for several months before the October 14, 1983, advance notice was prepared. Because the subject matter overlapped, this matter was included in the October 14, 1983, advance notice. Its inclusion, however, is not a bar from proceeding with this proposal as a separate matter.

In light of the foregoing, the final rule is adopted as set forth below.

Executive Order 12291

These amendments do not meet the criteria for a "major rule" as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

In the NPRM it was indicated that the provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) were not applicable to these amendments because the rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. However, public comment was requested on the effects, with numerical estimates of the proposal on costs, profitability, competitiveness, and employment in small entities. An analysis of the comments received has confirmed that the conclusion set forth in the NPRM was correct.

Accordingly, it is certified under the provisions of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 142

Customs duties and inspection, Imports.

Amendments to the Regulations

Part 142, Customs Regulations (19 CFR Part 142), is amended as set forth below.

PART 142—ENTRY PROCESS

1. The general authority citation for Part 142, Customs Regulations (19 CFR Part 142), continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

§ 142.4 [Amended]

2. The first sentence of § 142.4(a) is amended by inserting the words "or paragraph (c) of this section," after the words "Except as provided in § 10.101(d) of this chapter".

3. A new paragraph (c) is added to § 142.4 to read as follows:

§ 142.4 Bond requirements.

* * * * *

(c) *Waiver of surety or cash deposit.* (1) The district director may waive the requirement for surety or cash deposit on the bond required by this section when (i) the value of the merchandise which the bond secures does not exceed $2,500, (ii) the entry summary documentation is filed and estimated duties, if any, are deposited prior to release of the merchandise and (iii) the importer has not been delinquent or otherwise remiss in any transaction with Customs. (2) This authority to waive surety or cash deposit does not apply to (i) quota merchandise, (ii) any type of merchandise which, in the opinion of the district director, cannot be easily appraised or classified, or (iii) any type of merchandise where there may be, in the opinion of the district director based on past experience, a question of redelivery.

William von Raab,

Commissioner of Customs.

Approved: August 28, 1985.

David D. Queen,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85-23008 Filed 9-25-85; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: This regulation reflects the provisions of section 2611 of Pub. L. 98-369, the Deficit Reduction Act of 1984, which amended section 1611(a) of the Social Security Act (the Act). Section 2611 provides for increasing the Supplemental Security Income (SSI) resource limitations by $100 for an individual and $150 for a couple each year from January 1985 to January 1989. On January 1, 1989, and continuing, the resource limits will be $2,000/$3,000 respectively.

EFFECTIVE DATE: This regulation is effective January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7463.

SUPPLEMENTARY INFORMATION: Sections 1611(a)(1)(B) and 1611(a)(2)(B) of the Act formerly provided that an individual with no spouse may be eligible if his or her resources, other than those excluded under section 1613(a) of the Act, do not exceed $1,500, and that if the individual has an eligible spouse, or an ineligible spouse with whom he or she is living, he or she may be eligible if their resources do not exceed $2,250. Current regulations in § 416.1205 provide for the same dollar limits.

This regulation revises § 416.1205 to reflect section 2611 of Pub. L. 98-369. Section 2611 amends section 1611(a) of the Act by increasing the $1,500/$2,250 (individual/couple) dollar limits for resources to $1,600/$2,400 effective January 1, 1985, $1,700/$2,550 effective January 1, 1986, $1,800/$2,700 effective January 1, 1987, $1,900/$2,850 effective January 1, 1988, and $2,000/$3,000 effective January 1, 1989. Conforming changes have also been made in §§ 416.1202, 416.1244, 416.1246, and 416.1324.

Justification for Dispensing With Notice of Proposed Rulemaking and Opportunity for Public Comment

The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for waiver of notice of proposed rulemaking and public comment procedures on this regulation since opportunity for public

comment is unnecessary. Section 2611 increases the resource limits by specific dollar amounts, and the only amendment to this regulation is to reflect those higher resource limits. The statutory amendment is not subject to any interpretation and the Secretary has no discretion in implementing it.

Executive Order 12291

The impact of section 2611 of Pub. L. 98–369 is solely the result of legislation and would exist without regulatory action on our part. Cost impacts directly resulting from this regulation are minor. Therefore, we have determined that this regulation does not constitute a "major rule" under Executive Order 12291, and a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities because this rule affects only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This regulation imposes no additional reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income program)

List of Subjects in 20 CFR Part 416

Administrative Practice and Procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: March 13, 1985.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: July 24, 1985.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 416—[AMENDED]

Subpart L of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart L of Part 416 reads as follows:

Authority: Secs. 1102, 1601, 1602, 1611, 1612, 1613, 1614(f) and 1631(d) of the Social Security Act, as amended; 49 Stat. 647, as amended; 86 Stat. 1465, 1466, 1468, 1470, and 1473, as amended; 42 U.S.C. 1302, 1381, 1381a, 1382, 1382a, 1382b, 1382c(f) and 1383(d), unless otherwise noted.

2. In § 416.1202, paragraph (a) is amended by changing the cross reference and paragraph (b) is amended by changing the cross references and revising the resource limits, the revised paragraphs to read as follows:

§ 416.1202 Deeming of resources.

(a) *Married individual.* In the case of an individual who is living with a person not eligible under this part and who is considered to be the husband or wife of such individual under the criteria in §§ 416.1806 and 416.1811, such individual's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of such spouse whether or not such resources are available to such individual.

(b) *Child.* In the case of a child (as defined in § 416.1856) who is under age 18, such child's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of a parent of such child (or the spouse of such a parent) who is living in the same household (as defined in § 416.1851) as such child, whether or not available to such child, to the extent that the resources of such parent (or such spouse of a parent) exceed the resource limits described in § 416.1205. (If income is deemed to the child from only one parent, the limit for an individual applies. If income is deemed from both parents (or from one parent and his or her spouse), the limit for an individual and spouse applies.) As used in this section, the term "parent" means the natural or adoptive parent of a child and "spouse of a parent" means the spouse (as defined in Subpart R of this part) of such natural or adoptive parent.

* * * * *

3. Section 416.1205 is revised to read as follows:

§ 416.1205 Limitation on resources.

(a) *Individual with no eligible spouse.* An aged, blind, or disabled individual with no spouse is eligible for benefits under title XVI of the Act if his or her nonexcludable resources do not exceed $1,500 prior to January 1, 1985, and all other eligibility requirements are met. An individual who is living with an ineligible spouse is eligible for benefits under title XVI of the Act if his or her nonexcludable resources, including the resources of the spouse, do not exceed $2,250 prior to January 1, 1985, and all other eligibility requirements are met.

(b) *Individual with an eligible spouse.* An aged, blind, or disabled individual who has an eligible spouse is eligible for benefits under title XVI of the Act if their nonexcludable resources do not exceed $2,250 prior to January 1, 1985, and all other eligibility requirements are met.

(c) *Effective January 1, 1985 and later.* The resources limits and effective dates for January 1, 1985 and later are as follows:

Effective date	Individual	Individual and spouse
Jan. 1, 1985	$1,600	$2,400
Jan. 1, 1986	1,700	$2,550
Jan. 1, 1987	1,800	$2,700
Jan. 1, 1988	1,900	$2,850
Jan. 1, 1989	2,000	$3,000

4. In § 416.1244, paragraph (c) is revised to read as follows:

§ 416.1244 Treatment of proceeds from disposition of resources.

* * * * *

(c) After deducting any amount necessary to raise the individual's (and spouse's if any) resources to the applicable limits described in § 416.1205, as of the beginning of the disposition period, the balance of the net proceeds will be used to recover the payments made to the individual (and spouse, if any). Any remaining proceeds are considered liquid resources.

* * * * *

5. In § 416.1246, paragraph (a)(1) is revised to read as follows:

§ 416.1246 Disposal of resources at less than fair market value.

(a) *General.* (1) An individual (or eligible spouse) who gives away or sells a nonexcluded resource for less than fair market value for the purpose of establishing SSI or Medicaid eligibility will be charged with the difference between the fair market value of the resource and the amount of compensation received. The difference is referred to as uncompensated value and is counted toward the resource limit (see § 416.1205) for a period of 24 months from the date of transfer.

* * * * *

6. The authority citation for Subpart M of Part 416 reads as follows:

Authority: Secs. 1102, 1611 through 1615, and 1631, Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1466 through 1477, (42 U.S.C. 1302, 1382 through 1382d, 1383), unless otherwise noted.

7. In § 416.1324, paragraph (a)(1) is revised to read as follows: (The introductory text is reprinted without change for the convenience of the reader.)

§ 416.1324 Suspension due to excess resources.

(a) *Effective date.* Except as specified in §§ 416.1240 through 416.1242, suspension of benefit payments because of excess resources is required effective with the month in which:

(1) Ineligibility exists because countable resources are in excess of:

(i) The resource limits prescribed in § 416.1205 for an individual and an individual and spouse, or

(ii) In the case of an eligible individual (and eligible spouse, if any) who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title, I, X, XIV, or XVI of the Act, the maximum amount of resources specified in such State plan as in effect for October 1972, if greater than the amounts specified in § 416.1205, as applicable; or

* * * * *

[FR Doc. 85-23020 Filed 9-25-85; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 85-63]

Regatta; Long Island Gran Prix, Long Island Sound, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Long Island Gran Prix sponsored by the Gateway Powerboat Association of Greenwich, CT. This powerboat racing event will be held off the north shore of Long Island between Matinicock and Oak Neck Points on October 5, 1985. This regulation is needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: This regulation becomes effective on October 5, 1985 at 11:00 a.m. and terminates the same day at 3:00 p.m. The approved postponement date in the event of inclement weather is October 6, 1985 during the same times.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky, (212) 668-7974.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking has not been published for this regulation and it is being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The application for this event was received at the Third District Boating Safety Office on September 4, 1985. Therefore, there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Division and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Long Island Gran Prix will be held off the north shore of Long Island on October 5, 1985. This event is sponsored by The Gateway Powerboat Association of Greenwich, CT. A powerboat racing event was held in the same location and course on September 29, 1984 under the title of The Queen City Powerboat Race sponsored by Wright Island Marina. The Long Island Gran Prix is being held in place of this event. Approximately 50 powerboats, 20 to 50 feet in length, will race around a course 7.8 nautical miles in length. The race is scheduled to start at 11:00 a.m. and last until approximately 3:00 p.m. The sponsor will provide from 10 to 15 vessels which will be used to mark the corners of the race course and to assist the Coast Guard and local authorities in patrolling this event. Since it is anticipated that the powerboats participating in this race will be traveling at speeds around 100 m.p.h., spectator vessels will be required to remain at least 150 yards away from any straight leg of the course and shall not approach any closer than ¼ nautical mile from any of the four turning points of the race course. When these powerboats make high speed turns, they can be expected to swing wide of the turning markers. Mariners should use extreme caution while near the race course area. The Coast Guard will issue a safety voice broadcast to notify boaters of this event. In order to provide for the safety of life and property on navigable waters, the Coast Guard will restrict vessel movement in the regulated area.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

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

PART 100—[AMENDED]

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

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

2. Part 100 is amended by adding a temporary § 100.35-322 to read as follows:

§ 100.35-322 Long Island Gran Prix.

(a) *Regulated Area.* Off the north shore of Long Island between Matinicock and Oak Neck Points in the area within a ¼ nautical mile radius of each of the following points, and within 150 yards of each race leg connecting these points: Latitude 40°54'32" longitude 73°38'13" W.; latitude 49°55'28" N., longitude 73°34'13" W.; latitude 40°55'37" N., longitude 73°34'14" W.; latitude 40°56'00" N., longitude 73°38'00" W.

(b) *Effective Period.* This regulation will be effective from 11:00 a.m. to 3:00 p.m. on October 5, 1985. The approved postponement date in the event of inclement weather is October 6, 1985 during the same times.

(c) *Special Local Regulations.* (1) All persons or vessel not registered with the sponsor as participants or not part of the regatta patrol are considered spectators.

(2) No spectator shall enter, pass through or remain within the regulated area as marked by the sponsor or Coast Guard patrol personnel during the effective period.

(3) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(4) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: September 20, 1985.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 85-23032 Filed 9-25-85; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Modification of Timber Sale Extension Policy; Clarification of Final Policy

AGENCY: Forest Service, USDA.

ACTION: Notice if clarification of final policy.

SUMMARY: On Wednesday, August 7, at 50 FR 31840, the Forest Service gave final notice of modifications in the 1983 Forest Service timber sale contract extension policy. The modifications were necessary to accommodate the effects of the Federal Timber Contract Payment Modification Act and became effective August 19, 1985. The modified policy, among other things, allows purchasers to add sales to the harvest schedule of their multi-sale extension plans under certain circumstances, and, permits under specified conditions, purchasers of some previously extended contracts to request an early extension under the multi-sale extension program. This notice clarifies the period during which timber sale purchasers may request these actions.

FOR FURTHER INFORMATION CONTACT: David M. Spores, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, (202) 447-4051.

SUPPLEMENTARY INFORMATION: Following publication of the final policy on August 7, (50 FR 31840), the Forest Service has received a number of inquiries about when a purchaser may request addition of certain timber sales to the harvest schedule of an approved multi-sale extension plan, or request an early extension under the 1983 extension policy of previously extended sales.

The Forest Service hereby clarifies that a purchaser who applies for contract buy out pursuant to 36 CFR Part 223 may make such requests any time between August 19, 1985, and 45 days after the purchaser receives the Regional Forester's approval of its application for contract buy out.

If a purchaser does not file an application for contract buy out, any requests for early extensions or addition of a sale to the harvest schedule of an approved multi-sale extension plan must be received by the Regional Forester by close-of-business, Friday, November 15, 1985, or postmarked no later than November 15, 1985, in order to be considered.

Dated: September 19, 1985.

F. Dale Robertson,

Associate Chief.

[FR Doc. 85-22987 Filed 9-25-85; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6610

[C-021250]

Colorado; Modification of Public Land Order 1800

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order modifies a public land order insofar as it affects 82.56 acres of national forest system land to permit consummation of an exchange. The land was withdrawn for the Forest Service for protection of an administrative site. The land remains closed to other forms of surface entry and mining, but has been and remains open to mineral leasing.

EFFECTIVE DATE: September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80205, 303-294-7635.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 1800 dated February 19, 1959, is hereby modified insofar as it affects the following described national forest system land to permit consummation of an exchange by the Forest Service:

Sixth Principal Meridian

Arapahoe National Forest, Frisco Administrative Site No. 2

T. 5 S., R. 78 W.,
Sec. 27, S½S¼.
The area described contains 82.56 acres in Summit County.

2. Effective immediately, the land is opened to applications for disposal under the General Exchange Act of March 22, 1922, 42 Stat. 465, 466, as amended, and the Act of December 4, 1967, 81 Stat. 531, and section 206 of the Act of October 21, 1976, 90 Stat. 2743, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

Robert N. Broadbent,

Assistant Secretary of the Interior.

September 20, 1985.

[FR Doc. 85-23004 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 3

Standards of Conduct

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This final rule revises the FEMA Standards of Conduct regulations. It sets forth FEMA policy and procedures relating to employee responsibility and conduct. It implements the Ethics in Government Act, E.O. 11222 and OPM Regulations, 5 CFR Parts 735 and 737.

DATE: This rule takes effect September 26, 1985.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Room 840, 500 C St., SW., Washington, D.C. 20472 (202) 646–4096.

SUPPLEMENTARY INFORMATION: This rule revises the current FEMA Standards of Conduct which implement for FEMA the Ethics in Government Act and E.O. 11222. This regulation was initially issued in 1979 when FEMA was activated and has not been substantially revised since then. It is now being revised in accordance with suggestions from the Office of Government Ethics and as part of periodic review of all FEMA regulations to determine if parts are current and remain needed.

The rule applies to Federal employees and to agency management. For this reason, notice and public comment are not necessary, and the rule may be made effective immediately. It is not a major rule within the terms of Executive Order 12291, and as it applies to individuals it is not subject to requirements under the Regulatory Flexibility Act. As it relates to administrative matters, it is categorically excluded from any requirements for environmental documents under 44 CFR Part 10.

This rule does not contain any information collection requirements which are subject to Section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 3

Conflict of Interest: Privacy.

Accordingly, Chapter I of Title 44, Code of Federal Regulations is amended by revising Part 3 to read as follows:

PART 3—STANDARDS OF CONDUCT

Subpart A—General

Subpart B—Conduct and Responsibilities of Employees

Subpart C—Conduct and Responsibilities of Special Government Employees

Subpart D—Disclosure of Financial Interests

Subpart E—Post Employment Conflicts of Interest

Authority: Title II of Ethics in Government Act of 1978, Pub. L. 95-521, 92 Stat. 1838 (5 U.S.C. App); 5 CFR Parts 735, 737; EO 11222.

Subpart A—General

§ 3.1 Purpose.

(a) The purpose of this part is to set forth Federal Emergency Management Agency (FEMA) policy and procedure relating to employee responsibilities and conduct.

(b) 5 CFR 735.101 states in part: "The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees through informed judgment is indispensable to the maintenance of these standards."

(c) This part effectuates the requirements in Subpart A of 5 CFR Part 735 that FEMA issue regulations covering FEMA employees and special Government employees which: (1) Implement Executive Order 11222 of May 8, 1965, and 5 CFR Part 735 and (2) prescribe additional standards of ethical and other conduct appropriate to the particular functions of FEMA. This part also effectuates the requirements placed on FEMA by the Ethics in Government Act of 1978, and implementing regulations of OPM.

§ 3.2 Applicability and scope.

(a) This part applies to all persons included within the terms "employee" and "special government employee" as defined in § 3.3. This part also applies to all former employees and special government employees of FEMA.

(b) This part prescribes general standards of conduct for FEMA employees. It is not, however, inclusive. Other FEMA regulations, instructions and issuances may include standards of ethical behavior. Employees must consult these. Among these instructions are those related to: (1) The Freedom of Information Act, (2) the FEMA Employee Security Program, and (3) the FEMA Acquisition Process.

(c) This part does not apply unless there is specific provision to that effect to standards of ethical conduct required by law or regulation of FEMA contractors or grantees, nor does it apply to organizational conflicts of interest.

§ 3.3 Definitions.

For purposes of this part:

(a) "FEMA" means the Federal Emergency Management Agency.

(b) "Director" means the Director, FEMA.

(c) "Employees" includes every employee of FEMA, Headquarters and field, but does not include a special Government employee nor does it include a member of the National Defense Executive Reserve except during such time as the member is serving as an employee of FEMA. "Employee" also includes disaster assistance employees hired pursuant to Public Law 93-288 during such time as the employees are on active duty status.

(d) "Special Government employee" includes an employee of FEMA who is retained, designated, appointed, or employed to perform, with or without compensation, and for not to exceed 130 days during any period of 365 consecutive days, temporary duty on either a full time or intermittent basis. See 18 U.S.C. 202.

(e) "Person" includes an individual corporation, company, association, firm partnership, society, joint stock company, or other organization or institution.

(f) "Ethics Counselor" means the FEMA officer designated to administer for FEMA Titles II and V of the Ethics in Government Act of 1978 (Pub. L. 95-521), and it also means the FEMA Official who serves as the Agency's designee to OGE on matters covered by Parts 735 and 737 of Title 5 of the Code of Federal Regulations and who coordinates and directs the FEMA ethics counseling service. In FEMA this is the General Counsel.

(g) "OGE" means the Office of Government Ethics in the Office of Personnel Management (OPM).

(h) "Head of Unit" as used herein includes the Deputy Director, Associate Directors, Regional Directors, Federal Insurance Administrator, and the United States Fire Administrator. For purposes of this part, the Deputy Director is "Head of Unit" for any organizational component of FEMA not included in the above listing. During the absence of, or a vacancy in, the Office of the Deputy Director, the Director may name another official in FEMA to exercise this function.

§ 3.4 Notification to employees and special Government employees.

(a) The provisions of this part as it is revised, shall be brought to the attention of, and made available to, each employee and special Government employee by furnishing a copy at the time of final publication. The provisions of this part shall further be brought to the attention of such employees at least annually thereafter.

(b) The provisions of this part shall be brought to the attention of each new employee and new special Government employee by furnishing a copy at the time of entrance of duty, and by such other methods of information and education as the Director may prescribe.

§ 3.5 Interpretation and advisory service.

(a) The Ethics Counselor serves as FEMA's designee to OGE on matters covered by this part and by 5 CFR Parts 735 and 737. The Ethics Counselor is responsible for coordinating FEMA's counseling services and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by this part are available.

(b) Such deputy counselors as may be required shall be designated by the General Counsel from among the staff of the Office of General Counsel to give authoritative advice and guidance to current, former and prospective employees and special Government employees who seek advice and guidance on questions of conflicts of interest and on other matters covered by this part.

(c) To assist in avoiding situations of noncompliance the Ethics Counselor shall, in accordance with section 206(b)(7) of the Ethics in Government Act of 1978 (Pub. L. 95-521), maintain a list of those circumstances or situations which have resulted or may result in noncompliance with laws or regulations concerning conflicts of interest and shall furnish a published list to employees subject to Title II of the Ethics in Government Act of 1978. Appendix B contains a list of such conflict of interest situations.

(d) The Ethics Counselor shall provide advice promptly to former FEMA employees and special Government employees who make inquiry on any matter arising under the post employment conflict of interest regulations of OPM (5 CFR Part 737) and this part.

§ 3.6 Employee responsibilities.

(a) Each employee and special Government employee has a positive duty to become acquainted with the

numerous statutes relating to the ethical and other conduct of employees of FEMA and special Government employees of FEMA and of the Government. Appendix A of this part contains a listing of many of the more important statutory provisions of general applicability. In case of doubt on any question of statutory application to fact situations that may arise, an individual should consult the text of the statutes, Executive Orders or regulations and may consult the Ethics Counselor or Deputy Counselor, who have available for review copies of laws, Executive Orders, agency regulations, and pertinent issuances by OPM on this subject.

(b) In any case where any employee or special Government employee, regardless of grade or position, finds that participation in a particular matter or transaction might be considered to involve a direct or indirect financial interest, such individual shall promptly submit a request for disqualification to act in the matter or for other proposed remedial action in writing to the appropriate supervisor. This request will be acted on in accordance with § 3.8.

§ 3.7 Sanction for violation.

A violation of this Part by an employee or special Government employee may be cause for appropriate disciplinary action, or remedial action, which may be in addition to any penalty prescribed by law.

§ 3.8 Disqualification procedure.

(a) This section applies whether or not the conflict or apparent conflict of interest appears on any disclosure form and it applies to any employee or special Government employee, regardless of grade or position. It applies to a request for disqualification to act made pursuant to paragraph (b) of this section.

(b) All disqualification or remedial action requests are referred to the Ethics Counselor. If the Ethics Counselor reaches an opinion, based on information submitted, that an employee or special Government employee is not in compliance with applicable laws and regulations, then the Ethics Counselor shall so notify the individual of this opinion. The Ethics Counselor shall act on requests by individuals but is not required to approve the specific remedial action proposed. The individual shall be given a reasonable opportunity for an oral or written response. The Ethics Counselor may also ask for additional information.

(c) The Ethics Counselor shall consider the individual's response, and reach an opinion as to whether or not the individual is in compliance. If the opinion is that the individual is not in compliance with applicable laws and regulations, the Ethics Counselor shall notify the individual, and after consultation with the individual (if practical) determine and notify the individual of what steps if any, and the date for completion, would be appropriate for assuring compliance with the laws and regulations.

(d) These steps may include one or more of the following "ethics agreements":

(1) Divestiture;

(2) Restitution;

(3) Resignation from a non-federal business or other entity;

(4) The establishment of a blind trust;

(5) Request for waiver under section 208(b) of Title 18, United States Code; or

(6) Voluntary request for transfer, reassignment, disqualification or recusal from a particular assignment, or limitation of duties.

(e) If any of the remedial actions indicated in paragraph (d)(6) of this section is contemplated, appropriate personnel officers of FEMA shall be notified and shall participate in the determination of the action proposed to be effected.

(f) In the case of nominees to positions requiring the advice and consent of the Senate, evidence of the actions taken by the nominee to carry out an ethics agreement shall be submitted immediately by the Ethics Counselor to OGE and the Senate confirmation committee. In the case of incumbents of positions requiring the advice and consent of the Senate, evidence of actions taken shall be submitted immediately by the Ethics Counselor to OGE. Where the Ethics Counselor is neither a nominee nor an incumbent, such official must send evidence of his/her actions to OGE. In the case of other reporting individuals, evidence of action taken consists of any of the following:

(1) A copy of the recusal agreement containing the specific matters to which the recusal shall apply, a statement of the process or method by which the recusal shall be enforced within FEMA, and positions of those involved in its execution (i.e., the individual's immediate subordinates and supervisors);

(2) Written notification that the divestiture, resignation, restitution, or reassignment has occurred;

(3) A copy of the waiver, signed by the appropriate supervisory official;

(4) Information required by OGE regulations for its approval of blind trust instruments.

(g) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (c) the matter shall be referred to the Director.

Subpart B—Conduct and Responsibilities of Employees

§ 3.10 Administrative extension of statutory limitations.

The provisions of the statutes identified in this part, including those in Appendix A, which relate to the ethical and other conduct of Federal employees are adopted and will be enforced as administrative regulations, violations of which may, in appropriate cases, be the basis for disciplinary action, including removal. The fact that a statute which may relate to employee conduct is not identified in this part does not mean that it may not be the basis for disciplinary action against an employee.

§ 3.11 Prescribed actions.

An employee shall avoid any action whether or not specifically prohibited by this Subpart which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels;

(f) Affecting adversely the confidence of the public in the integrity of the Government;

(g) Discriminating contrary to any law, rule or regulation, against any other employee, or applicant for employment, on the grounds of race, color, religion, national origin, sex, age, handicapping condition, marital status, or political affiliation;

(h) Excluding contrary to any law, rule or regulation, any person from participating in, or denying to any person the benefits of, any program or activity administered by FEMA on the grounds of race, color, religion, national origin, handicapping condition, age, sex, marital status or political affiliation;

(i) Knowingly participating, while conducting official business, in or attending any segregated meetings, or meetings held in segregated facilities, from which persons are excluded because of race, color, religion, sex or national origin, etc.

§ 3.12 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or

appears to conflict substantially, with the employee's Government duties and responsibilities as a Federal employee; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through Government employment.

(b) No employee shall participate in any manner, on behalf of the United States, in the negotiation of contracts, the making of loans and grants, the granting of subsidies, the fixing of rates, or the issuance of valuable permits or certificates, or in any investigation or prosecution, or in the transaction of any other official business which affects chiefly a person:

(1) By whom the individual has been employed or with whom the individual has had any economic interest within the preceding two years, or

(2) With whom the individual has any economic interest or any pending negotiations concerning a prospective economic interest, except with express prior authorization in writing by the Director.

(c) Contracts shall not knowingly be entered into between the Government and employees of the Government or business concerns or organizations which are substantially owned or controlled by Government employees, except for the most compelling reasons, such as cases where the needs of the Government cannot reasonably be otherwise supplied.

(d) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, Executive Order, OPM regulation (5 CFR Parts 735 and 737) or the regulation in this part.

(e)(1) The financial (or economic) interests described below are, unless otherwise determined by the Ethics Counselor in specific cases, too remote or too inconsequential to affect the integrity of an employee's services, and are thereby exempted from the prohibitions of 18 U.S.C. 208(a), and the holding of such an interest does not exclude such employee's participation in the transaction of any official business involving such financial or economic interest:

(i) Deposits in a bank, savings and loan association, building association, credit union or similar financial institution; or policies held with an insurance company;

(ii) Any holding in a widely held mutual fund, or regulated investment company which does not specialize in any particular industry;

(iii) Continued participation in a bona fide group life, health, or accident insurance plan or other employee welfare or benefit plan that is maintained by a business or nonprofit organization by which the employee was formerly employed, to the extent that the employee's rights in the plan are vested and require no additional services by the employee or further payments to the plan by the organization with respect to the services of the employee. To the extent that such plans are profit sharing or stock bonus plans, this exemption shall not apply.

(iv) Continued participation in bona fide pension or retirement plans may be deemed to affect the integrity of an employee's services. Whether such financial interests are exempted from the prohibitions of 18 U.S.C. 208(a) must be determined by the Ethics Counselor on a case-by-case basis.

(2) These exempted financial interests should, however, be reported by employees on disclosure forms to the extent prescribed in Subpart D of this part.

(3) For purposes of this part unless otherwise provided in law, regulation, or on any form requesting disclosure, the interest of a spouse, dependent child, or other member of an employee's immediate household in considered to be an interest of the employeee. For the purpose of this section, "member of an employee's immediate household" means those relations who are residents of the employee's household.

(f) Paragraph (b) of this section does not apply if the officer or employee first advises the Ethics Counselor in writing of the nature and circumstances of the matter, makes full disclosure of the financial interest, and receives in advance a written determination by such Ethics Counselor or Deputy Counselor that such interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such employee.

(g) The provisions of this section do not limit or add to the provisions of any disclosure requirements under Subpart D of this part.

§ 3.13 Outside employment and other activities.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his or her Government employment, and which might result in a conflict or apparent conflict between the private interests of the employee and the official Government duties and responsibilities. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances where acceptance may result in, or create the appearance of, conflicts of interest;

(2) Outside employment which tends to impair the mental or physical capacity to perform Government duties and responsibilities in an acceptance manner;

(3) Outside activities that may be construed by the public to be the official acts of FEMA;

(4) Activities that establish relationships or property interests that may result in a conflict between one's private interests and official duties;

(b) Full-time employees and part-time employees with a regularly scheduled tour of duty must obtain the prior written approval of the Ethics Counselor or Deputy Counselor before engaging in outside employment in the same professional field as that of the individual's official position. All such employees must obtain written approval on an annual basis.

(c) Although teaching, lecturing, and writing are outside employment, employees are encouraged to engage in such activities so long as they are not prohibited by law, Executive Order, OPM regulations or this part.

(d) An employee shall not receive any salary or anything of monetary value from a private source as compensation for services to the Government.

(e) Any full-time employee mentioned in § 3.60 of this part, whose appointment is required to be made by and with the advice and consent of the Senate, may not have earned income in any calendar year attributable to such year in excess of 15% of his or her salary.

(f) No employee, including the Director, shall receive outside compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of FEMA, or which draws substantially on official data or ideas which have not become part of the body of public information.

(g) The use of an employee's name and title in connection with articles for publication which bear upon work in FEMA is permissible only if approval is obtained from the Ethics Counselor or Deputy Counselor.

(h) This section does not preclude an employee from:

(1) Participation in the activities of National or State political parties not proscribed by law.

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 3.14 Gifts and gratuities.

(a) Except as otherwise provided in this section an employee shall not solicit or accept directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with FEMA;

(2) Conducts operations or activities that are regulated by FEMA; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duty.

(b) The prohibitions of paragraph (a) of this section do not apply in the following cases:

(1) Obvious family or personal relationships, such as those between the parents, children, or spouse of the employee, when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Acceptance of food and refreshments of nominal value (fifteen dollars or less) on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(4) Acceptance of unsolicited advertising or promotional materials, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value (fifteen dollars or less).

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself/herself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(e) Neither this section nor § 3.13 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for actual expenses for travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, such reimbursement may be accepted only by the agency and not by the individual employee. Such expenses may be accepted by FEMA only in limited situations as provided by statute. Therefore, prior to engaging in travel for which reimbursement from a private source is planned, the written approval of the Ethics Counselor must be obtained. If such approval is obtained, however, this paragraph does not allow an employee to be reimbursed, or payment to be made on his/her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under FEMA orders when reimbursement is proscribed by decisions of the Comptroller General. FEMA may also accept reimbursement for travel or expenses incident to travel subject to the incident to travel subject to the restrictions of this section for the actual expenses of an accompanying spouse in connection with an employee's travel.

§ 3.15 Use of Government property, vehicles and communications systems.

(a) An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities.

(b) Each employee shall protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to the employee.

(c) An employee shall not use, or authorize the use of, Government owned or leased motor vehicles or aircraft for other than official purposes (31 U.S.C. 638a(c)).

(d) An employee shall not use the Federal Telecommunications System or similar system, or commerical telephone facilities for official long-distance calls unless specifically authorized to do so. Use of these facilities for purposes other than the conduct of official business is also prohibited, except in cases of emergency.

§ 3.16 Misuse of information.

(a) *Use of inside information.* For the purpose of furthering a private interest, an employee shall not, except as provided in § 3.13, directly or indirectly use, or allow the use of, information which has been or has the appearance of having been obtained through or in connection with Government employment and which has not been made available to the general public.

(b) *Coercion.* An employee shall not use Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to self or another person, particularly one with whom the employee has family, business, or financial ties.

(c) *Disclosure of restricted information.* Except as authorized by law, or FEMA regulation, including that related to the Freedom of Information Act, no employee shall divulge restricted commercial or economic information, or restricted information concerning the personnel or operations including procurement actions of any Government agency, or release any such information in advance of the time prescribed for its authorized release.

§ 3.17 Gambling, betting and lotteries.

An employee shall not, except as otherwise lawfully authorized, participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity, including the operations of a gambling device; in conducting a lottery or pool; in a game for money or property; or in selling or purchasing a numbers slip or ticket.

§ 3.18 Indebtedness.

(a) An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For purposes of this section "a just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which, in the view of FEMA, does not under the circumstances, reflect adversely on the Government as employer.

(b) In the event of dispute between an employee and an alleged creditor, this section does not require FEMA to determine the validity or amount of the disputed debt.

§ 3.19 General conduct prejudicial to the Government.

(a) Officers and employees of the Federal Government are servants of the people. Because of this, their conduct must, in many instances, be subject to more restrictions and to higher standards than may be the case in

certain private employments. They are expected to conduct themselves in a manner which will reflect favorably upon their employer. Although the Government is not particulary interested in the private lives of its employees, it does expect them to be honest, reliable, trustworthy, and of good character and reputation. They are expected to be loyal to the Government, and to the department or agency in which they are employed.

(b) An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

(c) Each employee shall act in a manner that facilitates the effective accomplishment of the work of FEMA, observing at all times the requirements of courtesy, consideration, and promptness in dealing with the public and with persons or organizations having business with FEMA.

§ 3.20 Intermediaries and product recommendation.

Except as authorized in connection with the performance of official duties, no employee shall recommend or suggest the use of any particular or identified nongovernmental intermediary to deal with FEMA nor shall an employee recommend any device or product tested by or for, or used by FEMA, or for which FEMA provides financial assistance.

§ 3.21 Membership in organizations.

(a) An employee may not, in his or her official capacity as an employee of FEMA, serve as a member of a non-federal or private organization except where statutory authority exists, or where the Director has determined, in writing, that such service would be beneficial to FEMA and consistent with such employee's service as a FEMA employee.

(b) The foregoing is subject to the following. An employee may, and is encouraged to serve in an individual capacity as a member of a non-federal or private organization, particularly those engaged in civic or community affairs on a non-political, non-profit basis, provided that:

(1) Membership does not violate any restriction, law, or regulation, including this part, and

(2) The employee's official title or organization connection is not shown on any listing or presented in any activity of the organization in such a manner as to imply that the employee is acting in an official capacity. Publication in any manner of an employee's official title or FEMA organization connection by a private or non-federal organization must be approved in writing by the Ethics Counselor.

(c) An employee may be designated in writing to serve as a liaison representative of FEMA to a non-Federal or private organization when the Director, an Associate Director, or a Regional Director, as appropriate, has determined that such service would be beneficial to FEMA and provided that:

(1) The activity relates to the work of FEMA;

(2) The employee does not participate by vote in the policy determinations of the organization;

(3) FEMA is in no way bound by any vote or action taken by the organization.

§ 3.22 Use of intoxicants.

An employee shall not use intoxicants habitually, to excess (5 U.S.C. 7352). Intoxicants shall not be consumed on Government-owned or leased premises unless approved by the Director. An employee found using, or under the influence of, intoxicants while at work will be subject to disciplinary action.

§ 3.23 False statements.

An employee shall not, knowingly and willfully, conceal or cover up a material fact, or make any false, or fictitious statement in connection with any official matter, document, or record (18 U.S.C. 1001, 2073).

§ 3.24 Care of official records and documents.

An employee shall not, willfully and unlawfully, conceal, remove, mutilate, falsify, or destroy any Government document or record (18 U.S.C. 285, 2071).

§ 3.25 Disclosure of information about anf individual.

(a) All employees who are involved in the design, development, operation, or maintenance of a system of records or who have access to a system of records shall familiarize themselves with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) and FEMA regulations implementing the Privacy Act of 1974 (44 CFR Part 6) and FEMA directives issued thereunder and apply these requirements to all systems of records.

(b) No officer or employee shall disclose any record which is contained in a system of records by any means of communication to any person or to another agency, except pursuant to a written request by, or with the prior written consent of the individual to whom the record pertains, unless the disclosure is to a recipient specified in paragraph (c) of this section. The term "record," for purposes of this section, means any item, collection or grouping of information about an individual that is maintained by an agency, including but not limited to education, financial transactions, medical history, and criminal or employment history, and that contains the name or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voice-print, or photograph. The term "system of records" means a group of any records under the control of FEMA from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The term "routine use" means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected. The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence. The term "agency" is defined in 5 U.S.C. 552(e).

(c) An employee may disclose any record which is contained in a system of records without a written request by and without the prior written consent of the individual to whom the record pertains if the disclosure is:

(1) To those employees of the agency which maintains the record who have a need for the record in the performance of their duties.

(2) Pursuant to section 552 of Title 5 U.S.C. (Freedom of Information Act);

(3) For a routine use as defined in section (a)(7) of the Privacy Act of 1974 (described in paragraph (b) of this section);

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 U.S.C.;

(5) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record and that the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of the National Archives and Records Administration or his/her designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law and if the

head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of the individual;

(9) To either House of Congrss, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress, or a subcommittee of any such joint committee;

(10) To the Comptroller General or any authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(d) No employee shall maintain a record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.

(e) No employee shall sell or rent an individual's name and address unless such action is specifically authorized by law.

(f) An employee is subject to criminal penalties and administrative sanctions who by virtue of such employment or offical position has possession of or access to agency records which contain individually identifiable information the disclosure of which is prohibited by paragraph (a) of this section or by any other rules, regulations or directives of FEMA established under the Privacy Act of 1974, and who:

(1) Knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, or

(2) Willfully maintains a system of records without meeting the notice requirements of the Privacy Act of 1974, or

(3) Knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses.

(g) An employee subjects himself/herself to administrative sanctions, and subjects FEMA to civil penalties who:

(1) Makes a determination not to amend an individual's record in accordance with the Privacy Act of 1974; or

(2) Refuses to comply with an individual's request to gain access to review and to obtain a copy of any information pertaining to him/her; or

(3) Fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to ensure fairness in any determination relating to the qualifications, character, right or opportunities of or benefits to the individual that may be made on the basis of such record and consequently a determination is made which is adverse to the individual; or

(4) Fails to comply with any provision of the Privacy Act of 1974 or any FEMA regulation or directive implementing it (5 U.S.C. 552a(g)(4)).

Subpart C—Conduct and Responsibilities of Special Government Employees

§ 3.40 Applicability of Subpart B.

Except as specifically provided in §§ 3.41 through 3.45, each special government employee is subject to the provisions of Subpart B as if such individual were an employee, with the following exceptions:

(a) Section 3.13 Outside employment and other outside activities;

(b) Section 3.14 Gifts and gratuities;

(c) Section 3.21 Membership in organizations.

§ 3.41 Use of Government employment.

A special Government employee shall not use FEMA employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for the individual or another person, particularly one with whom the employee has family, business, or financial ties.

§ 3.42 Use of inside information.

(a) A special Government employee shall not use information obtained as a result of FEMA employment which has not become part of the body of public information for private gain for the employee or another person either by direction on the employee's part or by counsel, recommendation, or suggestion to another person, particularly one with whom the employee has family, business, or financial ties.

(b) Special Government employees shall not use Government employment to coerce a person to provide financial benefit to the employee or another person, particularly one with whom the employee has family, business, or financial ties.

§ 3.43 Coercion.

A special Government employee shall not use Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to the employee or another person, particularly one with whom the employee has family, business, or financial ties.

§ 3.44 Gifts, entertainment and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with employment, shall not receive or solicit from a person having business with FEMA anything of monetary value as a gift, gratuity, loan, entertainment, or favor for the employee or another person, particularly one with whom the employee has family business, or financial ties.

(b) The exceptions of § 3.14, which are applicable to employees, are also applicable to special Government employees.

§ 3.45 Applicability of other provisions.

(a) Each special Government employee shall acquaint himself/herself with each statute, Executive Order, regulation, or similar provision listed in Appendix A to this part.

(b) A special Government employee engaged on an irregular or occasional basis is bound by the political activity restrictions of the Hatch Act cited in Appendix A only while in an active duty status and for the entire 24 hours of any day during which the special Government employee is actually employed.

Subpart D—Disclosure of Financial Interests

General Provisions

§ 3.50 General.

(a) Title II of the Ethics in Government Act of 1978 (Pub. L. 95-521), which became effective January 1, 1979, requires that certain officers and employees of the executive branch make specified financial disclosures in accordance with procedures for filing, review and public availability established by the Office of Personnel Management.

(b) Section 402 of Executive Order 11222 of May 8, 1965 authorizes the Office of Personnel Management to prescribe regulations requiring submission by certain officers and employees of the executive branch of statements of employment and financial interest. These are contained in Subpart D of 5 CFR Part 735.

(c) This Subpart D describes for FEMA the procedures required to implement the laws, Executive orders, and Office of Personnel Management

Regulations concerning disclosure of financial and employment interests.

(d) An individual required to file a disclosure statement by virtue of the Ethics in Government Act of 1978 need not file a disclosure statement required by virtue of E.O. 11222 and Subpart D of 5 CFR Part 735.

§ 3.51 Information not required.

Subpart D of this part does not require an employee to report information relating to a connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in disclosure statements.

§ 3.52 Effect of employees' statements on other requirements.

The statements required of employees pursuant to this part are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation, including this part.

§§ 3.53–3.59 [Reserved]

Financial Disclosure Under Ethics in Government Act of 1978

§ 3.60 Who must file.

The following officials of FEMA, if they have served 61 or more days during the preceding calendar year:

(a) Officers and employees (including special Government employees, as defined in 18 U.S.C. 202) whose positions are classified at GS–16 or above of the General Schedule, or whose basic rate of pay under other pay schedules is equal to or greater than the minimum rate of basic pay for GS–16. This includes all positions in the Senior Executive Service;

(b) Officers or employees in any other position determined by the Director of the Office of Government Ethics to be of equal classification to GS–16;

(c) Employees in the excepted service in positions which are of a confidential or policy-making character unless their positions have been excluded by regulations issued by the Director of the Office of Government Ethics (see 5 CFR 735.503).

(d) The Ethics Counselor.

§ 3.61 Form used to file.

The disclosure statement which must be used is Standard Form (SF) 278, "Executive Personnel Financial Disclosure Report." Copies are available from the Ethics Counselor.

§ 3.62 When to file.

No later than May 14 annually, or 30 days after the individual assumes a position subject to the requirement in § 3.60 of this part unless the individual has within 30 days prior to assuming the position, left another position subject to the requirement. In the event of termination of employment, if the individual has not in the interim accepted another position subject to the requirement, report must be filed no later than the 30th day after termination, covering:

(a) The preceding calendar year if the annual May 14 report has not been filed, and

(b) The portion of the present calendar year up to the date of termination.

§ 3.63 How and where to file.

(a) The SF 278 shall be submitted to the Ethics Counselor (General Counsel), who shall note on the report the date it is received. The Ethics Counselor will forward the report to the Head of Unit under whom the individual serves for review.

(b) The Forms SF 278 of heads of units shall be submitted for review to the Deputy Director. The Deputy Director's Form SF 278 will be submitted to the Director for review.

§ 3.64 Supervisory review of report.

Upon receipt of an SF 278 the head of unit will consider the reported financial interests as they relate to the individual's duties, and make recommendations. The Director or head of unit then will return the form with attachments, to the Ethics Counselor for review. The review process shall be initiated within 60 days after the date of filing, and completed no later than 120 days after the date of filing.

§ 3.65 Action on report.

(a) If, after review, the Ethics Counselor or Deputy Counselor is of the opinion that the individual making the report is in compliance with applicable law and regulation, he or she shall state such opinion on the report, and sign same. If additional information is required, the involved individual shall be notified as to what this information is and as to when it must be submitted.

(b) If the Ethics Counselor or Deputy Counselor is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, the individual shall be notified and the procedures specified in § 3.8 followed. Notwithstanding § 3.8, if steps for assuring compliance with applicable laws and regulations are not taken by the date set under § 3.8(c) by an individual whose appointment requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

§ 3.66 Public release.

(a) No later than 15 days after any report (including SF 278) is received by FEMA, the Ethics Counselor shall permit inspection of, or furnish a copy of, such report including the position description to any person who requests inspection or a copy. The report shall be retained for six years after receipt. No fee shall be charged for furnishing a copy unless the cost of reproduction exceeds $10 in which case the fee shall be the same as those established under the FEMA regulations implementing the Freedom of Information Act (Part 5 of this Title). The Ethics Counselor shall maintain an accurate accounting of disclosures of reports in accordance with the requirements of Part 6 of this title, which relates to implementation of the Privacy Act of 1974. These reports are part of a system of records-OPM-Govt 4 established by the Office of Personnel Management.

(b) Notwithstanding paragraph (a) a report may not be made available under this section to any person, except upon a written application by such person stating—

(1) The person's name, occupation and address;

(2) The name and address of any other person on whose behalf the inspection or copy is requested; and

(3) That such person is aware of the prohibitions on the obtaining or use of the report.

These applications shall be made available to the public throughout the period during which the report is made available to the public.

§§ 3.67–3.79 [Reserved]

Financial Disclosure Under Executive Order 11222 and 5 CFR Part 735

§ 3.80 Who must file.

(a) Except as provided in § 3.88, the following categories of employees shall submit statements of employment and financial interest:

(1) Employees classified at or above the GS–13 level or its equivalent who are in a position identified as a position the incumbent of which is responsible

for making a Government decision or taking a Government action in regard to:

(i) Contracting or procurement;

(ii) Administering or monitoring grants or subsidies;

(iii) Regulating or auditing private or other non-Federal enterprise; or

(iv) Other activities in which the decision or action has an economic impact on the interests of any non-Federal enterprise.

(2) Employees classified at or above the GS–13 level or its equivalent who are in a position which the Director has determined has duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation and to carry out the purpose of law, Executive order, and this part.

(3) All special Government employees, including members of the FEMA Advisory Board.

(4) Employees classified below the GS–13 level or its equivalent who are in a position which otherwise meets the criteria in paragraph (a) or (b) of this section, and which position has been approved by the OPM as an exception that is essential to protect the integrity of the Government and to avoid employee involvement in a possible conflict-of-interest situation.

(b) The specific positions described in paragraph (a) of this section shall be identified by the Ethics Counselor in conjunction with the Office of Personnel. Designation of a position is effective upon actual notification to the incumbent, or upon inclusion of a statement in the official job description that the position is subject to the requirements of this section.

§ 3.81 Form used to file.

The disclosure statement which must be used by the employees named according to § 3.80 is FEMA Form 11–1.

§ 3.82 When to file.

An employee required to submit a FEMA Form 11–1 pursuant to § 3.80 shall submit that statement not later than:

(a) Ninety days after the effective date of this part if employed on or before that effective date; or

(b) Thirty days after entrance on duty, but not earlier than 90 days after the effective date, if appointed after that effective date. All special Government employees must submit a FEMA Form 11–1 prior to being appointed.

§ 3.83 How and where to file.

(a) The FEMA Form 11–1 shall be submitted to the Ethics Counselor (General Counsel) for review and custody.

(b) All employees and special Government employees shall file the FEMA Form 11–1 annually no later than October 31. The statement shall report financial interests or employment as of September 30 each year. Photocopies of previous reports will "no change" annotations are unacceptable. An original report must be filed annually.

(c) Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest or engaging in outside employment or other activity that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions of section 208 of Title 18, United States Code, or this part.

§ 3.84 Review of report.

The FEMA Form 11–1 is reviewed by the Ethics Counselor, or Deputy Counselor, who shall obtain copies of the relevant job description as necessary. The counselors shall show the forms to supervisors, or other employees of FEMA only to the extent required to determine if a conflict of interest exists.

§ 3.85 Action on report.

When a statement submitted pursuant to this part or information from other sources indicates a conflict between the interest of an employee and the performance of the employee's services for the Government, the employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict in accordance with the procedure set out in § 3.8.

§ 3.86 Confidentiality of employees' statements.

Unlike the SF 278, each FEMA Form 11–1 shall be held in confidence by FEMA. To insure this confidentiality, the OPM regulations provide that:

(a) FEMA shall designate which officials and employees are to review and retain the statements;

(b) Officials and employees designated under paragraph (a) of this section are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part; and

(c) FEMA may not disclose information from a statement except as the OPM or the Director may determine for good cause shown.

§ 3.87 Employees' complaint on filing requirement.

Employees have the opportunity for review through the FEMA grievance procedures of a complaint by an employee that the position has been improperly included under these regulations as one requiring the submission of a statement of employment and financial interests.

§ 3.88 Employees not required to submit statements.

Employees in positions that meet the criteria in § 3.80 may be excluded from the reporting requirement when the Ethics Counselor determines that:

(a) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote;

(b) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

§ 3.89 Information not known to employees.

If any information required to be included on a statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in the employees' behalf.

Subpart E—Post Employment Conflicts of Interest

§ 3.100 Scope.

This part contains rules governing discipline of a former officer or employee of the Federal Emergency Management Agency because of a post employment conflict of interest. Such discipline may include prohibition from practice before the agency as these terms are defined in this part.

§ 3.101 Definitions.

For the purpose of this part—

(a) The term "agency" means the Federal Emergency Management Agency and includes the U.S. Fire Administration which has been designated as a separate statutory agency by rule of the Office of Government Ethics.

(b) The term "General Counsel" means the General Counsel of the agency.

(c) The term "practice" means any informal or formal appearance before, or, with the intent to influence, any oral or written communications to the agency

on a pending matter of business on behalf of any other person (except the United States).

§ 3.102 General Counsel.

The General Counsel shall initiate and provide for the conduct of disciplinary proceedings involving former employees of the agency as authorized by 18 U.S.C. 207(j) and perform such other duties as are necessary or appropriate to carry out his/her functions under this part. The General Counsel reserves the right to issue such special orders as he/she may consider proper in any case within the purview of this part.

§ 3.103 Records.

There are made available to public inspection at the Office of General Counsel the roster of all persons prohibited from practice before the agency. Other records may be disclosed upon specific request, in accordance with appropriate disclosure regulations of the agency.

§ 3.104 Interpretative standards.

A determination that a former officer or employee of the agency violated 18 U.S.C. 207 (a), (b), or (c) will be made in conformance with the standards established in the interpretative regulations promulgated by the Office of Personnel Management, 5 CFR Part 737.

§ 3.105 Authority to prohibit appearances.

Pursuant to 18 U.S.C. 207(j), if the General Counsel finds, after notice and opportunity for a hearing, that a former officer or employee of the agency violated 18 U.S.C. 207 (a), (b), or (c), the General Counsel in his/her discretion may prohibit that individual from engaging in practice before the agency for a period not to exceed five years, or may take other appropriate disciplinary action.

§ 3.106 Receipt of information concerning former employees.

(a) If an officer or employee of the Agency has reason to believe that a former officer or employee of the Agency has violated any provision of this part, or if any such officer or employee received information to that effect, he/she shall promptly make a written report thereof, which report or a copy thereof shall be forwarded to the Inspector General, Federal Emergency Management Agency. If any person has information of such violation, he/she may make a written report thereof, which report or a copy thereof shall be forwarded to the Inspector General, Federal Emergency Management Agency. If any person has information of such violations, he/she may make a report thereof to the Inspector General or to any officer or employee of the Agency. The Inspector General shall refer any information he/she deems warranted to the General Counsel.

(b) The General Counsel shall coordinate proceedings under this part with the Office of Government Ethics and with the Department of Justice in cases where the agency is in receipt of information regarding a possible violation of 18 U.S.C. 207 (5 CFR 27(a)(2)(ii)) or in cases where the Department of Justice initiates criminal prosecution.

§ 3.107 Conferences.

(a) *In general.* The General Counsel may confer with a former officer or employee concerning allegations of misconduct irrespective of whether an administrative disciplinary proceeding has been instituted against him/her. If such conference results in a stipulation in connection with a proceeding in which such person is the respondent, the stipulation may be entered in the record at the instance of either party to the proceeding.

(b) *Voluntary suspension.* A former officer or employee, in order to avoid the institution or conclusion of a proceeding, may offer his/her consent to suspension from practice before the Agency. The General Counsel in his/her discretion, may suspend a former officer or employee in accordance with the consent offered.

§ 3.108 Institution of proceeding.

Whenever the General Counsel has reason to believe that any former officer or employee of the Agency has violated 18 U.S.C. 207 (a), (b) or (c), he/she may reprimand such person or institute an administrative disciplinary proceeding for that person's suspension from practice before the Agency. The proceeding shall be instituted by a complaint which names the respondent and it signed by the General Counsel and filed in his/her office. Except in cases of willfulness, or where time, the nature of the proceeding, or the public interest does not permit, a reprimand will not be given nor will a proceeding be instituted under this section until facts or conduct which may warrant such action have been called to the attention of the proposed respondent in writing and he/she has been accorded the opportunity to provide his/her position on the matter.

§ 3.109 Contents of complaint.

(a) *Charges.* A complaint shall give a plain and concise description of the allegations which constitute the basis for the proceeding. A complaint shall be deemed sufficient if it fairly informs the respondent of the charges against him/her so that the respondent is able to prepare a defense.

(b) *Demand for answer.* In the complaint, or in a separate paper attached to the complaint, notification shall be given of the place and time within which the respondent shall file his/her answer, which time shall not be less than 15 days from the date of service of the complaint, and notice shall be given that a decision by default may be rendered against the respondent in the event he/she fails to file an answer as required.

§3.110 Service of complaint and other papers.

(a) *Complaint.* The complaint or a copy thereof may be served upon the respondent by certified mail, or first-class mail as hereinafter provided; by delivering it to the respondent or his/her attorney or agent of record either in person or by leaving it at the office or place of business of the respondent, attorney or agent; or in any other manner which has been agreed to by the respondent. Where the service is by certified mail, the return post office receipt duly signed by or on behalf of the respondent shall be proof of service. If the certified mail is not claimed or accepted by the respondent and is returned undelivered, complete service may be made upon the respondent by mailing the complaint to him/her by first-class mail, addressed to him/her at the last address known to the General Counsel. If service is made upon the respondent or his/her attorney or agent of record in person or by leaving the complaint at the office or place of business of the respondent, attorney or agent, the verified return by the person making service, setting forth the manner of service, shall be proof of service.

(b) *Service of papers other than complaint.* Any paper other than the complaint may be served upon a respondent as provided in paragraph (a) of this section or by mailing the paper by first-class mail to the respondent at the last address known to the General Counsel, or by mailing the paper by first-class mail to the respondent's attorney or agent of record. Such mailing shall constitute complete service. Notices may be served upon the respondent or his/her attorney or agent of record by telegraph.

(c) *Filing of papers.* Whenever the filing of a paper is required or permitted in connection with a proceeding, and the place of filing is not specified by this subpart or by rule or order of the Administrative Law Judge, the paper shall be filed with the General Counsel.

Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472. All papers shall be filed in duplicate.

§ 3.111 Answer.

(a) *Filing.* The respondent's answer shall be filed in writing within the time specified in the complaint or notice of institution of the proceeding, unless on application the time is extended by the General Counsel or the Administrative Law Judge. The answer shall be filed in duplicate with the General Counsel.

(b) *Contents.* The answer shall contain a statement of facts which constitutes the grounds of defense, and it shall specifically admit or deny each allegation set forth in the complaint, except that the respondent shall not deny a material allegation in the complaint which he/she is without sufficient information to form a belief when in fact he/she possesses such information. The respondent may also state affirmatively special matters of defense.

(c) *Failure to deny or answer allegations in the complaint.* Every allegation in the complaint which is not denied in the answer shall be deemed to be admitted and may be considered as provided, and no further evidence in respect of such allegation need be adduced at a hearing. Failure to file an answer within the time prescribed in the notice to the respondent, except as the time for answer is extended by the General Counsel or the Administrative Law Judge, shall constitute an admission of the allegations of the complaint and a waiver of hearing, and the Administrative Law Judge may make his/her decision by default without a hearing or further procedure.

§ 3.112 Reply to answer.

No reply to the respondent's answer shall be required, and new matter in the answer shall be deemed to be denied, but the General Counsel may file a reply in his/her discretion or at the request of the Administrative Law Judge.

§ 3.113 Proof; variance; amendment of pleadings.

In the case of a variance between the allegations in a pleading and the evidence adduced in support of the pleading, the Administrative Law Judge may order or authorize amendment of the pleading to conform to the evidence: *Provided,* That the party who would otherwise be prejudiced by the amendment is given reasonable opportunity to meet the allegations of the pleading as amended; and the Administrative Law Judge shall make findings on any issue presented by the pleadings as so amended.

§ 3.114 Motions and requests.

Motions and requests may be filed with the General Counsel or with the Administrative Law Judge.

§ 3.115 Representation.

A respondent or proposed respondent may appear in person or he/she may be represented by counsel or other representative.

§ 3.116 Administrative Law Judge.

(a) *Appointment.* An Administrative Law Judge appointed as provided by 5 U.S.C. 3105 (1966), shall conduct proceedings upon complaints for the administrative disciplinary proceedings under this part.

(b) *Power of Administrative Law Judge.* Among other powers, the Administrative Law Judge shall have authority, in connection with any proceedings assigned or referred to him/her, to do the following:

(1) Administer oaths and affirmations;

(2) Make rulings upon motions and requests, which rulings may not be appealed from prior to the close of a hearing except, at the discretion of the Administrative Law Judge, in extraordinary circumstances;

(3) Determine the time and place of hearing and regulate its course and conduct;

(4) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;

(5) Rule upon offers of proof, receive relevant evidence, and examine witnesses;

(6) Take or authorize the taking of depositions;

(7) Receive and consider oral or written argument on facts or law;

(8) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;

(9) Assess the responsible party extraordinary costs attributable to the location of a hearing;

(10) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and

(11) Make initial decisions.

§ 3.117 Hearings.

(a) *In general.* The Administrative Law Judge shall preside at the hearing on a complaint for the suspension of a former officer or employee from practice before the Agency. Hearings shall be stenographically recorded and transcribed and the testimony of witnesses shall be taken under oath or affirmation. Hearings will be conducted pursuant to 5 U.S.C. 556.

(b) *Public access to hearings.* Hearings will be closed unless an open hearing is requested by the respondent, except that if classified information or protected information is likely to be adduced at the hearing, it will remain closed. A request for an open hearing must be included in the answer to be considered.

(c) *Failure to appear.* If either party to the proceeding fails to appear at the hearing, after due notice thereof has been sent to the absent party, he/she shall be deemed to have waived the right to a hearing and the Administrative Law Judge may make a decision against the absent party by default.

§ 3.118 Evidence.

(a) *In general.* The rules of evidence prevailing in courts of law and equity are not controlling in hearings on complaints for the suspension of a former officer or employee from practice before the Agency. However, the Administrative Law Judge shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(b) *Depositions.* The deposition of any witness taken pursuant to § 3.109 may be admitted.

(c) *Proof of documents.* Official documents, records and papers of the Agency shall be admissible in evidence without the production of an officer or employee to authenticate them. Any such documents, records, and papers may be evidenced by a copy attested or identified by an officer or employee of the Agency.

(d) *Exhibits.* If any document, record, or other paper is introduced in evidence as an exhibit, the Administrative Law Judge may authorize the withdrawal of the exhibit subject to any conditions which he/she deems proper.

(e) *Objections.* Objections to evidence shall be in short form, stating the grounds of objection relied upon, and the record shall not include argument thereon, except as ordered by the Administrative Law Judge. Rulings on such objections shall be a part of the record. No exception to the ruling is necessary to preserve the rights of the parties.

§ 3.119 Depositions.

Depositions for use at a hearing may, with the consent of the parties in writing or the written approval of the Administrative Law Judge, be taken by either the General Counsel or the respondent or their duly authorized representatives. Depositions may be

taken upon oral or written interrogatories, upon not less than 10 days' written notice to the other party before any officer duly authorized to administer an oath. Such notice shall state the names of the witnesses and the time and place where the depositions are to be taken. The requirement of 10 days' notice may be waived by the parties in writing, and depositions may then be taken from the persons and at the times and places mutually agreed to by the parties. When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogation shall be mailed or delivered to the opposing party at least 5 days before the date of taking the depositions, unless the parties mutually agree otherwise. A party upon whose behalf a deposition is taken must file it with the Administrative Law Judge and serve one copy upon the opposing party. Expenses in the reporting of depositions shall be borne by the party at whose instance the deposition is taken.

§ 3.120 Transcript.

In cases where the hearing is stenographically reported by a Government contract reporter, copies of the transcript may be obtained from the reporter at rates not to exceed the maximum rates fixed by contract between the Government and the reporter. Where the hearing is stenographically reported by a regular employee of the Agency, a copy thereof will be supplied to the respondent either without charge or upon payment of a reasonable fee. Copies of exhibits introduced at the hearing or at the taking of depositions will be supplied to the parties upon the payment of a reasonable fee (Sec. 501, Pub. L. 82-137, 65 Stat. 290 (31 U.S.C. 483a)).

§ 3.121 Proposed findings and conclusions.

Except in cases where the respondent has failed to answer the complaint or where a party has failed to appear at the hearing, the Administrative Law Judge prior to making his/her decision, shall afford the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor.

§ 3.122 Decision of the Administrative Law Judge.

As soon as practicable after the conclusion of a hearing and the receipt of any proposed findings and conclusions timely submitted by the parties, the Administrative Law Judge shall make the initial decision in the case. The decision shall include (a) a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and (b) an order of suspension from practice before the Agency or other appropriate disciplinary action, or an order of dismissal of the complaint. In any decision of the Administrative Law Judge ordering suspension from practice or other disciplinary action the respondent shall be advised that such disciplinary action shall be subject to review in an appropriate United States district court. The Administrative Law Judge shall file the decision with the Director of the Federal Emergency Management Agency and shall transmit a copy thereof to the respondent or his/her attorney of record. In the absence of an appeal to the Director, Federal Emergency Management Agency, the decision of the Administrative Law Judge shall without further proceedings become the decision of the Agency 30 days from the date of the Administrative Law Judge's decision.

§ 3.123 Appeal to the Director, Federal Emergency Management Agency.

Within 30 days from the date of the Administrative Law Judge's decision, either party may appeal to the Director, Federal Emergency Management Agency. The appeal shall be filed in duplicate and shall include exceptions to the decision of the Administrative Law Judge and supporting reasons for such exceptions. If an appeal is filed by the General Counsel, he/she shall transmit a copy thereof to the respondent. Within 30 days after receipt of an appeal or copy thereof, the other party may file a reply brief in duplicate with the Director, Federal Emergency Management Agency. If the reply is filed by the General Counsel, he/she shall transmit a copy of it to the respondent. Upon the filing of an appeal and a reply brief, if any, the General Counsel shall transmit the entire record to the Director, Federal Emergency Management Agency.

§ 3.124 Decision of the Director, Federal Emergency Management Agency.

On appeal from the initial decision of the Administrative Law Judge, the Director, Federal Emergency Management Agency will make the agency decision. In making his/her decision, the Director, Federal Emergency Management Agency will review the record or such portions thereof as may be cited by the parties to permit limiting of the issues. A copy of the Director's disciplinary action shall contain provision that such disciplinary action is subject to review in an appropriate United States district court.

§ 3.125 Notice of disciplinary action.

(a) Upon the issuance of a final order suspending a former officer or employee from practice before the Agency, the General Counsel shall give notice thereof to appropriate officers and employees of the Agency. Officers and employees of the Agency shall refuse to participate in any appearance by such former officer or employee or to accept any communication which constitutes the prohibited practice before the Agency during the period of suspension.

(b) The General Counsel shall take other appropriate disciplinary action as may be required by the final order.

Appendix A—Statutes Governing Conduct of Federal Employees

There are numerous statutes pertaining to the ethical and other conduct of Federal employees. The important ones of general applicability are referred to in this Appendix.

A. Bribery and Graft

.01 Title 18, U.S.C. § 201, prohibits anyone from bribing or attemping to bribe a public official by corruptly giving, offering, or promising the official or any person selected by the official, anything of value with intent (a) to influence any official act, (b) to influence the official to commit or allow any fraud on the United States, or (c) to induce the performance or omission of any act in violation of the official's lawful duty. As used in section 201, "Public officials" is broadly defined to include officers, employees, and other persons carrying on activities for or on behalf of the Government.

.02 Section 201 also prohibits a public official's solicitation or acceptance of, or agreement to take a bribe. In addition, it forbids offers or payments to, and solicitations or receipt by, a public official of anything of value "for or because of" any official act performed or to be performed by him/her.

.03 Section 201 further prohibits the offering to or the acceptance by a witness of anything of value involving intent to influence the witness' testimony at a trial, Congressional hearing, or agency proceeding. A similar provision applies to witnesses "for or because of" testimony given or to be given. The provisions summarized in this section do not preclude lawful witness fees, travel and subsistence expenses, or reasonable compensation for expert testimony.

B. Compensation to Officers and Employees in Matters Affecting the Government

.01 Title 18 U.S.C. § 203, prohibits an officer or employee from receiving compensation for services rendered for others before a Federal department or agency in matters in which the Government is a party or is interested.

.02 Section 203 applies to a special Government employee as follows:

(a) If the special Government employee has served in FEMA more than 60 days during the preceding period of 365 days, section 203 applies to him/her only in relation to a particular matter involving a specific party or parties (1) in which the employee has at any time participated personally and substantially in his/her governmental capacity, or (2) which is pending in FEMA, or

(b) If the special Government employee has served in FEMA no more than 60 days during the preceding period of 365 days, section 203 applies only in relation to a particular matter involving a specific party or parties in which the employee has at any time participated personally and substantially in his/her governmental capacity.

.03 Section 203 does not apply to a retired officer of the uniformed services while not on active duty and not otherwise an officer or employee of the United States.

C. Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government

.01 Title 18 U.S.C. § 205, prohibits an officer or employee, otherwise than in the performance of official duties from:

(a) Acting as agent or attorney for prosecuting any claim against the United States, or receiving any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claims; or

(b) Acting as agent or attorney for anyone before any Government agency, court, or officer in connection with any matter in which the United States is a party or has a direct and substantial interest.

.02 Section 205 applies to a special Government employee as follows:

(a) If the special Government employee has served in FEMA more than 60 days during the preceding period of 365 days, section 205 applies only in relation to a particular matter involving a specific party or parties (1) in which the employee has at any time participated personally and substantially in his/her governmental capacity, or (2) which is pending in FEMA.

(b) If the special Government employee has served no more than 60 days during the preceding period of 365 days, section 205 applies only in relation to a particular matter involving a specific party or parties in which the employee has at any time participated personally and substantially in his/her governmental capacity.

.03 Section 205 does not preclude:

(a) Employees, if not inconsistent with faithful performance of their duties, from acting without compensation as agents or attorneys for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings, in connection with those proceedings; or

(b) Employees from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

.04 Sections 203 and 205 do not preclude:

(a) Employees from acting as agents or attorneys for their parents, spouses, children, or any person for whom, or for any estate for which an employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary, except in those matters in which the employee has participated personally and substantially as a Government employee or which are the subject of the employee's responsibility, provided the head of the operating unit concerned approves; or

(b) A special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with, or for the benefit of the United States provided the Director or designee shall certify in writing that the national interest so requires, and such certification shall be published in the Federal Register.

.05 Section 205 does not apply to a retired officer of the uniformed services while not on active duty and not otherwise an officer or employee of the United States.

D. Disqualification of Former Officers and Employees in Matters Connected With Former Duties or Official Responsibilities; Disqualification of Partners

Title 18 U.S.C. 207 deals with former employees and possible conflicts of interest.

E. Acts Affecting a Personal Financial Interest

.01 Title 18 U.S.C. 208 prohibits an officer or employee, including a special Government employee, from participating personally and substantially in a governmental capacity in any matter in which to his/her knowledge, the employee or his/her spouse, minor child, partner, organization in which he/she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the employee is negotiating or has any arrangement concerning prospective employment, has a financial interest.

F. Salary of Government Officials and Employees

.01 Title 18 U.S.C. 209, prohibits:

(a) An officer or employee from receiving any salary, or any contribution to or supplementation of salary, as compensation for services as an officer or employee of the United States from any source other than the Government of the United States, except as may be contributed out of the treasury of a State, county, or municipality, and

(b) Any person or organization from paying, contributing to, or supplementing the salary of an officer or employee under circumstances which would make its receipt a violation of subparagraph .01(a) of this section.

.02 Section 209:

(a) Does not prevent a Government employee from continuing to participate in a bona fide pension or other welfare plan maintained by a former employer (*but see* 44 CFR 3.12(e)(1)(iv));

(b) Exempts special Government employees and employees serving the Government without compensation, and grants a corresponding exemption to any outside person paying compensation to such individuals; and

(c) Does not prohibit the payment or acceptance of sums under the terms of the Government Employees Training Act.

G. Code of Ethics for Government Service

"Code of Ethics for Government Service," House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12 of July 11, 1958, which reads as follows:

"Any Person in Government Service Should:

"PUT loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

"UPHOLD the Constitution, laws, and legal regulations of the United States and all governments therein and never be a party to their evasion.

"GIVE a full day's labor for a full day's pay; giving to the performance of duties earnest effort and best thought.

"SEEK to find and employ more efficient and economical ways of getting tasks accomplished.

"NEVER discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for the employee's self or his/her family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

"MAKE no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

"ENGAGE in no business with the Government either directly or indirectly, which is inconsistent with the conscientious performance of the employee's governmental duties.

"NEVER use any information coming to the employee confidentially in the performance of governmental duties as a means for making private profit.

"EXPOSE corruption wherever discovered.

"UPHOLD these principles, ever conscious that public office is a public trust."

H. Prohibitions

.01 The prohibition against lobbying with appropriated funds (18 U.S.C. 1913) reads as follows:

"No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designated to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation, but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

"Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than $500

or imprisoned not more than 1 year, or both; and after notice and hearing by the superior officer vested with the power of removing him/her, shall be removed from office or employment."

.02 The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918) provide that an individual may not accept or hold a position in the Government of the United States if that individual:

(a) Advocates the overthrow of our constitutional form of Government;

(b) Is a member of an organization that the individual knows advocates the overthrow of our constitutional form of government;

(c) Participates in a strike, or asserts the right to strike the Government of the United States or the government of the District of Columbia; or

(d) Is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that the individual knows asserts the right to strike against the Government of the United States or the government of the District of Columbia.

.03 The prohibitions in 2 U.S.C. 441 i, against receiving any single honorarium in excess of $2,000.

.04 The prohibitions against (a) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 788); and (b) the disclosure of confidential information (18 U.S.C. 1905). Each employee who has access to classified information, e.g. confidential, secret, or top secret, or to a restricted area is responsible for knowing and for complying strictly with the security regulations of the Federal Emergency Management Agency.

.05 The prohibition against the use of the franking privilege to avoid payment of postage on private mail (18 U.S.C. 7119).

.06 The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

.07 The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001). An employee in connection with an official matter shall not knowingly and willfully conceal or cover up a material fact or falsify official papers or documents.

.08 The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508). Falsely making, altering or forging in whole or in part, any form of transportation request is prohibited.

.09 The prohibitions against:

(a) Embezzlement of Government money or property (18 U.S.C. 641). No employee may convert any Government money or Government property to his/her own use or the use of another person.

(b) Failure to account for public money (18 U.S.C. 643). Any employee, who, having received public money which he/she is not authorized to retain, fails to render accounts for same as provided by law, is guilty of embezzlement.

(c) Embezzlement of Government money or property of another person in the possession of the employee by reason of his/her employment (18 U.S.C. 654). An employee is prohibited from embezzling or wrongfully converting for his/her own use the money or property of another which comes under his/her control as the result of his/her employment.

.10 The prohibition against unauthorized removal or use of documents relating to claims from or by the Government (18 U.S.C. 285). No employee, without authority, may remove from the place where it was kept by authority of the United States any document, record, file, or paper intended to be used to procure the payment of money from or by the United States or the allowance or payment of any claim against the United States, regardless of whether the document or paper has already been used or the claim has already been allowed or paid; and no employee may use or attempt to use any such document, record, file, or paper to procure the payment of any money from or by the United States or the allowance or payment of any claim against the United States.

.11 The prohibition against proscribed political activities, including the following, among others:

(a) Using official authority or influence for the purpose of interfering with or influencing the result of an election, except as authorized by law (5 U.S.C. 7324);

(b) Taking an active part in political management or in political campaigns, except as authorized by law (5 U.S.C. 7324);

(c) Offering or promising to pay anthing of value in consideration of the use of, or promise to use, any influence to procure any appointive office or place under the United States for any person (18 U.S.C. 210);

(d) Soliciting or receiving, either as a political contribution or for personal emolument, anything of value in consideration of a promise of support or use of influence in obtaining for any person any appointive office or place under the United States (18 U.S.C. 211);

(e) Using official authority to interfere with a Federal election (18 U.S.C. 595);

(f) Promising any employment compensation, or other benefit made possible by Act of Congress in consideration of political activity or support (18 U.S.C. 600);

(g) Action by a Federal officer or employee to solicit or receive, or to be in any manner concerned with soliciting or receiving, any contribution for any political purpose whatever from any other Federal officer or employee or from any person receiving compensation for services from money derived from the Treasury of the United States (18 U.S.C. 602);

(h) Soliciting or receiving (by any person) anything of value for any political purpose whatever on any government premises (18 U.S.C. 607);

(i) Soliciting or receiving contributions for political purposes from anyone on Federal relief or work relief (18 U.S.C. 602);

(j) Payment or a contribution for political purposes by any Federal officer or employee to another Federal officer or employee (18 U.S.C. 607);

(k) Payment of a political contribution in excess of statutory limitations and purchase of goods, commodities, advertising, or articles, the proceeds of which inure to the benefit of certain political candidates or organizations (18 U.S.C. 608).

.12 The prohibition against an employee acting as the agent of a foreign principal registered under the Federal Agents Registration Act (18 U.S.C. 219).

Appendix B—Examples of Conflict of Interest Situations

The Ethics in Government Act of 1978, as amended, requires that a list be maintained for employee use of circumstances or situations involving FEMA employees which have resulted or may result in non-compliance with the various ethics laws and regulations. What follows is such a list. The absence of any situation or circumstance from this list shall not be construed as a indication that an individual in such a circumstance or situation would be in compliance with such laws or regulations. Questions concerning specific situations should be referred to the Ethics Counselor.

Example 1: A FEMA employee with decision-making authority concerning approval of evacuation plans for areas surrounding nuclear power plants holds a large amount of stock in an electric company which is seeking such approval for its new plant. This financial holding results in a conflict of interest. (It should be noted that financial interests of an employee's spouse and dependent children are considered to be interests of the employee.) The employee must recuse himself/herself from all work on the subject approval or divest himself/herself of the holding. 44 CFR 3.6.

Example 2: A program analyst for Emergency Operations desires to take a part-time night job performing manual labor for a corporation which does not do business with the United States Government. Because this outside employment is not in the same professional field as that of the employee's official position, prior written approval of the Ethics Counselor is not required. Such employment would be permissible as long as it did not impair the employee's mental or physical capacity to perform his/her government responsibilities in an acceptable manner. 44 CFR 3.13.

Example 3: A FEMA employee desires to leave the agency and is currently seeking another job. The employee has sent a resume to Business X, a corporation which does business with FEMA. The law provides that an employee may not participate personally and substantially in any particular matter in which any person or organization with whom the employee is negotiating or has any arrangement concerning prospective employment has a financial interest. The term "negotiating" has been interpreted broadly enough to encompass this example. Therefore, this employee must recuse himself/herself for any work involving Business X and must advise his/her supervisor of the fact of such negotiation with Business X. 18 U.S.C. 208.

Example 4: A FEMA regional employee desires to run for the Board of Education in his/her county. The Hatch Act, which governs the political activities of Federal employees, provides that such employees may not take an active part in any political campaign. They may, however, take part in non-partisan activities. Therefore, the employee may participate in the election *only* if none of the candidates is nominated as

representing a particular party. 5 U.S.C. 7321–28; 5 CFR 733.

Example 5: An NETC employee requests an opinion on the propriety of engaging in outside employment consisting of the sale and marketing of outdoor warning devices/sirens. FEMA provides grants to state and local governments for the acquisition of civil defense sirens. Therefore, an actual or apparent conflict of interest could be created by the employee's sale and marketing of the sirens. Without further information as to the types of sirens he/she wishes to sell and to whom they will be marketed and sold, approval to engage in this activity cannot be granted. Furthermore, such activity also would require supervisory certification of no conflict before the Ethics Counselor would approve it. 44 CFR 3.13.

Example 6: The employee in Example 5 returned with the following information: He/she would not be selling or marketing sirens to any buyer which is the recipient of a FEMA or Federal grant for the acquisition of civil defense sirens; a memorandum from his/her supervisor stating that no conflict of interest would exist if the employee sold the sirens. Under these circumstances, the outside activity would be approved. If any time during normal FEMA work hours is required in the performance of this outside activity, the employee must take annual leave.

Example 7: An employee left FEMA six months ago and is now employed with a private corporation. While at FEMA, the individual had pending under his/her responsibility development of a proposal for the acquisition of a special computer system. The private corporation desires to seek the contract for this system using the former FEMA employee as the contractor representative. Under applicable law, however, the individual may not serve in this capacity. All former Government employees are prohibited for two years after leaving the Government from representing any other person in any appearance before or, with intent to influence, communicating with the United States in connection with any particular matter, involving a specific party, which was pending under the employee's official responsibility within a period of one year prior to the termination of that responsibility. They are prohibited *forever* from acting in such a representational capacity in connection with any particular Government matter involving a specific party in which matter the employee participated personally and substantially as a Government employee. (*Note:* Separate rules apply to SES and presidential appointees.) The employee could work behind the scenes on the bid or proposal, but his/her name could not appear on the proposal in any manner prohibited above. 18 U.S.C. 209; 5 CFR 737.

Example 8: A FEMA contract officer had a lengthy meeting downtown with the representatives of a FEMA contractor. Their discussions were not completed by lunchtime, so the contractors asked the FEMA employee to join them at a nearby inexpensive restaurant to continue. The contractors want to pick up the check. However, the FEMA employee may not accept this offer and must pay for his/her own meal. The exception to the prohibition on gift acceptance applies to food and refreshment of nominal value on infrequent occasions in the ordinary course of a business meeting. This is generally interpreted to mean a meeting on the premises of the contractor and not at a restaurant. 44 CFR 3.14.

Example 9: A FEMA employee's job requires frequent travel. The employee belongs to a frequent flier club in which bonus points are accumulated for each trip which may be used for subsequent free trips or upgrades. The employee has accumulated enough points for a free trip to the Bahamas where he/she would like to go on vacation. And, on the most recent official trip, the employee volunteered to vacate his/her seat and received $200.00 from the airline. he/she plans to spend in Nassau. The law is clear that employees may not use points accumulated from official travel for personal travel. These points may be used only for free official travel and to upgrade the class of an official flight. Nor may an employee personally accept gifts received in connection with official travel, i.e., free teddy bear for renting with Car Rental Company X. Rather, such items must be accepted on behalf of the U.S. Government and turned over to the FEMA Office of the Comptroller. As for the funds received for voluntarily vacating his/her seat, the employee may keep the money. If this action results in a delay in the employee's return to work, that delay must be charged as annual leave. Nor will additional per diem be allowed for expenses incurred incident to the delay. Finally, if an employee is *involuntarily* "bumped" from a flight, any reimbursement received may not be kept and must be turned over to the Comptroller's Office. 41 CFR 101–25; *Matter of Armer*, 59 Comp. Gen. 203 (1980); *Matter of Currier*, 59 Comp. Gen. 95 (1979).

Example 10: An accountant at FEMA desires to make some extra money by preparing tax returns for private individuals outside of FEMA. Before doing so, he/she must obtain the written approval of the Ethics Counselor. Additionally, if the outside employment were approved, the employee would be prohibited from representing the individual taxpayers before the Internal Revenue Service if any questions arose concerning their returns. It would be recommended that the employee advise all clients of the restrictions in the services that he/she could provide. 44 CFR 3.13.

Dated: September 19, 1985.

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 85–22848 Filed 9–25–85; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

Amendment of the Rules To Establish the Office of Congressional and Public Affairs; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects a typographical error contained in the Final rule in this proceeding concerning the establishment of the Office of Congressional and Public Affairs.

FOR FURTHER INFORMATION CONTACT: Maureen Peratino, (202) 254–7674.

Erratum

In the Matter of Amendment of Part 0 of the Commission's Rules to Establish the Office of Congressional and Public Affairs.

Released: September 19, 1985.

An *Order* in the above captioned matter was released by the Commission on December 27, 1984 and published in the **Federal Register** (50 FR 2984) on January 23, 1985. This Erratum corrects an error in the Appendix of that document.

1. The amendatory language in item 1 of the Appendix is corrected to read as follows:

"1. Section 0.5 of the Commission Rules and Regulations is amended by revising paragraphs (a)(13) and (b)(7) to read as follows:"

2. Paragraph (a) of § 0.5 is corrected by changing "(a)(14)" to "(a)(13)".

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85–22966 Filed 9–25–85; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 1

[FCC 85–498]

Amendment of the Rules To Clarify the Filing of Briefs

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's rules to clarify that briefs may only be filed if they are requested. This action is being taken to reflect current practice.

EFFECTIVE DATE: September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Lawrence S. Schaffner, Office of

General Counsel, Federal Communications Commission, Washington, DC 20554, (202) 632-6990.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Order

In the matter of amendment of § 1.115.

Adopted: September 10, 1985.

Released: September 20, 1985.

By the Commission: Commissioner Rivera not participating.

1. Section 1.115(b)(5) of the Commission's Rules is hereby amended to delete the note at the end of that section.[1]

2. As a matter of practice, the Commission does not require briefs, permit unrequested briefs to be filed, or hear oral arguments when an application for review of a final decision of the Review Board is granted. Nor is any useful purpose served by the distinction made between grants of an application for review and a Commission decision on the merits. Thus, as presently written, the note is misleading and serves no meaningful purpose.

3. The second to last sentence in § 1.115(f) of the Rules is hereby amended to add clarifying language. In relevant part, that sentence provides that "[i]f the Commission grants review of a Review Board final decision, the parties may file briefs and reply briefs . . . ." 47 CFR 1.115(f). An additional phrase is being added to that provision to state that briefs in support of an application for review may only be filed if the Commission requests that they be filed.

4. We find that prior notice and public comment procedures are unnecessary to implement these clarifications involving general rules of agency practice and procedures. *See* 5 U.S.C. 553(b)(3)(A).

5. In view of the foregoing and pursuant to sections 4(i), 4(j), 5(c)(4) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j), 155(c)(4) and 303(r), it is hereby ordered that Part 1 of the Commission's Rules is amended as set forth in the attached Appendix, effective upon publication in the **Federal Register.**

6. For further information, contact Lawrence S. Schaffner, Office of General Counsel (202) 632-6990.

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 1—[AMENDED]

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

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

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

2. 47 CFR 1.115(b)(5) is amended by removing the "Note."

3. 47 CFR 1.115(f) is revised to read as follows:

§ 1.115 Application for review of action taken pursuant to delegated authority.

* * * * *

(f) Applications for review, oppositions and replies shall conform to the requirements of §§ 1.49, 1.51 and 1.52, and shall be submitted to the Secretary, Federal Communications Commission, Washington, DC 20554. The application for review shall be served upon the parties to the proceeding. Oppositions to the application for review shall be served on the person seeking review and on parties to the proceeding. Applications for review of final decisions of the Review Board, and oppositions thereto, shall not exceed 10 double-spaced typewritten pages. Applications for review of interlocutory actions in hearing proceedings (including designation orders) and oppositions thereto, shall not exceed 5 double-spaced typewritten pages. Applications for review of other actions, and oppositions thereto, shall not exceed 25 double-spaced typewritten pages. Replies to oppositions shall be filed only if requsted by the Commission and, if requested, shall not exceed 5 double-spaced typewritten pages. If the Commission grants review of a Review Board final decision and requests that briefs be filed, the parties may file briefs and reply briefs, which shall not exceed 25 double-spaced typewritten pages. Briefs shall be filed within 30 days after release of the order granting review. Reply briefs shall be filed within 10 days after the last day for filing briefs.

[FR Doc. 85-23023 Filed 9-25-85; 8:45 am]

BILLING CODE 6712-01-M

[1] The Note presently reads as follows:

If the Commission grants an application for review of a final decision of the Review Board, it will generally permit the parties to file briefs and present oral argument. Thus, the application for review should be prepared with the understanding that its purpose is not to obtain a Commission decision on the merits of the issues but rather to convince the Commission to review those issues. 47 CFR 1.115(b)(5) note.

47 CFR Parts 21, 22, 23, 25, 73, 90, and 94

[FCC 85-497]

Table Mountain Radio Receiving Quiet Zone Protection

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Federal Communications Commission is amending its Rules to clarify protection provisions for the Table Mountain Radio Received Zone. The Rule amendment affirms the original intent of the Commission to protect *all* the facility from harmful interference—and not just the site location at the reference coordinates given in the Rules. The action will apply only to new or modified stations and the national importance of the facility warrants the clarification to minimize potential interference situations.

EFFECTIVE DATE: October 23, 1985.

ADDRESS: Federal Communications Commission, 1919 "M" Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Tropea, Office of Science and Technology, 1919 "M" Street, NW., Washington, DC 20554, (202) 653-8149.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Parts 21, 22, 23, 25, 73, 90, and 94

Radio.

Order

In the matter of amendment of parts 21, 22, 23, 25, 73, 90, and 94 the Commission's rules to clarify the protection provisions for the table mountain radio receiving zone.

Adopted: September 10, 1985.

Released: September 16, 1985.

By the Commission: Commissioner Rivera not participating.

1. At the request of the United States Department of Commerce, on behalf of its National Oceanic and Atmospheric Administration (NOAA), the Commission is clarifying its rules regarding the radio interference protection provisions for the Table Mountain Radio Receiving Zone at Boulder Colorado. The Table Mountain facility occupies about 1,800 acres and serves as a site for radio propagation research, including research related to national security matters for the Departments of Commerce and Defense as well as for other agencies. The facility administers a coordination procedure implemented by the

Commission in Docket 18180[1] to protect receivers at the Table Mountain site from interference from radio stations in its vicinity. As an aid in doing this, the coordinates of a central point representative of the site are listed in the Commission's Rules. However, with the growth of radio usage in the Boulder area and the development of sophisticated equipment and antenna configurations, the Department of Commerce has expressed the need to clearly state that the entire Table Mountain site—not just the location of the reference point—should be protected.

2. The Commission agrees with the Department of Commerce request. In Docket 18180, we noted that the site is "an elevated flat-top butte" and indicated our intention to establish a protected area. We are herein amending §§ 21.113(b), 22.113(b), 23.20(d), 25.203(f), 73.1030(b), 90.177(c), and 94.25(g) to clearly state the applicability of the radio interference protection provision for all of the Table Mountain Radio Receiving Zone. This action will not affect existing station operations but will serve to clarify requirements for the coordination of new and modified systems. Some editorial changes regarding the mailing address and telephone number of the Boulder Laboratory are also being made in the enumerated rule sections.

3. The specific rule amendments that we are adopting are set forth in the Appendix. Authority for the amendments is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. We are dispensing with the prior notice and public procedure provisions of the Administrative Procedure Act as unnecessary pursuant to 5 U.S.C. 553(b)(3)(B). This is due to the fact that it is in the interest of national security to require that Table Mountain radio operations be protected from potential interference from radio stations operating in the vicinity of the site and the action is not considered to be controversial. See also 5 U.S.C. 553(a)(1) (military or foreign affairs functions). Further, the action is exempt from public procedure requirements because it is an interpretive rule that merely conforms requirements with existing policy. 5 U.S.C. 553(b)(3)(A).

4. Accordingly, it is ordered, effective October 23, 1985, that Parts 21, 22, 23, 25, 73, 90, and 94 of the Commission's Rules are amended as set forth in the attached Appendix.

[1] *Report and Order* in Docket 18180, adopted December 6, 1972 (28 RR 2d 131).

5. For further information regarding matters covered in this document contact Sam Tropea (202) 653-8149.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

In Chapter I of Title 47 of the Code of Federal Regulations, §§ 21.113, 22.113, 23.20, 25.203, 73.1030, 90.177, and 94.25 are amended to read as follows:

The authority citations in Parts 21, 22, 23, 25, 73, 90, and 94 continue to read:

Authority: Secs. 4, 303, 48 stat. 1066, 1082 and amended; 47 U.S.C. 154, 303, unless otherwise noted.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

In § 21.113, paragraph (b) is revised to read as follows:

§ 21.113 Quiet Zones.

* * * * *

(b) In order to minimize possible harmful interference at the Table Mountain Radio Receiving Zone of the Research Laboratories of the Department of Commerce located in Boulder County, Colorado, applicants for new or modified radio facilities in the vicinity of Boulder County, Colorado are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (in the vicinity of coordinates 40°07'50" N Latitude, 105°14'40" W Longitude) resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the following values:

Frequency range	Field strength (mV/m) in authorized bandwidth of service	Power flux density [1] (dBW/m²) in authorized bandwidth of service
Below 540 kHz	10	65.8
540 to 1600 kHz	20	59.8
1.6 to 470 MHz	10	[2]65.8
470 to 890 MHz	30	[2]56.2
Above 890 MHz	1	[2]85.8

[1] Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7 = 120π ohms.

[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 1.5 statute miles;

(ii) Stations within 3 statute miles with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 10 statute miles with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone;

(iv) Stations within 50 statute miles with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA R/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497-6548, in advance of filling their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the site in excess of the field strength specified herein.

* * * * *

PART 22—PUBLIC MOBILE RADIO SERVICES

In § 22.113, paragraph (b) is revised to read as follows:

§ 22.113 Quiet Zones.

* * * * *

(b) In order to minimize possible harmful interference at the Table Mountain Radio Receiving Zone of the Research Laboratories of the Department of Commerce located in Boulder County, Colorado, applicants for new or modified radio facilities in the vicinity of Boulder County, Colorado are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. To prevent degradation of

the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (in the vicinity of coordinates 40°07'50" N Latitude, 105°14'40" W Longitude) resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the following values:

Frequency Range	Field strength (mV/m) in authorized bandwidth of service	Power flux density [1] (dBW/m²) in authorized bandwidth of services
Below 540 kHz	10	65.8
540 to 1600 kHz	20	59.8
1.6 to 470 MHz	10	[2]65.8
470 to 890 MHz	30	[2]56.2
Above 890 MHz	1	[2]85.8

[1] Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7=120π ohms.
[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 1.5 statute miles;

(ii) Stations within 3 statute miles with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 10 statute miles with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone;

(iv) Stations within 50 statute miles with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Managment Coordinator, Department of Commerce, Research Support Services, NOAA R/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497-6548, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the site in excess of the field strength specified herein.

PART 23—INTERNATIONAL FIXED PUBLIC RADIO COMMUNICATIONS SERVICES

In § 23.20, paragraph (d) is revise as follows:

§ 23.20 Assignment of frequencies.

* * * * *

(d) Protection for Table Mountain Radio Receiving Zone, Boulder County, Colorado: Applicants for a station authorization to operate in the vicinity of Boulder County, Colorado under this part are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. These are the research laboratories of the Department of Commerce, Boulder County, Colorado. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (in the vicinity of coordinates 40°07'50" N Latitude, 105°14'40" W Longitude) resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the following values:

Frequency range	Field strength (mV/m) in authorized bandwidth of service	Power flux density [1] (dBW/m²) in authorized bandwidth of service
Below 540 kHz	10	65.8
540 to 1600 Khz	20	59.8
1.6 to 470 MHz	10	[2]65.8
470 to 890 MHz	30	[2]56.2
Above 890 MHz	1	[2]85.8

[1] Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7=120π ohms.
[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 1.5 statute miles;

(ii) Stations within 3 statute miles with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 10 statute miles with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone;

(iv) Stations within 50 statute miles with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA R/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497-6548, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the site in excess of the field strength specified herein.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

In § 25.203, paragraph (f) is revised as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(f) Protection for Table Mountain Radio Receiving Zone, Boulder County, Colorado.

(1) Applicants for a station authorization to operate in the vicinity of Boulder County, Colorado under this part are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. These are the research laboratories of the Department of Commerce, Boulder County, Colorado. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (in the vicinity of coordinates 40°07'50" N Latitude, 105°14'40" W Longitude) resulting from new assignments (other than mobile stations) or from the modification or relocation of existing

facilities do not exceed the following values:

Frequency range	Field strength (mV/m) in authorized bandwidth of service	Power flux density [1] (dBW/m²) in authorized bandwidth of service
Below 540 kHz	10	65.8
540 to 1600 kHz	20	59.8
1.6 to 470 MHz	10	[2] 65.8
470 to 890 MHz	30	[2] 56.2
Above 890 MHz	1	[2] 85.8

[1] Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7 = 120 π ohms.
[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(2) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates where the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 1.5 statute miles;

(ii) Stations within 3 statute miles with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 10 statute miles with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone;

(iv) Stations within 50 statute miles with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(3) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA R/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497–6548, in advance of filing their applications with the Commission.

(4) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the site in excess of the field strength specified herein.

PART 73—RADIO BROADCAST SERVICES

In § 73.1030, paragraph (b) is revised as follows:

§ 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.

* * * * *

(b) Radio receiving installations. Protection for Table Mountain Radio Receiving Zone, Boulder County, Colorado: Applicants for a station authorization to operate in the vicinity of Boulder County, Colorado under this part are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. These are the research laboratories of the Department of Commerce, Boulder County, Colorado. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (in the vicinity of coordinates 40°07'50" N Latitude, 105°14'40" W Longitude) resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the following values:

Frequency range	Field strength [1]	Power flux density* [2]
Below 540 kHz	10	65.8
540 to 1600 kHz	20	59.8
1.6 to 470 MHz	10	**65.8
470 to 890 MHz	30	**56.2
Above 890 MHz	1	**85.8

[1] (mV/m) is authorized bandwidth of service.
[2] (dBW/M2) is authorized bandwidth of service.
*Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7 = 120π ohms.
**Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 2.4 km (1.5 statute miles);

(ii) Stations within 4.8 km (3 statute miles) with 50 watts or more effective radiated power (ERP) in the primary plane polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 16 km (10 statute miles) with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone;

(iv) Stations within 80 km (50 statute miles) with 25 kW or more ERP in the primary plane polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA R/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497–6548, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the site in excess of the field strength specified herein.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

In § 90.177, paragraph (c) is revised as follows:

§ 90.177 Protection of certain radio receiving locations.

* * * * *

(c) Protection for Table Mountain Radio Receiving Zone, Boulder County, Colorado. Applicants for a station authorization to operate in the vicinity of Boulder County, Colorado under this part are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. These are the research laboratories of the Department of Commerce, Boulder County, Colorado. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (in the vicinity of coordinates 40°07'50" N Latitude, 105° 14'40" W Longitude) resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the following values:

Frequency range	Field strength (millivolt per meter) in authorized bandwidth of service	Power flux density [1] (decibel watt per square meter) in authorized bandwidth of service
Below 540 kHz	10	65.8
540 to 1600 kHz	20	59.8
1.6 to 470 MHz	10	65.8
470 to 890 MHz	30	56.2
Above 890 MHz	1	85.8

[1] Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7 = 120π ohms.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 2.4 km (1.5 statute miles);

(ii) Stations within 4.8 km (3 statute miles) with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 16 km (10 statute miles) with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of the Table Mountain Receiving Zone;

(iv) Stations within 80 km (50 statute miles) with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of the Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA R/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497–6548, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the site in excess of the field strength specified herein.

PART 94—PRIVATE OPERATIONAL—FIXED MICROWAVE SERVICE

In § 94.25, paragraph (g) is revised as follows:

§ 94.25 Filing of applications.

* * * * *

(g) Protection for Table Mountain Radio Receiving Zone, Boulder County, Colorado. Applicants for a station authorization to operate in the vicinity of Boulder County, Colorado under this part are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. These are the research laboratories of the Department of Commerce, Boulder County, Colorado. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (in the vicinity of coordinates 40°07'50" N Latitude, 105°14'40" W Longitude) resulting from new assignments or from the modification or relocation of existing facilities do not exceed 1 mV/m in the authorized bandwidth of service. (A field strength of 1 mV/m is equivalent to a power flux density of 85.8 dBW/M^2 assuming a free-space characteristic impendance of 376.7 ohms.)

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures would be exceeded by their proposed radio facilities. In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 2.4 km (1.5 statute miles);

(ii) Stations within 4.8 km (3 statute miles) with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 16 km (10 statute miles) with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of the Table Mountain Receiving Zone;

(iv) Stations within 80 km (50 statute miles) with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of the Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA R/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497–6548, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the site in excess of the field strength specified herein.

[FR Doc. 85-22584 Filed 9-25-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 25

[CC Docket No. 81-704]

Licensing of Space Stations in the Domestic Fixed-Satellite Service and Related Revisions; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: This action corrects an error made in the Appendix of the Memorandum Opinion and Order in this proceeding concerning the licensing of space stations and related revisions of Part 25 of the rules. The MO&O was published in the **Federal Register** on January 18, 1985, 50 FR 2671.

FOR FURTHER INFORMATION CONTACT: Rosalee Gorman, (202) 634–1624.

SUPPLEMENTARY INFORMATION:

Erratum

In the matter of Licensing of Space Stations in the Domestic Fixed-Satellite Service and Related Revisions of Part 25 of the Rules and Regulations; CC Docket No. 81-704.

Released: September 20, 1985.

By the Domestic Facilities Division.

The first line of the Appendix to the *Memorandum Opinion and Order*, FCC 84-487 (released January 9, 1985), is corrected to read as follows: 47 CFR 25.209 Antenna Performance Standards.

Federal Communications Commission.

Kevin J. Kelley,

Deputy Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 85-23024 Filed 9-25-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, and 174

[Docket No. HM-180; Amdt. Nos. 171-82, 172-98, 173-189, 174-47]

Placarding of Empty Tank Cars

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

ACTION: Final rule.

SUMMARY: This final rule amends the Department's Hazardous Materials Regulations (HMR) by changing the placarding and shipping paper requirements for "empty" tank cars which contain residues of hazardous materials. The applicable regulations in Parts 173 and 174 which are affected by these changes are also revised as necessary. This action is being taken in response to a petition MTB received from the International Association of Fire Chiefs (IAFC) which indicated that emergency response personnel were being misinformed and misled by the EMPTY placard. The amendments contained in this rule will improve the hazardous materials communications system.

EFFECTIVE DATE: October 1, 1986. However, compliance with the regulations as amended herein is authorized as of November 1, 1985.

FOR FURTHER INFORMATION CONTACT: Lee Jackson, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation Washington, DC 20590, telephone (202) 426-2075.

SUPPLEMENTARY INFORMATION:

I. Background

In June 1981, MTB received a petition from the IAFC which stated that the use of the EMPTY placard on tank cars is "misleading and dangerous" because it implies a lack of hazard even though, in many instances, an "empty" tank car containing a residue of a hazardous material presents a potentially greater danger than a tank car that is filled with the material. For this reason, the IAFC petition requested that MTB eliminate the requirement for display of EMPTY placards on tank cars. In response to this petition, MTB published on June 23, 1981, an advance notice of proposed rulemaking (ANPRM) (Docket HM-180, 46 FR 37953). This ANPRM reiterated the IAFC petition verbatim. Based on MTB's evaluation of the comments which they received on the ANPRM, a notice of proposed rulemaking (NPRM) was prepared by MTB and published on August 10, 1984, under Docket HM-180 (49 FR 32090). After reviewing the comments received to that NPRM, MTB has prepared this final rule (FR).

The petition from the IAFC alluded in a general way to a potentially hazardous condition. Since residues in a tank car do not provide the cooling capacity of the liquid in tank cars which are fully loaded, tank cars which only contain residues may present a risk of violent rupture in a shorter time than fully loaded cars when in a fire. Under fire impingement conditions, the actions of emergency response personnel involved with a tank car which contains only the residue of a liquefied compressed gas or a flammable liquid may be different from the actions which they might take in responding to a tank car which contains a full load of materials. Upon consideration of the substantive points made in the IAFC petition, MTB prepared an ANPRM.

The ANPRM (46 FR 37953) requested comments from interested persons on eliminating the requirement for display of the EMPTY placard. Evaluation of the comments MTB received to the ANPRM showed that almost half of the commenters favored use of the same placard for a "loaded" and an "emptied" tank car. Other commenters favored retention of the EMPTY placard or use of a placard with the word "residual" in place of the word "empty".

Based on MTB's evaluation of the comments received to the ANPRM, a notice of proposed rulemaking (NPRM) was prepared by MTB and published under Docket No. HM-180 (49 FR 32090). In this NPRM, MTB again proposed to amend the placarding regulations by eliminating the EMPTY placard. This amendment would have required that a tank car which contained only the residue of a hazardous material be placarded with the same hazard warning placard required when the tank car contained a greater quantity of the materials. Although this proposal would increase an individual's awareness, as far as knowing the type of hazardous material contained in the tank car, emergency response personnel would still have no rapid method of determining whether a tank car involved in a fire was loaded or contained only the residue of the material. One rail carrier cited, in his comments to the NPRM, an accident in which a tank car which contained only the residue of anhydrous ammonia exploded in twenty minutes after being subjected to a fire.

With this in mind and after further consideration of comments, MTB prepared this FR. MTB has concluded that a new RESIDUE placard for tank cars is needed to accurately communicate the appropriate warning to emergency response personnel. Further, to make the hazard communication information on the shipping paper consistent with that of the placard, MTB is revising the shipping paper entry from "EMPTY: Last Contained * * *" to "RESIDUE: Last Contained * * *". It should be noted that the Association of American Railroads stated in their comments to the NPRM that "the shipping paper requirements for empty tank cars which last contained hazardous materials do not apply to tank cars which held combustible liquids." This is incorrect. Under the Provisions of § 174.25(c) the shipping paper (billing) is not required to show the words "Empty" or "Empty: Last Contained", but a shipping paper must be prepared and accompany the shipment.

II. Response to Comments

MTB received forty-eight comments to the NPRM; 30 were from the chemical industry and nine were from rail carriers. The remaining nine comments came from firefighters, a State Department of Transportation, the National Transportation Safety Board (NTSB), and the Department of Defense.

Two commenters recommended that the words "residual" or "residue" be defined if used in place of the word "empty" on the placard. None of these terms are defined in the HMR. The NTSB recommended that the maximum quantity of a hazardous material that may be moved in an "empty" tank car be specified. MTB agrees with these recommendations and is adding, in § 171.8, a definition for "residue" which includes, for tank cars only, a quantitative limitation of three percent or less of the tank car's capacity. Historically, the Department's Federal Railroad Administration has considered a tank car to be "empty" when the residue remaining in the tank car does not exceed three percent of the weight of the car's last loaded movement. This operational definition is derived from Rule 35 of the Uniform Freight Classification Tariff. MTB believes that the quantitative definition for the word "residue" adopted in this rule is consistent with the FRA definition, is easy to understand and will enhance safety by providing emergency response personnel with accurate information regarding the maximum quantity of hazardous material that may remain in the tank car. Since this definition parallels the definition in use today, negligible costs should be incurred by this clarification of terminology. Eight commenters indicated that the word

"residue" or "residual" should not be substituted for the word "empty" on the shipping paper because the name used for shipping several materials that are not subject to the HMR contain the word "residue" or "residual." MTB reviewed the words "residue", "residual", and the "residuum" as listed in the *Uniform Freight Classification (UFC) 6000* and concluded that of the 47 line entries containing these words, five have names that could be confused with the description of hazardous materials. However, because of the format of the description of a hazardous material on the shipping paper, i.e., "RESIDUE: Last Contained Sulfuric acid, Corrosive material, UN 1830", there should be no confusion with UFC entries.

Five chemical industry commenters and five rail carriers, all of whom use tank cars to transport hazardous materials, requested that the present requirements for the EMPTY placard not be changed. When making up trains, the EMPTY placard is used operationally by rail carrier personnel to help them identify the correct tank cars when they are switching, humping and sorting cars. The rail carriers made the point that the EMPTY placard contributed to the safety of those rail employees involved in rail car switching, placement, and humping operations. MTB believes the RESIDUE placard can be used in rail car operations in the same manner as the EMPTY placard is now used. Several commenters who use tank cars regularly emphasized the fact that the residues of some hazardous materials present a greater hazard during a fire than tank cars which contain bulk loads of those same materials. MTB believes this evaluation is correct. Three safety or emergency response organizations and six chemical industry commenters recommended adoption of a RESIDUE or RESIDUAL placard to replace the present EMPTY placard. Eighteen commenters supported the MTB proposal contained in the NPRM to use the same placard on both loaded tank cars and tank cars which only contain the residues of hazardous materials. Fifteen of these comments were from the chemical industry and the other three were from safety or emergency response personnel.

III. Discussion

Notwithstanding a rail carrrier's reliance on the EMPTY placard for certain operational procedures (which they say also enhances safety), MTB must consider hazard warning placards in light of their contribution to emergency response as well. Based on the comments received and the knowledge gained by MTB from the comments MTB concludes that emergency response considerations overwhelmingly favor the use of the RESIDUE placard and that the final rule should be revised from what was proposed in the NPRM. Further, MTB believes that the shipping paper entries for a tank car which contains only the residue of a hazardous material should show the same hazard warning as the revised placard. Therefore, the rule is changed accordingly. The placarding requirements are revised from EMPTY to RESIDUE for a tank car which contains only the residue of a hazardous material. This rule change should resolve the problems emergency response personnel were having with the EMPTY placard, and still indicate a difference between a tank car that is loaded and one that contains only the residue of hazardous material. Revision of the placard will also improve hazard communication by removing the black triangle from the top of the placard, thus allowing display of the hazard symbol.

There should be no significant difference between the purchase price of the EMPTY placard presently required by the regulations and the RESIDUE placard that will be required by this amendment. In addition, the cost of placing the placards on the tank cars would be the same. A year is given from the publication date of this rule for the change over to the RESIDUE placard, during which time on-hand stocks of the EMPTY placard should be depleted.

IV. Review by Sections

1. Section 171.8 is revised by adding a definition for "Residue". This definition was not proposed in the notice, but commenters to the HM-180 Notice requested that "Residue" be defined. From this definition one can determine the maximum quantity of hazardous material that is contained in a tank car placarded with the RESIDUE placard.

2. Paragraph (e) of § 172.203 is revised to change the shipping paper entry for empty packagings and empty portable tanks, cargo tanks, tank cars and multi-unit tank car tanks that contain the residue of a hazardous material to include in the description the word RESIDUE instead of the word EMPTY. The description will be preceded by the words "RESIDUE: Last Contained * * *".

3. Footnote 4 to Table 2 in § 172.504 is revised to change the placard name from EMPTY to RESIDUE.

4. Paragraphs (a) and (c) of § 172.510 are revised to change the special placarding provisions for rail from "POISON GAS—EMPTY" to "'POISON GAS—RESIDUE" in paragraph (a) and to change the placard name from EMPTY to RESIDUE in the title of paragraph (c) and in the third line of paragraph (c). Paragraph (c)(1) is also reworded for clarity.

5. Section 172.525, and accompanying paragraph (c)(10) in Appendix B to Part 172 which contains the specifications for the EMPTY placard, have the placard name changed from EMPTY to RESIDUE.

6. Paragraph (b)(3) of § 173.190 prescribes the EMPTY-FLAMMABLE SOLID placarding requirements for tank cars which contain the residue of white or yellow Phosphorus. Since this final rule changes the placard name from EMPTY to RESIDUE, the placarding requirement for Phosphorus in 173.190(b)(3) is changed to FLAMMABLE SOLID-RESIDUE.

7. Paragraph (c) of 174.25 is amended by revising the paragraph to make the requirement consistent with the shipping paper requirements in Subpart C to Part 172.

8. Paragraph (e) of § 174.50 is revised for clarity by rewording the requirement that no open-flame light may be brought near any placarded tank car that is leaking.

9. Section 174.69 is revised to restate the requirement that the person who is responsible for removing the lading from a tank car is also responsible for assuring that if the tank car contains the residue of a hazardous material it is properly placarded before it is offered for transportation.

10. The section title and the text § 174.93 are revised for consistency and clarity to change the car placement requirements for EMPTY placarded tank cars to reflect the change to the RESIDUE placard.

V. Administrative Notice

A. *Executive Order 12291.* MTB has determined the affect of this final rule will not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures (44 FR 11034) and requires neither a Regulatory Impact Analysis, nor an Environmental Impact Statement under the National Environmental Policy Act (49 U.S.C. 4321 et. seq.). A regulatory evaluation is available for review in the Docket.

B. *Information Collection.* No change in information collection is anticipated as a result of this rulemaking since the RESIDUE placard will replace the EMPTY placard.

C. *Impact on Small Entities.* Based on limited information concerning size and nature of entities likely to be affected, I certify this final rule will not, as

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

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Definitions.

49 CFR Part 172

Hazardous materials transportation, Placarding.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 174

Hazardous materials transportation, Railroad safety.

VI. Rules and Regulations

In consideration of the foregoing, Parts 171 through 174 of Title 49, Code of Federal Regulations are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for Part 171 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, unless otherwise noted.

2. Section 171.8 is amended by the addition in its correct alphabetic sequence, the following definition.

§ 171.8 Definition and abbreviations.

* * * * *

"Residue" means the hazardous material remaining in a packaging after its contents have been emptied and before the packaging is refilled, or cleaned and purged of vapor to remove any potential hazard. Residue of a hazardous material, as applied to the contents of a tank car (other than DOT Specification 106 or 110 tank cars), means a quantity of material no greater than 3 percent of the car's marked volumetric capacity.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

3. The authority citation for Part 172 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804; 49 CFR 1.53, unless otherwise noted.

4. In § 172.203, paragraph (e) is revised to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(e) *Empty packagings.* (1) The description on the shipping paper for a packaging containing the residue of a hazardous material may include the words "RESIDUE: Last Contained * * *" in association with the basic description of the hazardous material last contained in the packaging.

(2) For a tank car containing the residue (as defined in 171.8) of a hazardous material, the requirements of § 174.25(c) and paragraph (e)(3) of this section apply.

(3) If a packaging, including a tank car, contains a residue that is a hazardous substance, the description on the shipping papers must be prefaced with the phrase "RESIDUE: Last Contained * * *" and the letters "RQ" must be entered on the shipping paper either before or after the basic description.

* * * * *

5. In § 172.504, Footnote 4, to Table 2 is revised to read as follows:

§ 172.504 General placarding requirements.

* * * * *

TABLE 2

---

[4] A FLAMMABLE placard may be used on a cargo tank, a portable tank and a compartmented tank car during transportation by highway, rail or water, if they contain materials classed as Flammable liquid or Combustible liquid. However, no RESIDUE placard may be displayed on a tank car which only contains residue of a Combustible liquid.

* * * * *

6. In § 172.510, paragraphs (a) and (c) are revised to read as follows:

§ 172.510 Special placarding provisions: Rail.

(a) *Square background required.* Each EXPLOSIVE A placard, POISON GAS placard and POISON GAS-RESIDUE placard affixed to a rail car must be placed on a square background as described in § 172.527.

* * * * *

(c) *RESIDUE placard.* Each tank car containing the residue of a hazardous material must be placarded with the appropriate RESIDUE placards, as required in § 172.525 and paragraph (a) of this section. The RESIDUE placard must correspond to the placard that was required for the material the tank car contained when loaded, unless the tank car—

(1) Contains the residue of a combustible liquid;

(2) Is reloaded with a material requiring no placards or different placards; or

(3) Is sufficiently cleaned of residue and purged of vapor to remove any potential hazard.

* * * * *

7. Section 172.525 is revised to read as follows:

§ 172.525 Standard requirements for the RESIDUE placard.

(a) Each RESIDUE placard must be as follows:

(1) The lower triangle of the RESIDUE placard must be black. The word "RESIDUE" must be in white letters approximately 1½ inches (40 mm) high made with approximately ¼ inch (6 mm) of an inch stroke.

(2) The midsection of each RESIDUE placard must display the appropriate identification number as specified in § 172.332 (c) and (d).

Otherwise the RESIDUE placard must be specified in § 172.519 and Appendix B to this Part, and §§ 172.528, 172.530, 172.532, 172.536, 172.540, 172.542, 172.546, 172.548, 172.550, 172.552, 172.554, and 172.558, as appropriate for the residue of the hazardous material being transported and required by this subchapter to be placarded. No other placard may be used as a RESIDUE placard.

(b) The lower part of each placard must be specified in Appendix B to this Part and as illustrated on the FLAMMABLE-RESIDUE placard which, except for size and color, must be as follows:

(c) The RESIDUE placard must be as shown in paragraph (b) of this section and may be—

(1) A separate placard,

(2) On the reverse side of a placard, or

(3) A composite made according to the specifications in this section, and paragraph (a)(10) of Appendix B to this Part. The lower triangle of the appropriate placard should have a black triangle bearing the word RESIDUE in white letters with the appropriate hazard class number in white.

Appendix B—[Amended]

8. In Appendix B to Part 172, paragraph (c)(10) is revised to read as follows:

Appendix B—Dimensional Specifications for Placards

* * * * *

(c) * * *

(10) *RESIDUE placard.* The specifications for the FLAMMABLE-RESIDUE placard are the same as the specifications for the following RESIDUE placards: NON-FLAMMABLE GAS; POISON GAS; CHLORINE; OXYGEN; FLAMMABLE GAS; FLAMMABLE; FLAMMABLE SOLID; FLAMMABLE SOLID W; OXIDIZER; ORGANIC PEROXIDE; POISON; and CORROSIVE. The lower triangle of each RESIDUE placard must be black. This triangle must be 2-3/8 inches (50 mm) below the horizontal center line of the placard or adjacent to the lower edge of the white block for the identification number. The letters in the word RESIDUE must be approximately 1½ inches (40 mm) high, made with approximately ⅛ inch (6 mm) stroke. The letters must be located in the lower black triangle and parallel to the horizontal center line of the placard. The hazard class number must be approximately 1½ inches (40 mm) high and centered above the word RESIDUE. The RESIDUE placard may be made in any of the three ways cited in § 172.525(c), Subpart F of Part 172.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

9. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, unless otherwise noted.

10. In § 173.190, the last sentence of paragraph (b)(3) is revised to read as follows:

§ 173.190 Phosphorus, white or yellow.

* * * * *

(b) * * *

(3) * * * After unloading, the person who unloaded the tank car must fill it to its entire capacity with an inert gas or must fill it with water having a temperature not exceeding 140°F, to not more than 50 percent of the capacity of its dome. Before the car is offered for return movement, it must be placarded with FLAMMABLE SOLID-RESIDUE placards, as described in § 172.525 of this subchapter.

* * * * *

PART 174—CARRIAGE BY RAIL

11. The authority citation for Part 174 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, unless otherwise noted.

12. In § 174.25, paragraph (c) is revised to read as follows:

§ 174.25 Additional information on waybills, switching orders and other billings.

* * * * *

(c) For a tank car that contains only the residue of a hazardous material, the shipping papers must contain the words "RESIDUE: Last Contained * * *", the basic description of the hazardous material last contained in the tank car and the placard notation specified in the second column of the table in paragraph (a)(2) of this section followed by the word RESIDUE. For example, "RESIDUE: Last Contained Sulfuric acid, Corrosive material, UN 1830, Placarded: CORROSIVE-RESIDUE". For a tank car that contains only the residue of a hazardous substance, the letters "RQ" must also be entered on the shipping paper either before or after the basic description.

* * * * *

13. In § 174.50, paragraph (e) is revised to read as follows:

§ 174.50 Leaking tank cars.

* * * * *

(e) Open-flame lights may not be brought near a placarded tank car that is leaking.

* * * * *

14. Section 174.69 is revised to read as follows:

§ 174.69 Removal of placards and car certifications after unloading.

When lading requiring placards or car certificates is removed from a rail car other than a tank car, each placard and car certificate must be removed by the person unloading the car. For a tank car which contained a hazardous material, the person responsible for removing the lading must assure, in accordance with the provisions of § 172.510(c) of this subchapter, that the tank car is properly placarded for any residue which remains in the tank car.

15. The section title and text of § 174.93 are revised to read as follows:

§ 174.93 Position in train of a tank car displaying RESIDUE placards.

In a train, a tank car displaying RESIDUE placards may not be placed nearer than the second car from an engine or occupied caboose.

Issued in Washington, D.C. on September 19, 1985 under authority delegated in 49 CFR Part 1, Appendix A.

M. Cynthia Douglass,

Acting Director, Materials Transportation Bureau.

[FR Doc. 85-22978 Filed 9-25-85; 8:45 am]

BILLING CODE 4910-60-M

---

49 CFR Part 195

[Amendment 195-33A; Docket PS-60]

Regulation of Intrastate Pipelines; Correction

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the date after which new intrastate pipelines must be designed and constructed in accordance with the Federal safety standards. The correction conforms the date with the effective date of the final rule for intrastate pipelines published April 23, 1985, (50 FR 15895).

FOR FURTHER INFORMATION CONTACT: L.M. Furrow, (202) 426-2392 Therefore, 49 CFR Part 195 is amended as follows:

1. The authority citation for Part 195 continues to read as set forth below:

Authority: 49 U.S.C. 2002; 49 CFR 1.53 and Appendix A to Part 1.

2. In § 195.401(c)(3) the date "October 21, 1985" is corrected to read "October 20, 1985".

Issued in Washington, DC, on September 20, 1985.

M. Cynthia Douglass,

Acting Director, Materials Transportation Bureau.

[FR Doc. 85-22995 Filed 9-25-85; 8:45 am]

BILLING CODE 4910-60-M

---

49 CFR Part 195

[Docket PS-80]

Transportation of Hazardous Liquids by Pipeline; Regulation of Intrastate Pipelines

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

ACTION: Response to petitions for reconsideration of final rule.

SUMMARY: On April 17, 1985, pursuant to section 203(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA) (49 U.S.C. 2002), the Materials Transportation Bureau, RSPA, issued a final rule extending existing Federal pipeline safety regulations to "intrastate pipeline facilities." (50 FR 15895, April 23, 1985). Southern Pacific Pipe Lines Company (Southern Pacific) and the California State Fire Marshal (Fire Marshal) filed petitions for reconsideration of the final rule, each citing the definitions of interstate and intrastate pipelines as the reason for the petitions.

By notice of June 20, 1985, (50 FR 25602), RSPA solicited comments on the petitions. RSPA has consolidated these petitions. After careful consideration of the petitions, and the comments, RSPA concludes that the petitions should be denied.

DATE: The final rule issued April 19, 1985, will become effective on October 21, 1985, as originally scheduled.

FOR FURTHER INFORMATION CONTACT: Barbara Betsock (202) 755–4972.

SUPPLEMENTARY INFORMATION: The definitions in the final rule are as follows:

Interstate pipeline means a pipeline or that part of a pipeline that is used in the transportation of hazardous liquids in interstate or foreign commerce.

Intrastate pipeline means a pipeline or that part of a pipeline to which this part applies that is not an interstate pipeline.

The definitions are substantially the same as proposed by notice of March 26, 1984 (49 FR 11226). Only one commenter to the proposed rules specifically addressed the definitions. That commenter, the Southern Pacific, objected to the proposed definitions on ground that the definitions would allow part of Southern Pacific's pipeline system to be considered intrastate. To prevent this, Southern Pacific suggested language which would have included as interstate pipeline facilities those pipelines subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) or all segments "included in a carrier's Annual Valuation Report to [FERC] as 'carrier property'."

Summary of Petitions and Comments on Petitions

In its petition, Southern Pacific requests a change in the definitions to define as interstate pipeline any pipeline facilities that are physically connected to pipeline facilities used in transportation in interstate or foreign commerce. Southern Pacific argues that the legislative history of the HLPSA requires that the definitions be based on physical connection.

Southern Pacific further claims that pipeline facilities operated by interstate pipeline companies are "indivisible units with all parts and facilities built, operated, and maintained with a commonality of design and construction features integrated and controlled from a central command point" and that additional or more stringent safety standards that might be imposed by states on intrastate portions of those "indivisible units" "will cause service disruptions and backups throughout."

In its petition, the Fire Marshal claims that, given the agency interpretation and implementation policy expressed in Appendix A to the final rule, the definitions are difficult to apply. The Fire Marshal contends that any consideration of mere physical connection is inappropriate and that the degree of use of particular facilities in interstate or foreign commerce is the more appropriate consideration. The Fire Marshal requests that interstate pipeline facilities be defined as that part of a pipeline "which is used primarily in interstate or foreign commerce, and which crosses a State line or foreign border, and is considered from point or points of product entry in one state to point or points of delivery in another state or foreign country." The Fire Marshal appears concerned that an overemphasis on physical connection in describing interstate pipeline facilities will unduly limit the pipeline facilities subject to state regulation. Both petitioners requested deletion of Appendix A.

On June 20, 1985, RSPA solicited public comment on these conflicting petitions. (50 FR 25602) Comments were received from thirteen state agencies involved in gas or hazardous liquid pipeline safety regulation, six companies operating hazardous liquid pipelines, the National Association of Regulatory Utility Commissioners (NARUC), the National Association of Pipeline Safety Representatives (NAPSR), and the American Petroleum Institute (API). The state agencies, NARUC, and NAPSR support the Fire Marshal's petition either explicitly or implicitly and oppose the Southern Pacific view. Common arguments are the extension, through use of the physical connection theory, of exclusive Federal jurisdiction to virtually all pipeline facilities from the wellhead to the consumer, the limited available Federal resources to handle this broad assumption of jurisdiction, and the dangers of attempting to use any reference to FERC authority in a safety scheme. Four of the industry commenters and the API endorse the Southern Pacific approach and oppose that of the Fire Marshal because of possible operational difficulties and particular language in the legislative history of the HLPSA. One industry commenter believes that mere physical connection should not convert otherwise instrastate pipeline facilities to interstate facilities and suggests looking at the "projected immediate destination of the liquid." Another industry commenter supports a definition based on the degree of use as suggested by the Fire Marshal.

Because the major questions raised by the two petitions concern the same jurisdictional issues, RSPA is disposing of the petitions in this single document. The major issues concern the definitions of interstate pipeline and intrastate pipeline and are accompanied by closely related questions concerning the interpretation and implementation of those definitions expressed in Appendix A. The jurisdictional issues involve deciding where to draw the line between interstate and intrastate and the method to be used to implement the decision. The issues are as follows:

1. Physical connection—Whether reference to physical connection in defining "interstate pipeline facilities" is required or permitted by the HLPSA.

2. Use in interstate or foreign commerce—Whether defininining interstate pipeline facilities as those "used" in interstate or foreign commerce in the HLPSA requires primary or exclusive use.

3. Impact on interstate or foreign commerce—Whether the final rule as applied to pipeline facilities used solely for intrastate transportation but physically connected to pipeline facilities used for interstate transportation could lead to disruption of interstate transportation.

4. Clarity of definitions—Whether the definitions are sufficiently clear and whether Appendix A is an aid to further clarification.

5. Use of FERC tariffs—Whether any reference to the jurisdiction of FERC is reasonable.

6. Determining compatibility of additional state regulations—Whether RSPA was required in the final rule to establish standards for determining whether additional or more stringent state safety standards are "compatible" with the Federal standards within the meaning of the HLPSA.

7. Compliance with notice and comment requirements—Whether Appendix A should have been subjected to notice and comment procedures.

Physical Connection

Section 202 of the HLPSA (49 U.S.C. 2001) defines "interstate pipeline facilities" as "the pipeline facilities used in the transportation of hazardous liquids in interstate or foreign commerce" and "intrastate pipeline facilities" as those facilities which are not interstate pipeline facilities. Although pipeline is not defined, "'pipeline facilities' includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of hazardous liquids." With certain exceptions, "transportation of hazardous liquids" means the "movement of hazardous liquids by pipeline, or their storage incidental to such movement, in or affecting interstate or foreign commerce." Interstate or foreign commerce is defined by the end points of the commerce. Section 203(a) requires the Secretary of Transportation to issue minimum safety standards "for the transportation of hazardous liquids and pipeline facilities" applicable to each "person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities." 49 U.S.C. 2002(a). "Person" is broadly defined. Section 203(d) provides for preemption of state safety standards applicable to "interstate pipeline facilities" and allows for state adoption of "additional or more stringent" safety standards for intrastate pipeline facilities "if such standards are compatible with the Federal standards." 49 U.S.C. 2002(d). Sec. 205 provides for a Federal-state partnership in enforcement and regulation comparable to that found in the safety regulation of gas under the Natural Gas Pipeline Safety Act of 1968 (NGPSA).

The HLPSA neither uses nor defines pipeline system, connection, or carrier. Although the word "pipeline" is used, e.g. in the definition of "transportation of hazardous liquids" and in the term "pipeline facilities," it is not used to denote a specific amalgamation of pipeline facilities (such as those owned by a common carrier or those physically connected to facilities which cross a state line.) The term "pipeline facilities" is defined broadly by a listing of the physical things associated with the movement of hazardous liquids in transportation. Use of the plural argues against any indivisibility for any particular amalgamation of pipeline facilities. The critical term "interstate pipeline facilities" is without hint of ownership or physical connection. The term simply defines as interstate those particular pipeline facilities actually used or intended for use in the transportation of hazardous liquids in interstate or foreign commerce.

RSPA believes that a plain reading of this statutory language and an examination of the HLPSA in context argues against the reading urged by Southern Pacific, namely, glossing the words with a concept of carrier-ownership or physical connection. The Southern Pacific, the API, and other industry commenters urge that the legislative history provides the gloss. They cite the following language in the section-by-section analysis from the committee report, which was repeated at the time of Senate passage of the consensus bill on November 14, 1979 (125 Cong. Rec. 32336):

> It is intended that a pipeline facility be classed as an interstate pipeline facility if it is physically part of a pipeline system that moves hazardous liquids in interstate or foreign commerce.

S. Rep. No. 182, 96th Cong. 1st Sess., at p. 19; 1979 U.S. Code Cong. & Ad. News 1989. At first blush, this language appears to support Southern Pacific's view that Congress intended something different from a plain reading of the statutory language. However, when looked at in the context of the history of and regulatory scheme created by the HLPSA, the importance of the sentence in the committee report is much less clear.

The following sentence immediately precedes the noted sentence:

> The term "interstate pipeline facility" is defined to include pipeline facilties that, either on their own or by connection with the other pipeline facilities, are used to move hazardous liquids in interstate or foreign commerce.

The committee report was issued to accompany a marked up version of S.411 which deleted the following definition of interstate pipeline facilities in favor of the one ultimately passed:

> "(I)nterstate pipeline facilities" include pipeline facilities that, either on their own or by connection with other pipeline facilities, are used to move hazardous liquids in interstate or foreign commerce.

The same marked up bill also deleted the words "or the treatment of hazardous liquids during the course of transportation" from the definition of "pipeline facilities" as well as the following broad definition in favor of that ultimately passed:

> "[T] ransportation of hazardous liquids" means the movement of hazardous liquids by pipeline or its storage in or affecting interstate or foreign commerce.

Explanation for these latter deletions was made in the committee report.

Concurrently with consideration of S. 411, a pipeline safety bill, H.R. 51 was being considered in the House. A major focus of H.R. 51 was increased regulation of liquefied natural gas. It did not contain any provisions for safety regulation of the transportation of hazardous liquids by pipeline. On November 14, 1979, the Senate passed what was announced as a compromise version of the two bills, labeled the Pipeline Safety Act of 1979. Although the Pipeline Safety Act of 1979 substantially amended S. 411 to reflect the compromise, no changes were made to the definitions of transportation of hazardous liquids, pipeline facilities, or interstate pipeline facilities and no substantive changes were made to the definitions of the liquid provisions other than the addition of some unrelated definitions. RSPA believes that the language in the section-by-section analysis was simply overlooked. Furthermore, examination of the history of the HLPSA indicates that the language was never intended to be read as urged by the Southern Pacific.

Prior to passage of the HLPSA, hazardous liquid pipeline safety regulation was administered by the Department of Transportation under the Transportation of Explosives Act (TOEA). Although the TOEA was the predecessor statute for most safety regulation for the transportation of hazardous materials, by 1979, only liquid pipelines remained regulated under it. Furthermore, the TOEA was cumbersome and incomplete, in that it allowed only regulation of carriers in interstate commerce, did not take into consideration the special needs of a regulatory program aimed at pipelines, and provided only criminal remedies.

At the time the Department also administered the gas pipeline safety program under the NGPSA. That statute, which provides for regulation of most gas pipeline facilities in or affecting interstate or foreign commerce, a Federal-state partnership in enforcement and regulation, and civil penalties, had served well. Under the NGPSA, interstate pipeline facilities subject to exclusive Federal jurisdiction are defined as those transmission facilities (other than certain lines making direct sales to customers) subject to the jurisdiction of the FERC. The states may adopt additional or more stringent standards compatible with the Federal standards with respect to other pipeline facilities (intrastate pipeline facilities). The intrastate pipeline facilities are generally connected to the interstate pipeline facilities and may be

owned and operated by the same or a related company.

With this experience in mind, the Department drafted broad legislation modeled after the NGPSA, aimed at the broad safety regulation of all hazardous liquid pipeline facilities rather than of carriers in interstate commerce, and supported by civil penalty authority. This broad legislation, supplemented by a section-by-section analysis together with substantial revisions to the NGPSA was forwarded to Congress by the Secretary and introduced as S. 411 on February 9, 1979. The section-by-section analysis for the definition of "interstate pipeline facilities" contained the same language which appears in the committee report. The hazardous liquid legislation was included as Title II of S. 411.

At hearings before the Senate Committee on Commerce, Science, and Transportation in April, 1979, the industry witness, representing API and the Association of Oil Pipelines (AOPL), opposed the Department's proposed liquid legislation as unnecessary and overly broad. Drawing specific fire was the definition of hazardous liquids which was "so broad as to include almost any conceivable activity." Hearings, at p. 122. The industry witness noted, however, that, with "strict limitations and enumerated exceptions", definitions might be fashioned that would result in withdrawal of industry opposition. The industry recognized, with unexplained reservations, a role for states. The Department's staff met with representatives of the API and AOPL to attempt to resolve differences and, on May 3, 1979, agreed to revisions of Title II of S. 411 proposed by industry. The revisions were aimed at narrowing the scope of the jurisdiction provided. In particular, the Department agreed to change the definition of interstate pipeline facilities to clarify the point at which jurisdiction begins; namely, the point where the hazardous liquid being transported enters interstate and foreign commerce. The agreed to revisions were accepted by the Committee, appeared in the printed version of S. 411 which accompanied the Committee's report, and were adopted in the HLPSA. There is simply nothing in the history of passage of the HLPSA, of which RSPA is aware, which supports a conclusion that "Interstate pipeline facilities" was ever intended to be read with a required gloss of carrier ownership or physical connection.

The Fire Marshal argues that RSPA's use of connection in Appendix A is unwarranted by the language of the HLPSA. RSPA's only uses of the concept are to flesh out the outline of an interstate pipeline which is provided by examination of tariffs and to confirm that outline in doubtful cases. For example, one carrier files a tariff with FERC for a movement which will continue over the line of another carrier which also files a tariff with FERC. One of the lines crosses a state border. Between the two carriers' lines, the hazardous liquid passes through a breakout tank in a terminal facility possibly related in ownership to one of the carriers. Breakout tanks are subject to the regulations. All three of the facilities are interstate facilities because of their use in interstate commerce. This use of the concept of connection is clearly allowed by the HLPSA.

Finally, RSPA agrees with the Fire Marshal and various state commenters that adoption of the Southern Pacific approach could result in the virtual exclusion of the states from the area of hazardous liquid pipeline regulation. This result was not intended by Congress which has always recognized a major role for the states in pipeline safety. Neither the HLPSA nor the NGPSA show any preference for Federal over state jurisdiction except for lines actually used in interstate or foreign commerce for which the possibility of conflicting state rules could impede the flow of interstate commerce. Indeed the concern has seemed to be the other way. Congress has required the establishment of uniform Federal standards for all pipelines and has encouraged extensive state involvement through the establishment of what has been considered a model Federal/state program allowing full state enforcement authority for intrastate pipeline transportation, state participation as Federal agents for interstate transportation, and Federal grants-in-aid to assist the states in meeting the costs of their programs. Therefore, RSPA believes it contrary to the spirit of the HLPSA to attempt to expand the area of exclusive Federal jurisdiction beyond that clearly intended by Congress. It is RSPA's policy to allow states to assume as much responsibility for pipeline safety within their states as possible, subject only to the limitations of the HLPSA. States are in the best position to assess the needs of their communities with respect to pipeline safety. Southern Pacific noted the possibility of designating the Fire Marshal as a Federal agent for purposes of inspecting the interstate pipelines in California. While this is possible, and could help in expanding Federal capabilities for inspection, the agency relationship still leaves with the Federal government the responsibility for carrying out enforcement and does not allow for the policy enunciated in the Federal/state partnership created by the HLPSA.

Use in Interstate or Foreign Commerce

RSPA reads the statutory language "used in the transportation of hazardous liquids in interstate or foreign commerce" as requiring some actual use for such transportation; that is, some physical involvement of the particular facilities for the movement of hazardous liquid in interstate or foreign commerce. As noted above, RSPA rejects Southern Pacific's approach which would label as interstate those facilities not used in interstate or foreign commerce but connected to facilities so used. The Fire Marshal goes to other extreme by reading the language as requiring a large degree of, if not exclusive, use of particular facilities for transportation in interstate or foreign commerce before labeling the facilities as interstate. For example, consider a pipeline from Los Angeles, California to Reno, Nevada which delivers a large percentage of its product to points within California. Under RSPA's view, all parts of the pipeline through which any product destined for delivery out-of-state flows would be interstate. Under the Fire Marshal's view, only that part of the line after the point of last delivery within the state would be interstate though the product which flows out of state must necessarily have originated in Los Angeles.

The Fire Marshal provides no explanation to support its reading of the statutory language. RSPA rejects that reading as contrary to both a plain and a contextual reading of the HLPSA, and to usual conceptions of Federal regulation of interstate and foreign commerce.

The definition of "interstate pipeline facilities" in the HLPSA does not modify the term "used in transportation". Its ordinary meaning with respect to pipeline transportation is the actual utilization in effectuating movement, not necessarily at any given point in time, of a product through a pipeline. RSPA agrees with a point made by API that a particular pipeline facility does not change its character depending on the character of the shipment at a particular time. The HLPSA established a safety regulatory scheme for all pipeline transportation, allowing structured state regulation of some pipeline transportation through a partnership with the Federal program, but reserving *all* regulation of pipeline transportation in interstate or foreign commerce to the Federal government. The only apparent purpose of such a reservation is to

prevent disruption of the flow of interstate and foreign commerce which could be caused by differing state safety regulations and enforcement. This can only be accomplished if those facilities through which product destined for out-of-state delivery points flows are reserved to Federal regulation. To use the example noted before, under the Fire Marshal's reading, the differing state regulation of the facilities between Los Angeles and the last delivery point in the state must necessarily affect the interstate shipments over that same route. The possibility for disruption of the flow of interstate commerce in this example is clearly contrary to the apparent intent of the HLPSA.

As a general principle, the amount of interstate or foreign commerce is not relevant in determining whether Federal jurisdiction based on such commerce attaches. Instead, the relevant factors are whether there is any, if only a small amount of, interstate or foreign commerce involved and whether there is any need for Federal jurisdiction to attach. For example, in a safety scheme where there is desire to regulate broadly, even a small amount of interstate or foreign commerce might suffice for Federal jurisdiction to attach. In this case, the safety regulatory scheme is already much broader than that which would occur if only transportation in interstate or foreign commerce were involved. The need is not for Federal jurisdiction but rather for exclusive Federal jurisdiction; that is, to prevent the possibly disruptive effect of state regulation on the flow of interstate and foreign commerce. The Fire Marshal's reading of the statute is not consistent with this need.

Impact on Interstate or Foreign Commerce

Southern Pacific argues that "interstate oil pipelines are indivisible units with all parts and facilities built, operated, and maintained with a commonality of design and construction features integrated and controlled from a central command point" and that "any attempt to impose different safety standards, operating procedures, or inspection requirements to different parts of the system, solely because of geographic or economic considerations, will cause service disruptions and backups throughout such a system." In issuing the final rule, RSPA was aware that Southern Pacific operates parts of its system as units. However, RSPA believed that the possibility of service disruptions caused by differing state regulation of intrastate segments of those units is not great, that there are practicable means of avoiding any potential disruptions, and that the statutory requirement tha any additional state regulation be compatible with the Federal regulations provides ample protection. To assure complete information in this area, RSPA specifically solicited comments on the question of impacts on interstate commerce.

In support of its claim of potential service disruptions, Southern Pacific notes the current California state requirements for periodic hydrostatic testing and the provision which allows the Fire Marshal to require a "pressure test at any time in the interest of public safety." Southern Pacific schedules its deliveries through "computer-assisted scheduling programs" based upon tenders by shippers six or more weeks in advance. Both interstate and intrastate shipments orginate at the same point. Should the intrastate laterals for which the intrastate shipments are destined be out of service for state-required hydrostatic testing, Southern Pacific's terminal and breakout tankage is insufficient to hold the intrastate shipments. The result would be disruption of the interstate shipments.

In addition to Southern Pacific, three industry commenters and three state commenters addressed the issue. Tennessee Oil Company states:

> Those systems which are part of, by being connected to, larger and unquestionably interstate systems should not be subject to differing requirements or standards than those applicable to the connecting systems because any different safety or construction standards would almost inevitably affect the operation of the connecting systems. The effects of various requirements such as testing or reducing pressure could well be disruptions of service, as noted in Southern Pacific's Petition, as well as other general effects on operations.

Arco Transportation Company notes that "state jurisdiction to regulate lateral lines physically connected in interstate pipelines could be very disruptive to interstate commerce." Champlin Petroleum Company agrees with Southern Pacific that state regulation of connected lines "would indeed create service disruptions and backups throughout an entire system." None of these commenters provided more specific information.

The California Public Service Commission (California PSC), which has participated in the Federal/state gas pipeline program since it inception, notes that the California PSC has always exercised safety jurisdiction over lines not only connected to interstate transmission facilities but also arguably part of the same pipeline system. This has occurred because the NGPSA itself defines the area of exclusive Federal jurisdiction by reference to the interstate transmission facilities subject to FERC jurisdiction under the Natural Gas Act. Under the Natural Gas Act, interstate transmission pipeline companies may sell their gas to related companies at a state's border and thereby elect state rather than Federal regulation provided all of the gas is consumed within the state. The California PSC notes that there have been no problems with California's regulation of the interconnected facilities.

The Texas Railroad Commission (Texas RRC) which has participated in the Federal/state gas pipeline program since its beginning and is expected to participate in the liquid pipeline program, believes that any potential service disruptions caused by more stringent state safety standards are "best addressed by waiver of the requirement on a case-by-case basis." The Michigan Department of Transportation (Michigan DOT), which has participated in the Federal/state gas pipeline program since its beginning downplays the possibility of any potential problems because "most states would simply adopt the [Federal safety standards] without changes" except where there may be "good cause."

RSPA does not believe that there is any serious risk of service disruptions of interstate pipeline transportation because of additional or more stringent state safety regulation of intrastate pipeline facilities connected to the interstate facilities. The only specific potential problem noted by industry is the current California hydrostatic testing provisions noted by Southern Pacific. With proper scheduling of the periodic testing and the interstate shipments, there need be no disruption of interstate service.

As noted in the request for comments, Southern Pacific is not currently subject to California's periodic hydrostatic testing requirement because of waivers of the requirement by the Fire Marshal. Southern Pacific argues that consideration of the waivers is not relevant because there is no reason to expect that they will continue. On the contrary, RSPA sees no reason to expect that, should the conditions that gave rise to the waivers continue (presumably safe operating history, impacts on intrastate service, potential for increased intrastate rates), existing waivers will be withdrawn. RSPA believes that state officials exercise their duties with respect to waiver decisions and with respect to

rulemaking in general in a responsible manner balancing safety and economic factors. Comments of the Texas RRC, the Michigan DOT, and agency experience support this. However, the existence of waivers is of minimum importance since, as noted perviously, periodic hydrostatic testing of connected intrastate faciltiies need not disrupt the interstate service.

Southern Pacific also objects to the California provision by which the Fire Marshal may order hydrostatic testing "in the interest of public safety." Although under this provision, the operator does not have the same control over scheduling as with periodic testing, the provision is not an additional safety standard, but rather an enforcement tool. Although Southern Pacific argues that this provision is unlike any federal requirement, RSPA can, in fact, order hydrostatic testing pursuant to section 207(b) or 209(b) of the HLPSA. The California provision, while not as broad as the Federal enforcement tools of sections 207(b) and 209(b), is subject to the requirements of due process. Those requirements should protect Southern Pacific from unnecessary disruptions of service through unreasonable use of the tool and will ensure that, should this tool ever be needed, Southern Pacific will receive sufficient notice to prevent major disruption of the interstate shipments.

As noted by the California PSC, and by the Maryland Public Service Commission, there is long experience with Federal and state regulation of connected gas pipeline facilities. Although RSPA knows that some of the states have additional or more stringent requirements applicable to the intrastate gas pipeline facilities, RSPA is unaware of any serious service disruptions or other impacts on the connected interstate facilities because of state regulation. Because most of the additional state gas pipeline safety standards address problems of gas distribution, for which there is no precise hazardous liquid counterpart, RSPA agrees with the Michigan DOT that, absent some special local concern, most states participating in the Federal/state partnership for hazardous liquid pipelines will simply adopt the Federal standards. Currently, of the seven states which are expected to participate by the end of 1985, only California has adopted additional and more stringent standards.

RSPA is unware of, and neither Southern Pacific nor other industry commenters have convincingly demonstrated, any potential for major disruptions of interstate pipelines service through state regulation of connected intrastate pipeline facilities. Given the experience with gas pipeline and the assumption that state officials will act rationally in rulemaking, RSPA does not believe that the risk of major disruptions of interstate service is great. Furthermore, the preemptive language of the HLPSA and the constitutional limitations on state action prohibit the states from impeding interstate commerce and allows only "compatible" additional regulation of the intrastate facilities. Despite the drawbacks of purely judicial remedies, those remedies provide adequate safeguards for the possible small risk of service disruptions remaining.

Clarity of Definitions

Southern Pacific, the Fire Marshal, and many of the commenters complain that the definitions of the final rule, as interpreted by RSPA, cause confusion. This claim of confusion by both petitioners merely highlights the fact that neither is completely satisfied with the delineation of Federal/state jurisdiction which results from the definitions. Neither petitioner and none of the commenters described any situation in which confusion over the meaning of the definitions would result in dual jurisdiction or no jurisdiction. Consequently, RSPA believes that the definitions are sufficiently clear and will do everything necessary to assure that each state which participates in the program is aware of RSPA's position as to what constitutes intrastate pipeline facilities subject to that state's regulation. There will be no dual jurisdiction. As noted in the preamble to the final rule, if necessary in the future, Appendix A will be modified to assure this.

Southern Pacific argues the new definition creates "confusion and controversy in an area where heretofore none existed" and that the previous "definition" was "clear-cut and unambiguous." The Fire Marshal applauds RSPA for dropping the previous specific reference to FERC jurisdiction that Southern Pacific found "clear-cut and unambiguous," but decries the continued use of FERC tariff filings as guidelines.

On September 30, 1983, the State of California, in anticipation of the establishment of the Federal/state hazardous liquid pipeline safety program, amended its existing authority to regulate intrastate hazardous liquid pipeline transportation, the California Pipeline Safety Act of 1981. The amendment added enforcement authority required for certification of a state program by the HLPSA, set periodic hydrostatic testing requirements, and established a user fee based on the costs of the Fire Marshal in carrying out the program to be assessed against intrastate operators. Under the HLPSA, states may enforce their own existing legislation without limitation until Federal standards with respect to intrastate pipeline transportation are established by RSPA. At that time, states with programs which conform to the requirements of the HLPSA may so certify and continue their programs without interruption.

Soon after the Fire Marshal began enforcement under the amended law, RSPA became aware of questions concerning the meaning of the "subject to FERC jurisdiction" language found in Part 195 and, subsequent to publication of the proposed rule, of disputes concerning the statutory definitions. During this period the Fire Marshal's office interpreted the statutory definitions of interstate and intrastate in a manner similar to that proposed in its current petition for reconsideration. Southern Pacific took the approach that all of the pipeline facilities owned by it and listed on its Annual Valuation Report filed with FERC were interstate. One of the Southern Pacific's lines, from Bakersfield to Fresno, California, is located entirely within the state, and does not connect with any other pipeline facilities. Because the line is not used in interstate commerce, there is no FERC tariff for shipments on the line. In its comments on the proposed rule, Southern Pacific objected to dropping a specific reference to FERC and proposed that all pipeline facilities listed as carrier property on Annual Valuation Reports filed with FERC be considered interstate pipeline facilities. This approach would define an interstate an isolated pipeline contained entirely within a state but owned by an interstate carrier (such as Southern Pacific's line between Bakersfield and Fresno).

Southern Pacific's disagreement with the definitions has its origins in the shift in the jurisdictional emphasis in 1979 from the character of the carrier under the old criminal legislation, the TOEA, to the character of the pipeline facilities under the HLPSA. The "facilities subject to FERC jurisdiction" language which RSPA adopted in 1981 was a stopgap measure chosen to allow the republication, without notice and comment of the regulations issued under the TOEA to reflect the terminology changes of the HLPSA. Jurisdiction under this language approximated the actual area of exclusive Federal jurisdiction under the HLPSA. However, despite Southern Pacific's assertion that

the language was unambiguous, both RSPA and the Fire Marshal have read it differently.

The Fire Marshal's disagreement arises from a basic misunderstanding of "use" in interstate or foreign commerce, as discussed above. The Fire Marshal's proposal for new definitions, requiring primary use in interstate or foreign commerce in order for exclusive Federal jurisdiction to attach, would, in RSPA's opinion, create more confusion. For example, assuming that time rather than volume were established as the proper measure of use, it is uncertain whether a line used one day for interstate shipments and the next for intrastate would be labeled interstate under such an approach. On the other hand, if the use were measured by volume, would shipments over one day, one month, or one year determine jurisdiction?

Use of FERC Tariffs.

Appendix A to the final rule indicates the RSPA will continue to look at tariffs filed with FERC as evidence that particular pipeline facilities are used in interstate or foreign commerce and, hence, constitute interstate pipeline facilities within the meaning of the HLPSA and the final rule. Appendix A also provides examples of those instances where the tariff filings may not be relied upon since the results of such reliance would be inconsistent with the HLPSA. Both Southern Pacific and the Fire Marshal object to this approach for different reasons.

Southern Pacific argues that reliance on economic tariffs will result in "misleading and inaccurate conclusions inasmuch as many of the transportation movements on interstate pipeline systems which are covered by intrastate tariffs begin on clearly interstate pipeline segments and continue on interstate trunk pipelines before branching off onto lateral or feeder pipelines which may have intrastate characteristics." Southern Pacific's argument would be correct if RSPA believed that pipeline systems owned by a carrier were individual units for purposes of regulation under the HLPSA, a position already rejected, or if RSPA were planning on examining the intrastate tariffs filed with state economic regulatory bodies as evidence of use of the facilities for intrastate pipeline transportation. However, under RSPA's approach, the existence of intrastate tariffs, indicating use of the facilities for intrastate transportation, is irrelevant. RSPA recognizes that many facilities used for interstate shipments are also used for intrastate shipments which may originate and terminate entirely on the interstate facilities or which may originate on the interstate facilities but terminate on those which are not used for interstate transportation.

The Fire Marshal objects to any use of FERC tariffs, arguing that FERC does not routinely scrutinize tariffs for jurisdictional deficiencies. Comments of the NAPSR and a few state agencies note the same objection. The Fire Marshal fears that the result may be election by operators of Federal rather than state jurisdiction by improper filing with FERC of tariffs. RSPA recognizes the possibility of such an occurrence, but does not believe that it presents any serious problem. In the first place, such an occurrence assumes that operators will file tariffs improperly, an assumption which RSPA is unwilling to make. Furthermore, FERC procedures provides a mechanism by which anyone, including a state, can challenge a filing. In Appendix A, RSPA has already attempted to address the more obvious exceptions to the tariff filings. Finally, the approach of looking at the tariff filings in a policy which may be modified if it proves unworkable because of improper filings. As noted by the Fire Marshal, economic deregulation may force modification of the policy. The policy of Appendix A uses as far as possible, an existing Federal economic regulatory scheme to aid in making jurisdictional decisions thus avoiding the creation of a distinct new regulatory scheme. Use of the FERC tariff filings produces results that approximate those obtained by a case-by-case determination of jurisdiction under the HLPSA.

Determining Compatibility of Additional State Regulations

Southern Pacific objects to the final rule because "in promoting the establishment of dual federal and state regulatory systems, [RSPA] fails to identify the standards and procedures by which it can be determined whether a state safety standard is 'compatible' with federal safety standards as required by law." RSPA has been "promoting" the Federal/state partnership in hazardous liquid pipeline safety since 1979 when the HLPSA established the program. RSPA has "promoted" the equivalent program for gas pipelines since 1968. RSPA believes that Southern Pacific is the first to suggest that RSPA should establish some sort of procedure for reviewing state regulation of intrastate pipeline facilities and presumably making some informal determinations of "compatibility."

RSPA does not reject the idea of establishing some procedure for reviewing state regulations, but believes it beyond the scope of this rulemaking and neither required nor clearly intended by the HLPSA. The HLPSA leaves questions of preemption of the state regulations up to the courts and does not clearly indicate that any agency involvement in those decisions is required. If Congress had intended otherwise, it could have written statutory language comparable to that in the Hazardous Materials Transportation Act. (49 U.S.C. 1811). That statute requires RSPA, upon application by a state agency, to waive the preemptive effect of the Federal regulations upon "inconsistent" state regulations. Because of the clear Congressional intent for agency involvement, RSPA has established an administrative procedure for determining whether, in the opinion of the agency, a state regulation is "inconsistent." Obviously, RSPA could establish such a precedure in the area of state regulation of pipeline safety on its own, but has so far believed it unnecessary. Furthermore, there is nothing to prevent a company from soliciting RSPA's opinion or to prevent RSPA, on its own motion, to proffer its opinion on a particular state requirement. In any case, the requirement of compatibility with Federal requirements is not as stringent a test as the consistency test of the Hazardous Materials Transportation Act.

Compliance With Notice and Comment Requirements

Neither Southern Pacific nor the Fire Marshal have argued that Appendix A required notice and comment. However, Southern Pacific indicates that "perhaps [Appendix A] should have been [subjected to notice and comment] because it is integral to an understanding of . . . the terms 'interstate pipeline' and 'intrastate pipeline'." RSPA disagrees that Appendix A is integral to an understanding of the definitions. Those definitions stand on their own and define the terms consistent with the statutory language. Distribution of the policy and interpretation enunciated in Appendix A could easily hae been limited to Federal and state field personnel to provide them with necessary guidance to prevent duplication of enforcement effort with only brief discussion in the rulemaking preambles. There were, in fact, discussions of jurisdiction under the HLPSA found in the preambles to the 1981 republication of regulations under the HLPSA (46 FR 38359) and the proposed rule (49 FR 11227). However,

RSPA believed that a more complete and public enunciation of its policy and interpretation would be more efficient and fairer to its state partners and the regulated industry. Because the policy of examining FERC tariffs was recognized by RSPA as imperfect, when it published Appendix A, RSPA solicited comments to be considered in possible future revisions of the appendix and that policy. None of the comments thus far received indicate a need to modify the policy prior to experience in implementing it.

In commenting on Southern Pacific's petition, the API argues that the addition of the words "or that part of a pipeline" to the definition of "interstate pipeline" constitutes a substantial change from the proposed definition. RSPA disagrees. In the preamble to the proposed rule, RSPA stated its intention of making the definitions as consistent as possible with those in the HLPSA. The HLPSA consistently uses the term "facilities" rather than "pipeline." RSPA regulations, however, have always used the term "pipeline" as denoting those facilities which actually carry hazardous liquid. Thus, defining "interstate pipeline facilities" as done in the HLPSA, rather than "interstate pipeline," would have been unwieldy in the context of Part 195. While the proposed wording for the definition of "interstate pipeline" was acceptable, RSPA felt that not adding the additional words "or that part of a pipeline" would have inadvertently changed the intent of §§ 195.1 (b)(2) and (b)(3). Those subsections exempt from regulation certain "pipelines" that create less safety risk because they are operated at lower pressures. Those exemptions, which predated the HLPSA and its terminology, have been read narrowly as exempting only those pipeline facilities where there is no risk of overpressuring from connected lines normally operated at higher pressures.

Action of Petitions

The petitions for reconsideration filed by the Southern Pacific and the Fire Marshal are hereby denied. Neither petitioner has requested and RSPA sees no need for any postponement of the effective date. Accordingly, the final rule issued April 19, 1985 will become effective on October 21, 1985 as originally scheduled. Appendix A remains as a statement of the agency's interpretation and a guide to its jurisdictional decisions.

Issued in Washington, D.C. on September 20, 1985.

M. Cynthia Douglass,

Acting Director, Materials Transportation Bureau.

[FR Doc. 85-22996 Filed 9-25-85; 8:45 am]

BILLING CODE 4910-60-M

UNITED STATES RAILWAY ASSOCIATION

49 CFR Parts 901, 903, 905, 921, 922, 931, 932, and 941

Nomenclature Changes and Miscellaneous Amendments

AGENCY: United States Railway Association.

ACTION: Final rule.

SUMMARY: The U.S. Railway Association is making nomenclature changes and deleting obsolete provisions to update the regulations in its chapter of the CFR.

EFFECTIVE DATE: September 30, 1985.

ADDRESS: United States Railway Association, 955 L'Enfant Plaza North SW., Washington, DC 20595.

FOR FURTHER INFORMATION CONTACT: Mr. Peter J. Gallagher, General Counsel—Corporate, United States Railway Association, 955 L'Enfant Plaza North SW., Washington, DC 20595, (202) 488-8777.

49 CFR Chapter IX is amended as follows:

1. Part 901 is revised to read as follows:

PART 901—ORGANIZATION, RULEMAKING, AND PUBLIC INFORMATION

Sec.

Authority: Regional Rail Reorganization Act of 1973 (Pub. L. 93-2336, 87 Stat. 985; Pub. L. 93-502, 88 Stat. 1561).

§ 901.1 Purpose.

This part describes the organization of the Association, and its procedures for providing public access to information.

§ 901.2 Status and organization of the Association.

(a) The U.S. Railway Association is an incorporated non-profit association established by the Regional Rail Reorganization Act of 1973 (Pub. L. 93-236; 87 Stat. 985; 45 U.S.C. 701, *et seq.*,). To the extent not inconsistent with that Act, it is subject to the District of Columbia Non-profit Corporation Act (D.C. Code 29-10001, *et seq.*) and its status is that of a government corporation of the District of Columbia.

(b) The Association is organized as follows:

(1) The Board of Directors directs and manages the affairs of the Association.

(2) The Chairman presides over the Board of Directors, and is the chief executive officer, he is assisted by the Secretary, who performs corporate secretary functions and provides direct staff support to the Chairman.

(3) The Executive Vice President is the chief operating officer.

(4) The General Counsel is the chief legal officer.

§ 901.3 Rulemaking procedures.

The Association is not subject to the rule-making procedural requirements of section 553 of title 5, U.S.C. The Association will, nevertheless, as it considers appropriate, publish notices of proposed rule-making in the **Federal Register**; invite and consider comments and requests for extension of time; and keep public dockets. It will also publish its procedural rules, substantive rules, general policies, and general interpretations in the **Federal Register**. When a notice of proposed rule-making is issued, the specific applicable procedures will be described in the notice.

§ 901.4 Public availability of information.

(a) Subject to appeal to the Executive Vice President as provided in this section, the Office of Public Affairs is responsible for administering this section.

(b) No such request for inspection or a copy of a document shall be denied except upon the written decision of the Vice President for Public and Governmental Affairs that:

(1) The request may properly be denied under the Freedom of Information Act; and

(2) Another law, private rights, or the public interest clearly requires the denial.

Each denial decision will set forth the reasons therefor and describes the appeal from that decision that is available to the requester.

(c) A decision denying access to a document may be appealed to the President by filing with his office a written notice of appeal, within 30 days after the date of the denial under paragraph (d) of this section, specifying the relevant facts and the basis for the appeal. If the President denies the appeal, the denial shall set forth the reasons therefor and describe the rights

of judicial appeal available to the requester.

(d) Requested documents shall be made available, or a written decision denying the request furnished, within 10 working days after the date the request is received. An appeal to the President shall be decided within 20 working days after the date the notice of appeal is filed. The time may be extended in unusual cases but for not more than a total of 10 working days. Saturdays, Sundays and Federal Holidays are not considered to be working days.

(e) The fee for photocopies of documents ordered from the Association shall be $0.25 for the first page and $.05 for each additional page for each document. The fee for copies of material requiring other methods of reproduction is the cost of reproduction and handling. The fee for routine searches for documents is $2. The fee for searches requiring longer than 30 minutes and for other non-routine services is the actual cost. Fees are payable only in cash or by check or money order payable to the U.S. Railway Association. Fees may be waived or reduced at the discretion of the Office of Public Affairs, if it considers it to be in the public interest because furnishing the information will benefit the general public.

2. The Authority citation for Part 903 continues to read as follows:

Authority: Subsec. (g), Government in the Sunshine Act (5 U.S.C. 552b(g); subsec. 202(a)(4), Regional Rail Reorganizaion Act of 1973, as amended (45 U.S.C. 712(a)(4)).

PART 903—[AMENDED]

3. Section 903.11 is revised to read as follows:

§ 903.11 Providing information to the public.

(a) Information available to the public in accordance with this part will be posted in the Office of Public Affairs, Suite 7200, 955 L'Enfant Plaza North, SW., Washington, DC 20595. Such information may also be made available through a list maintained for members of the public desiring to receive such information.

(b) A person or organization may obtain copies of information from the Office of Public Affairs, Suite 7200, 955 L'Enfant Plaza North SW., Washington, DC 20595.

§ 903.16 [Amended]

4. Section 903.16(c) is amended by revising "Room 2212, 2100 2nd Street, SW.," to read "Suite 7200 955 L'Enfant Plaza North SW.

PART 932—[AMENDED]

5. The Authority citation for Part 932 continues to read as follows:

Authority: Pub. L. 93-579; 88 Stat. 1896; 5 U.S.C. 552a.

§ 932.5 [Amended]

6. Section 932.5 is amended by revising the address to read as follows: "U.S. Railway Association, Suite 7200, 955 L'Enfant Plaza North, SW, Washington, DC 20595."

§ 932.10 [Amended]

7. Section 932.10 is amended by revising "USRA Privacy Act Coordinator, Vice President of Administration, 2100 Second Street," to read, "U.S. Railway Association Suite 7200, 955 L'Enfant Plaza North, SW; Washington, DC 20595."

PART 905, 921, 922, 931 AND 941—[REMOVED]

8. Parts 905, 921, 922, 931 and 941 are removed.

Dated: September 20, 1985.

Peter J. Gallagher,

Secretary to the Board of Directors.

[FR Doc. 85-23081 Filed 9-25-85; 8:45 am]

BILLING CODE 0000-00-M

Proposed Rules

Federal Register
Vol. 50, No. 187
Thursday, September 26, 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

Agricultural Marketing Service

7 CFR Parts 1106 and 1102

[Docket Nos. AO-210-A45 and AO-237-A34]

Milk in the Southwest Plains and Fort Smith, Arkansas, Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider proposals by Mid-America Dairymen, Inc. (Mid-Am). The major proposals would expand the Southwest Plains marketing area to include 19 counties in southwest Missouri and 11 counties in northwest Arkansas and terminate the Fort Smith, Arkansas, order. The Arkansas territory includes portions of three counties that comprise the Fort Smith, Arkansas, marketing area. Thus, the proposals would effectuate a merger of marketing areas under one order as well as an expansion of the Southwest Plains marketing area to currently unregulated territory.

Mid-Am has proposed that the expanded area be included in three pricing zones that would maintain price levels currently existing in such areas under the Southwest Plains order. Mid-Am has also proposed a lowering of the delivery standards for regulating plants operated by cooperative associations. Except for these proposed amendments, the current Southwest Plains order provisions would apply to the merged and expanded marketing area. Mid-Am contends that its proposed changes are necessary to reflect changes in marketing conditions as a result of structural changes that occurred because of the termination of the adjacent St. Louis-Ozarks order.

DATE: The hearing will convene at 9:30 a.m., local time, on November 6, 1985.

ADDRESS: The hearing will be held at the Tulsa Marriott, 10918 East 41st Street, Tulsa, Oklahoma 74146.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Tulsa Marriott, 10918 East 41st Street, Tulsa, Oklahoma 74146, beginning at 9:30 a.m., local time, on November 6, 1985, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Southwest Plains and Fort Smith, Arkansas, marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions in each of the aforesaid specified marketing areas which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposal relative to the redefinition of the Southwest Plains marketing area, by a combination of the current marketing areas of the Southwest Plains and Fort Smith, Arkansas, orders and expansion to include additional territory, raises the issue of whether the provisions of the present Southwest Plains order, as well as proposed amendments to such order, would tend to effectuate the declared policy of the Act if applied to the proposed merged and expanded marketing area and, if not, what modifications of such provisions of the Southwest Plains order would be appropriate. The issue of consolidation of the marketing areas also raises the issue of the appropriate disposition of the producer-settlement fund, marketing service funds and administrative funds accumulated under the Southwest Plains and Fort Smith, Arkansas, orders.

Actions under the Federal Milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Parts 1106 and 1102

Milk marketing orders, Milk, Dairy products.

The authority citation for parts 1106 and 1102 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Mid-America Dairymen, Inc.

Proposal No. 1

Revise § 1106.2 by adding the following:

§ 1106.2 Southwest Plains marketing area.

* * * * *

Zone VII—In the State of Missouri

Barry	McDonald
Cedar	Ozark
Christian	Polk
Dade	Pulaski
Dallas	Stone
Douglas	Taney
Greene	Texas
Howell	Webster
Laclede	Wright
Lawrence	

Zone VIII—In the State Arkansas

Benton	Madison
Boone	Marion
Carroll	Washington

Zone IX—In the State of Arkansas

Crawford	Scott
Franklin	Sebastian
Logan	

Proposal No. 2

Revise § 1106.7(c) to read as follows:

§ 1106.7 Pool plant.

* * * * *

(c) Any plant located in the marketing area or in a county adjacent to the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested by the cooperative association and 45 percent or more of the producer milk of members of the cooperative association (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received during the month or the 12-month period immediately preceding the current month, in the form of bulk fluid milk products at plants specified in paragraph (a) of this section either directly from farms or by transfer from supply plants operated by the cooperative association and from plants of the cooperative association for which pool plant status has been requested under this paragraph subject to the following conditions:

* * * * *

Proposal No. 3

In § 1106.52 revise the table of location adjustments in (a)(1) by adding the following and revise (a)(3)(iii) and (a)(8) to read as follows:

§ 1106.52 Plant location adjustments for handlers.

(a) * * *

(1) * * *

	Adjustment per hundredweight (cents)
Zone VII	Minus 38.
Zone VIII	Minus 21.
Zone IX	Minus 3.

(2) * * *

(3) * * *

(iii) *Minus 38 cents.* Butler, Carter, Crawford, Dent, Dunklin, Franklin, Gasconade, Iron, Jefferson, Madison, Maries, Mississippi, New Madrid, Oregon, Pemiscot, Phelps, Reynolds, Ripley, St. Charles, St. Louis, City of St. Louis, Scott, Shannon, Stoddard, Warren, Washington, and Wayne.

(4) * * *

(5) * * *

(6) * * *

(7) * * *

(8) For a plant located in any of the following Arkansas counties the adjustment shall be as follows:

(i) *Plus 25 cents.* Little River and Miller.

(ii) *No adjustment.* Any Arkansas county that is not in the marketing area or specified in paragraph (a)(8)(i) of this section.

* * * * *

Proposal No. 4

Terminate the Fort Smith, Arkansas, order (7 CFR Part 1102).

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 5

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be obtained from the Market Administrator, Richard E. Arnold, P.O. Box 470563, Tulsa, Oklahoma 74147, or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture

Office of the Administrator, Agricultural Marketing Service

Office of the General Counsel

Dairy Division, Agricultural Marketing Service (Washington Office Only)

Office of the Market Administrator, Southwest Plains and Fort Smith, Arkansas, Marketing Areas.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on: September 20, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-23027 Filed 9-25-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-233-81]

Income Tax; Election To Expense Certain Depreciable Business Assets

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the election to expense certain depreciable business assets. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981, the Subchapter S Revision Act of 1982, the Technical Corrections Act of 1982, and the Tax Reform Act of 1984 (Division A of the Deficit Reduction Act of 1984). The regulations would provide the public with the guidance needed when making an election to expense certain depreciable business assets.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 25, 1985. Generally, the amendments are proposed to be effective for property placed in service after December 31, 1980, in taxable years ending after such date. The amendments made by the Subchapter S Revision Act of 1982 are proposed to be effective for taxable years beginning after December 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-233-81), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: John Broadbent of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington DC 20224, Attention: CC:LR:T, (202) 566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 179, 263, 1033, and 1245 of the Internal Revenue Code of 1954 (Code). These amendments are proposed to

reflect the amendments made by sections 202(a) and 209 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 219, 226), section 3(f) of the Subchapter S Revision Act of 1982 (Pub. L. 97-354, 96 Stat. 1689), section 102(aa) of the Technical Corrections Act of 1982 (Pub. L. 97-448, 96 Stat. 2369), and section 13 of the Tax Reform Act of 1984 (Pub. L. 98-369, 98 Stat. 505) and are to be issued under the authority of Code sections 179 (c), (d)(10) and 7805 (95 Stat. 219, 96 Stat. 2369, 68A Stat. 917; 26 U.S.C. 179(c), 179(d)(10), 7805).

In General

Section 179, as amended by the Economic Recovery Tax Act of 1981, provides taxpayers (other than trusts, estates, and certain noncorporate lessors) with the opportunity to elect to expense the cost or portion of the cost of certain depreciable business assets rather than capitalizing the entire cost. A section 179 expense election may be made for the taxable year in which the section 179 property is placed in service. The terms "section 179 property" and "placed in service" are defined in proposed §§ 1.179-3 (a) and (f).

Dollar Limitation

Proposed § 1.179-2(a) provides rules relating to the maximum amount a taxpayer may elect to expense. Proposed § 1.179-1(c) allows a taxpayer to claim the maximum amount allowed by § 1.179-2(a) for any taxable year, without proration based on the period of time the section 179 property has been in service during the taxable year. Proposed § 1.179-2(e)(2) provides rules for where spouses file separate returns and then subsequently file a joint return. Under proposed § 1.179-2(f), the maximum amount a married taxpayer filing a separate return may elect to expense is 50 percent of the amount determined under proposed § 1.179-2(a).

Controlled Groups

Rules for allocating the dollar limitation among component members of a controlled group of corporations are set forth in proposed § 1.179-2(b). Component members are treated as one taxpayer in applying the dollar limitation. The dollar amount may be allocated to the members of the group by the common parent corporation if a consolidated return is filed; if separate returns are filed, the amount is to be allocated in accordance with an agreement made by the members. The definition of the term "controlled group of corporations" in section 1563(a) applies for purposes of section 179 by substituting "more than 50 percent" for the phrase "at least 80 percent" wherever it appears in section 1563(a)(1).

Partnership and S Corporations

Proposed § 1.179-2(c) provides that the dollar limitation of section 179(b) applies to both the partnership and each individual partner. Under proposed § 1.179-2(c)(2), a partner's share of the partnership's section 179 expense is to be determined in accordance with section 704 and the regulations thereunder. Proposed § 1.179-2(d) provides that similar rules apply to S corporations and their shareholders.

Adjustments to Basis

Proposed §§ 1.179-1 (f) and (g) provide that if a taxpayer elects section 179, the taxpayer must adjust the basis of the section 179 property prior to computing the deduction under section 168 or the investment credit under section 38. However, no such basis reduction is made for a section 179 expense deduction that is allocable by a partnership or S corporation to a partner or shareholder that is a trust or estate.

Changes in use; recaputre

Section 179(d)(10) provides for recapture of any tax benefits derived from expensing under section 179 where, at any time prior to the close of the second taxable year following the taxable year in which the property is placed in service (recapture period), the property is not used predominantly in the taxpayer's trade or business. Proposed § 1.179-1(e)(1) provides that the amount recaptured is equal to the excess of the amount expensed under section 179 over the total amount that would have been allowable for prior taxable years and the taxable year of recapture as a deduction under section 168 (had section 179 not been elected) for the portion of the cost of the property to which the expensing relates. The amount recaptured shall be treated as ordinary income for the taxable year in which the property is no longer used predominantly in the taxpayer's trade or business. Proposed § 1.179-1(e)(2) provides that property will be treated as not predominantly used in the taxpayer's trade or business if 50 percent or more of the use of such property during any taxable year within the recapture period is for a use other than in the taxpayer's trade or business. In addition, if, during any taxable year of the recapture period, the taxpayer disposes of the property (other than in a disposition to which section 1245(a) applies) or ceases to use the property in a trade or business in a manner that had the taxpayer claimed a credit under section 38 for such property such disposition or cessation in use would cause recapture under section 47, the property will be treated as not used predominantly in a trade or business of the taxpayer. However, for purposes of applying the recapture rules of section 47 pursuant to the preceding sentence, converting the use of the property from use in a trade or business to use in the production of income will be treated as a conversion to personal use.

Section 280F

Section 280F places limitations on the amount that may be expensed with respect to certain items of section 179 property. In addition, proposed § 1.179-1(e)(1) provides that if the recapture rules of both section 280F(b)(3) and § 1.179-1(e)(1) apply to an item of section 179 property, the amount of recapture shall be determined only under the rules of section 280F(b)(3) with respect to such property.

Election

Proposed § 1.179-4(a) provides rules relating to the time and manner of making a section 179 election. In addition, the regulations provide that the amount of the expense elected and the properties chosen must be specified on the taxpayer's tax return. Proposed § 1.179-4(b) provides rules relating to the revocation of the election under section 179 and to the changing of property selected for the section 179 expense.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of a proposed rulemaking that solicits pubic comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written

request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Office for Internal Revenue Service, New Executive Office Building, Washington, DC 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed regulations is Neil W. Zyskind of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions.

26 CFR 1.1001–1—1.1102–3

Income taxes, Gain and loss, Basis, Nontaxable exchanges.

26 CFR 1.1201–1.1252–2

Income taxes, Capital gains and losses, Recapture.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 continues to read in part:

Authority: 26 U.S.C. 7805. * * * Section 1.179–1 also issued under 26 U.S.C. 179(d). Section 1.179–4 also issued under 26 U.S.C. 179(c). * * *

Par. 2. Sections 1.179–1 through 1.179–4 are revised to read as set forth below.

§ 1.179–1 Election to expense certain depreciable assets.

(a) *In general.* Section 179 allows a taxpayer to elect to expense the cost (as defined in § 1.179–3(e)), or portion of the cost, of section 179 property (as defined in § 1.179–3(a)) for the taxable year in which the property is placed in service (as defined in § 1.179–3(f)). The election is not available for trusts, estates, and certain noncorporate lessors. See paragraph (i)(2) of this section relating to noncorporate lessors.

(b) *Amount subject to expense.* The expense deduction under section 179 is allowed for the entire cost or a portion of the cost of one item of section 179 property, or the entire cost or a portion of the cost of several items of section 179 property, subject to the dollar limitation of section 179(b) and § 1.179–2. The properties and apportionment of cost to be subject to the election shall be selected by the taxpayer.

(c) *Proration not required.* The expense deduction under section 179 is determined without any proration based on the period of time the section 179 property has been in service during the taxable year. For example, a taxpayer, a corporation which files its income tax returns on the calendar year basis, purchases and places in service on December 1, 1983, section 179 property costing $10,000. The corporation may elect to claim a section 179 expense deduction for the taxable year ending December 31, 1983, for the cost of the property (up to the $5,000 limitation imposed under section 179(b)(1)) without proration for the number of days in 1983 during which the property was in service.

(d) *Partial business use.* If a taxpayer uses section 179 property for both trade or business and non-trade or business purposes, the portion of the cost of the property attributable to the trade or business use is eligible for expensing under section 179, provided that more than 50 percent of the property's use in the taxable year the property is placed in service is for trade or business purposes. The dollar limitation of section 179(b) is then applied to the portion of the cost attributable to the trade or business use. For example, a taxpayer in 1983 purchases section 179 property costing $10,000 for whch 80 percent of its use will be in the taxpayer's trade or business. The cost of the property, adjusted to reflect the business use of the property, is $8,000 (80 percent × $10,000). Thus, the taxpayer could elect to expense up to $5,000 of the cost of the property (see section 179(b)). However, for property placed in service after June 18, 1984, in taxable years ending after such date, see section 280F(d)(1) relating to the coordination of section 179 with the limitation on the amount of depreciation and investment tax credit for luxury automobiles and where certain property is used for personal purposes. Futhermore, see paragraphs (e)(1) through (3) of this section relating to recapture where the property is no longer predominantly used in the taxpayer's trade or business.

(e) *Change in use; recapture*—(1) *In general.* If a taxpayer's section 179 property is not used predominantly in a trade or business of the taxpayer at any time before the close of the second taxable year following the taxable year in which the property is placed in service by the taxpayer (recapture period), the taxpayer must recapture in the taxable year in which the section 179 property is not used predominantly in a trade or business any benefit derived from expensing such property. The benefit derived from expensing the property is equal to the excess of the amount expensed under this section over the total amount that would have been allowable for prior taxable years and the taxable year of recapture as a deduction under section 168 (had section 179 not been elected) for the portion of the cost of the property to which the expensing relates (regardless of whether such excess reduced the taxapayer's tax liability). For purposes of the preceding sentence, in the case of an individual who does not elect to itemize deductions under section 63(g) in the taxable year of recapture, the amount allowable as a deduction under section 168 in the taxable year of recapture shall be determined by treating property used in the production of income other than rents or royalties as being property used for personal purposes. The amount to be recaptured shall be treated as ordinary income for the taxable year in which the property is no longer used predominantly in a trade or business of the taxpayer. For taxable years following the year of recapture, the taxpayer's deductions under sectiom 168(a) shall be determined as if no section 179 election with respect to the property had been made. However, for property placed in service after June 18, 1984, in taxable years ending after such date, see section 280F(d)(1) relating to the coordination of section 179 with the limitation on the amount of depreciation and investment tax credit for luxury automobiles and where certain property is used for personal purposes. If the recapture rules of both section 280F(b)(3) and this paragraph (e)(1) apply to an item of section 179 property, the amount of recapture shall be determined only under the rules of section 280F(b)(3) with respect to such property.

(2) *Predominant use.* Property will be treated as not used predominantly in a

trade or business of the taxpayer if 50 percent or more of the use of such property during any taxable year within the recapture period is for a use other than in a trade or business of the taxpayer. If during any taxable year of the recapture period the taxpayer disposes of the property (other than in a disposition to which section 1245(a) applies) or ceases to use the property in a trade or business in a manner that had the taxpayer claimed a credit under section 38 for such property such disposition or cessation in use would cause recapture under section 47, the property will be treated as not used in a trade or business of the taxpayer. However, for purposes of applying the recapture rules of section 47 pursuant to the preceding sentence, converting the use of the property from use in a trade or business to use in the property from use in a trade or business to use in the production of income will be treated as a conversion to personal use.

(3) *Basis; application with section 1245.* The basis of property with respect to which there is recapture under paragraph (e)(1) of this section shall be increased immediately before the event resulting in such recapture by the amount recaptured. If section 1245(a) applies to a disposition of property, there is no recapture under paragraph (e)(1) of this section.

(4) *Examples.* Paragraphs (e) (1) through (3) of this section are illustrated by the following examples:

Example (1). A, an individual who is a calendar year taxpayer, purchases and places in service on January 1, 1983, section 179 property, which is also 3-year recovery property under section 168, costing $10,000. A elects to expense $5,000 of the cost (see section 179(b)(1)) and makes no election under section 168(b)(3). On January 1, 1984, A converts the property from use in A's business to use for the production of income, and A uses the property in the latter capacity for the entire year. A elects to itemize deductions for 1984. Since the property was not predominantly used in a trade or business of A in 1984, which was the first taxable year following the taxable year the property was placed in service, A must recapture any benefit derived from expensing the property under section 179. Had A not elected to expense the $5,000 in 1983, A would have been entitled to deduct, under section 168 (a) and (b), 25 percent of the $5,000 in 1983, and 38 percent of the $5,000 in 1984. Therefore, A must include in ordinary income for the 1984 taxable year, the excess of $5,000 (the section 179 expense amount) over $3,150 (63 percent of $5,000), or $1,850. For purposes of computing the deduction under section 168 in 1985, the unadjusted basis of the property would be increased by $5,000.

Example (2). Assume the facts are the same as in example (1), except that during 1984 A uses the property 40 percent for trade or business purposes and 60 percent for personal use. Had A not elected to expense the $5,000 in 1983, A would have been entitled to deduct, under section 168(a), 25 percent of the $5,000 in 1983 and 15.2 percent (40 percent of 38 percent) of the $5,000 in 1984. See section 168(d)(1) and the regulations thereunder. Therefore, A must include in ordinary income for the 1984 taxable year the excess of $5,000 over $2,010 (40.2 percent of $5,000), or $2,990. If A uses the property solely in A's trade or business during 1985, A may deduct 37 percent of $5,000 in 1985 under section 168 (a).

(f) *Basis*—(1) *In general.* A taxpayer who elects to expense under section 179 must reduce the unadjusted basis of the section 179 property by the amount of the section 179 expense deduction. See section 168(d)(1) and the regulations thereunder.

(2) *Special rules for partnerships and S corporations.* Generally, the basis of a partnership or S corporation's section 179 property must be reduced to reflect the amount of section 179 expense elected by the partnership or S corporation. However, since a partner or shareholder that is a trust or estate may not deduct its allocable share of the section 179 expense elected by the partnership or S corporation, a partnership or S corporation's basis in section 179 property shall not be reduced to reflect any portion of the section 179 expense that is allocable to the trust or estate.

(g) *Disallowance of the section 38 credit.* If a taxpayer elects to expense under section 179, no section 38 credit is allowable for the portion of the cost expensed. In addition, no section 38 credit shall be allowed under section 48(d) to a lessee of property for the portion of the cost of the property that the lessor expensed under section 179.

(h) *Partnerships and S corporations.* In the case of property purchased and placed in service by a partnerhsip or S corporation, the determination of whether the property is section 179 property is to be made at the partnership or S corporation level, and the election to expense the cost of section 179 property is made by the partnership or S corporation. See sections 703(b), 1363(c), 6221, 6231(a)(3), 6241, and 6245. This paragraph (h) is illustrated by the following example:

Example. A is an individual taxpayer who owns certain residential property as an investment. A, and others, form ABC partnership whose function is to rent and manage such property. A and ABC partnership file their income tax returns on a calendar year basis. In 1984, ABC partnership purchases and places in service section 179 property. Assuming ABC partnership satisfies the section 179 election requirements and chooses to make an election for the property purchased, A will be entitled, subject to the limitation contained in section 179(b), to deduct A's share of the expense allocated to A by the partnership. Although such property was only for the production of income with respect to A, the property was being used in ABC's trade or business. Therefore, since the determination of whether property is section 179 property is made at the partnership level, the property was properly expensed.

(i) *Leasing of section 179 property*—(1) *In general.* A lessor of section 179 property who is treated as the owner of the property for Federal tax purposes will be entitled to the section 179 expense deduction if the requirements of section 179 and the regulations thereunder are met. These requirements will not be met if the lessor merely holds the property for the production of income. For certain leases entered into prior to January 1, 1984, the safe harbor provisions of section 168(f)(8) apply in determining whether an agreement is treated as a lease for Federal tax purposes.

(2) *Noncorporate lessor.* In determining the class of taxpayers (other than an estate or trust) for which section 179 is applicable, section 179(d)(5) provides that if a taxpayer is a noncorporate lessor (as described in section 46(e)(3)) the taxpayer shall not be entitled to claim a section 179 expense for property purchased by the taxpayer unless a credit under section 38 is allowable to the taxpayer for such property (determined without regard to section 179). Thus, for example, if a taxpayer, a noncorporate lessor, purchases section 179 property and leases it and the taxpayer would be entitled to a section 38 credit for the property, by having satisfied all the requirements of subparagraph (A) or (B) of section 46(e)(3) and the regulations thereunder, the taxpayer is not precluded by section 179(d)(5) from electing to claim a section 179 expense for such property.

(j) *Cross references.* See section 453(i) and the regulations thereunder with respect to installment sales of section 179 property. See section 263(a)(1)(H) and the regulations thereunder with respect to capitalizing section 179 property. See section 1033(g)(3) and the regulations thereunder relating to condemnation of outdoor advertising displays. See section 1245(a) and the regulations thereunder with respect to recapture rules for section 179 property.

§ 1.179–2 Dollar limitation.

(a) *Maximum amount subject to election.* Section 179 (b) limits the aggregate cost of section 179 property that a taxpayer may elect to expense under section 179 for any one taxable

year. For a taxable year beginning in 1982, 1983, 1984, 1985, 1986, or 1987, the dollar limitation on the amount that can be expensed is $5,000; for a taxable year beginning in 1988 or 1989, $7,500; and for a taxable year beginning after 1989, $10,000. The dollar limitation of section 179 (b) applies to each taxpayer and not to each trade or business in which the taxpayer has an interest. However, for property placed in service after June 18, 1984, in taxable years ending after such date, see sections 280 F (a) and (d)(1) relating to the coordination of section 179 with the limitation on the amount of investment tax credit and depreciation for luxury automobiles. See paragraphs (b) through (f) of this section for special rules on applying the dollar limitation of section 179(b) with respect to controlled groups of corporations, partnerships, S corporations, and married individuals.

(b) *Component members of a controlled group*—(1) *In general.* Component members of a controlled group (as defined in paragaraph (g) of § 1.179–3) on a December 31 shall be treated as one taxpayer in applying the dollar limitation of section 179(b) and paragraph (a) of this section. The expense deduction under section 179 may be taken by any one such member or allocated (for the taxable year of each such member which includes such December 31) among the several members in any manner, pursuant to an allocation by the common parent corporation if a consolidated return is filed for all component members of the group, or in accordance with an agreement entered into by the members of the group if separate returns are filed. If a consolidated return is filed by some component members of the group and separate returns are filed by other component members, then the common parent of the group filing the consolidated return shall enter into an agreement with those members who do not join in filing the consolidated return allocating the amount between the group filing the consolidated return and the other component members of the controlled group who do not join in filing the consolidated return. The amount of the expense allocated to any component member, however, shall not exceed the cost of the section 179 property actually purchased by the member and placed in service by the member in the taxable year. If component members have different taxable years, the term "taxable year" in section 179(b)(1) shall mean the taxable year of the member whose taxable year begins on the earliest date.

(2) *Statement to be filed.* If a consolidated return is filed, the common parent corporation shall file a separate statement attached to the income tax return in which an election is made to claim an expense deduction under section 179. See § 1.179–4. If separate returns are filed by some or all component members of the group, each component member not included in a consolidated return to which is allocated any part of the deduction under section 179 shall file a separate statement attached to the income tax return in which an election is made to claim an expense deduction. Such statement shall include the name, address, employer identification number, and the taxable year of each component member of the controlled group, a copy of the allocation agreement signed by persons duly authorized to act on behalf of the component members, and a description of the manner in which the deduction under section 179 has been divided among them.

(3) *Revocation.* If a consolidated return is filed for all component members of the group, an allocation among such members of the expense deduction under section 179 shall not be revoked after the due date of the return (including extensions of time) of the common parent corporation for the taxable year for which an election to take an expense deduction is made. If some or all of the component members of the controlled group file separate returns for taxable years including a particular December 31 for which an election to take the expense deduction is made, the allocation as to all members of the group shall not be revoked after the due date of the return (including extensions of time) of the component member of the controlled group whose taxable year which includes such December 31 ends on the latest date.

(c) *Partnership*—(1) *In general.* The dollar limitation of section 179(b) and paragraph (a) of this section applies to the partnership as well as to each partner. Thus, neither a partnership nor a partner may deduct as a section 179 expense more than the amount provided for in section 179(b) and paragraph (a) of this section in any taxable year. In the case of a partner who is a member of two or more partnerships that elect section 179, the partner's aggregate share of the partnership section 179 expense may not exceed the dollar limitation of section 179(b). In the case of a member of a partnership that elects under section 179 who also has separately acquired section 179 property, the aggregate amount of the member's partnership and non-partnership section 179 expense may not exceed the dollar limitation of section 179(b).

(2) *Partner's share of section 179 expense.* Section 704 and the regulations thereunder shall govern the determination of a partner's share of a partnership's section 179 expense for any taxable year. However, no allocation among partners of the section 179 expense shall be modified after the due date of the partnership return (without regard to extensions of time) for the year for which the election under section 179 is made.

(3) *Taxable year.* If the taxable years of a partner and the partnership do not coincide, then for purposes of section 179, the amount of a partnership's section 179 expense attributable to a partner is determined in accordance with the provisions of section 706 and the regulations thereunder. For example, partnership AB has a taxable year ending January 31. Taxpayer A, a member of the AB partnership, has a taxable year ending November 30. On March 10, 1984, the AB partnership purchases and places in service section 179 property. Under the provisions of section 706(a) and § 1.706–1(a)(1), taxpayer A will be unable to claim any section 179 expense until A's taxable year ending November 30, 1985.

(d) *S Corporations.* For taxable years beginning after December 31, 1982, rules similar to those contained in paragraphs (c) (1) through (3) of this section shall apply in the case of S corporations (as defined in section 1361(a)) and their shareholders. Each shareholder's share of the section 179 expense of an S corporation shall be determined under section 1366.

(e) *Joint returns*—(1) *In general.* A husband and wife who file a joint income tax return under section 6013 (a) shall be treated as one taxpayer in applying the dollar limitation of section 179 (b)(1) and paragraph (a) of this section, regardless of which spouse purchased the property.

(2) *Joint returns filed after separate returns.* In the case of a husband and wife who elect under section 6013(b) to file a joint income tax return for a taxable year after the time prescribed by law for filing the return for such taxable year has expired, the dollar limitation under section 179 shall be the full dollar amount permitted by section 179(b)(1) provided the amount of one or both of the spouses' section 179 expense elections on their separate returns was limited as a result of the dollar limitation of section 179(b)(2) and paragraph (f) of this section. However, where neither of the spouses' section 179 expense elections on their separate

returns was limited by the section 179(b)(2) dollar limitation, then the maximum dollar amount permitted on the joint return is the aggregate dollar amount the spouses elected on their separate returns. For example, H and W, who are calendar year taxpayers, purchase and place in service in 1983 section 179 property costing $10,000. H and W file separate income tax returns for the 1983 taxable year. H elects to claim $2,000 as an expense and W elects to expense $2,000. After the due date of the return H and W elect under section 6013(b) to file a joint income tax return for 1983. H and W may only elect to expense $4,000 on their joint income tax return.

(f) *Married individuals filing separately.* In the case of an individual who is married but files a separate tax return, the maximum amount of section 179 property which the taxpayer may elect to expense is 50 percent of the amount otherwise determined under section 179(b)(1) and paragraph (a) of this section. For this purpose, marital status shall be determined under section 143 and the regulations thereunder. For example, H and W are calendar year taxpayers. In 1983, H and W purchased and placed in service section 179 property costing $10,000. For the 1983 taxable year, H and W are living apart within the meaning of section 143(b) and therefore are not considered married. H and W are each entitled to claim a section 179 expense of up to $5,000.

§ 1.179–3 Definitions.

The following definitions apply for purposes of section 179 and §§ 1.179–1 through 1.179–5:

(a) *Section 179 property.* The term "section 179 property" means any recovery property which is section 38 property and which is acquired by purchase for use in the taxpayer's trade or business. For this purpose, the term "trade or business" has the same meaning as in section 162 and the regulations thereunder. For definitions of the terms "recovery property," "section 38 property," and "purchase," see paragraphs (b), (c), and (d) of this section.

(b) *Recovery property.* The term "recovery property" shall have the same meaning assigned to it in section 168 (c)(1)(A) and the regulations thereunder.

(c) *Section 38 property.* The term "section 38 property" shall have the same meaning assigned to it in section 48(a) and the regulations thereunder.

(d) *Purchase.* (1)(i) Except as otherwise provided in paragraph (d)(2) of this section, the term "purchase" means any acquisition of the property, but only if all the requirements of paragraphs (d)(1) (ii), (iii), and (iv) of this section are satisfied.

(ii) Property is not acquired by purchase if it is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b). The property is considered not acquired by purchase only to the extent that losses would be disallowed under section 267 or 707(b). Thus, for example, if property is purchased by a husband and wife jointly from the husband's father, the property will be treated as not acquired by purchase only to the extent of the husband's interest in the property. However, in applying the rules of section 267(b) and (c) for this purpose, section 267(c)(4) shall be treated as providing that the family of an individual will include only his spouse, ancestors, and lineal descendants. For example, a purchase of property from a corporation by a taxpayer who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of such corporation does not qualify as a purchase under section 179(d)(2); nor does the purchase of property by a husband from his wife. However, the purchase of section 179 property by a taxpayer from his brother or sister does qualify as a purchase for purposes of section 179(d)(2).

(iii) The property is not acquired by purchase if acquired from a component member of a controlled group of corporations (as defined in paragraph (g) of this section) by another component member of the same group.

(iv) The property is not acquired by purchase if the basis of the property in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or is determined under section 1014(a), relating to property acquired from a decedent. For example, property acquired by gift or bequest does not qualify as property acquired by purchase for purposes of section 179(d)(2); nor does property received in a corporate distribution the basis of which is determined under section 301(d)(2)(B), property acquired by a corporation in a transaction to which section 351 applies, property acquired by a partnership through contribution (section 723), or property received in a partnership distribution which has a carryover basis under section 732(a)(1).

(2) Property deemed to have been acquired by a new target corporation as a result of a section 338 election (relating to certain stock purchases treated as asset acquisitions) will be considered acquired by purchase.

(e) *Cost.* The cost of section 179 property does not include so much of the basis of such property as is determined by reference to the basis of other property held at any time by the taxpayer. For example, X Corporation purchases a new drill press costing $10,000 in November 1984 which qualifies as section 179 property, and is granted a trade-in allowance of $2,000 on its ol drill press. The old drill press had a basis of $1,200. Under the provisions of sections 1012 and 1031(d), the basis of the new drill press is $9,200 ($1,200 basis of oil drill press plus cash expended of $8,000). However, only $8,000 of the basis of the new drill press qualifies as cost for purposes of the section 179 expense deduction; the remaining $1,200 is not part of the cost because it is determined by reference to the basis of the old drill press.

(f) *Placed in service.* The term "placed in service" means the time that property is first placed by the taxpayer in a condition or state of readiness and availability for a specifically assigned function, whether for use in a trade or business, for the production of income, in a tax-exempt activity, or in a personal activity. See § 1.46–3(d)(2) for examples regarding when property shall be considered in a condition or state of readiness and availability for a specifically assigned function.

(g) *Controlled group of corporations and component member of controlled group.* The terms "controlled group of corporations" and "component member" of a controlled group of corporations shall have the same meaning assigned to those terms in section 1563 (a) and (b), except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in section 1563(a)(1).

§ 1.179–4 Time and manner of making election.

(a) *Election.* A separate election must be made for each taxable year in which a section 179 expense deduction is claimed with respect to section 179 property. The election under section 179 and § 1.179–1 to claim a section 179 expense deduction for section 179 property shall be made on the taxpayer's income tax return for the taxable year to which the election applies. If the taxpayer does not file a timely return (taking into account extensions of time for filing) for such taxable year, the election shall be made at the time the taxpayer files the first return for such year. The election may be made on a return, as amended, filed within the time prescribed by law (including extensions) for filing the

return for such taxable year. The election shall be made by showing as a separate item on the taxpayer's income tax return the following items:

(1) The total section 179 expense deduction claimed with respect to all section 179 property selected; and

(2) The portion of that deduction allocable to each specific item.

The person shall maintain records which permit specific identification of each piece of section 179 property and reflect how and from whom such property was acquired and when such property was placed in service. The election to claim a section 179 expense deduction under this section, with respect to any property, is irrevocable and will be binding on the taxpayer with respect to such property for the taxable year for which the election is made and for all subsequent taxable years, unless the Commissioner consents to the revocation of the election. Similarly, the selection of section 179 property by the taxpayer to be subject to the expense deduction and apportionment scheme must be adhered to in computing the taxpayer's taxable income for the taxable year for which the election is made and for all subsequent taxable years, unless consent to change is given by the Commissioner.

(b) *Revocation.* Any election made under section 179, and any specification contained in such election, may not be revoked except with the consent of the Commissioner. Such consent will be granted only in extraordinary circumstances. Requests for consent must be filed with the Commissioner of Internal Revenue, Washington D.C., 20224. The request must include the name, address, and taxpayer identification number of the taxpayer and must be signed by the taxpayer or his duly authorized representative. it must be accompanied by a statement showing the year and property involved, and must set forth in detail the reasons for the request.

Par. 3. A new § 1.179–5 is added immediately following § 1.179–4 to read as set forth below.

§ 1.179–5 Effective date.

In general, the provisions of §§ 1.179–1 through 1.179–4 apply to property placed in service after December 31, 1980, in taxable years ending after such date. However, § 1.179–2 (d), relating to the application of the dollar limitation rules with respect to S corporations, shall be effective for taxable years beginning after December 31, 1982.

Par. 4. Section 1.263(a)–1 is amended by redesignating paragraphs (c) (4) and (5) as (c) (5) and (6) respectively, and adding a new paragraph (c)(4) before redesignated paragraph (c)(5) to read as set forth below.

§ 1.263(a)–1 Capital expenditures; in general.

* * * * *

(c) * * *

(4) Section 179 and §§ 1.179–1 through 1.179–5, relating to election to expense certain depreciable business assets.

* * * * *

Par. 5. Section 1.263(a)–3 is amended by redesignating paragraphs (b) (5), (6), (7), (8), (9), and (10) as (b) (6), (7), (8), (9), and (10) as (b) (6), (7), (8), (9), (10) and (11) respectively, and adding a new paragraph (b)(5) before redesignated paragraph (b)(6) to read as set forth below.

§ 1.263(a)–3 Election to deduct or capitalize certain expenditures.

* * * * *

(b) * * *

(5) Section 179 (election to expense certain depreciable business assets).

* * * * *

Par. 6. Section 1.1033(g)–1 is amended by revising the fourth sentence of paragraph (b)(1) to read as set forth below.

§ 1.1033(g)–1 Condemnation of real property held for productive use in trade or business or for investment.

* * * * *

(b) *Election to treat outdoor advertising displays as real property*— (1) * * * No election may be made with respect to any property for which (i) the investment credit under section 38 has been claimed, or (ii) an election to expense certain depreciable business assets under section 179(a) is in effect. * * *

* * * * *

Par. 7. The second sentence of paragraph (a)(3) of § 1.1245–2 is revised by removing "additional first-year depreciation allowance for small business" and adding in its place "expense allowance (additional first-year depreciation allowance for property placed in service before January 1, 1981)".

These regulations are proposed to be issued under the authority contained in sections 179(c), 179(d)(10), and 7805 of the Internal Revenue Code of 1954 (95 Stat. 219, 96 Stat. 2369, 68A Stat. 917; 26 U.S.C. 179(c), 179(d)(1), 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 85–23069 Filed 9–25–85; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 5400 and 5440

Sales of Forest Products; General; Conduct of Sales; Procedures for Debarment of Contractors; Reopening of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Reopening of public comment period on proposed rulemaking.

SUMMARY: At the request of the public, this notice reopens the period allowed for submission of comments on the proposed rulemaking that would amend procedures for debarment of timber sale contractors. The proposed rulemaking was published in the **Federal Register** on July 18, 1985 (50 FR 29324), with a comment period of 60 days. The period for submitting comments on the proposed rulemaking is hereby reopened for an additional 30 days.

DATE: Comments should be received by October 28, 1985. Comments received after this date may not be considered in the decisionmaking process on the final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles R. Frost (202) 653–8864.

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

September 23, 1985.

[FR Doc. 85–22888 Filed 9–25–85; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 232

[Docket No. PB–7, Notice No. 2]

Railroad Power Brakes and Drawbars; Change of Hearing Date

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of change of hearing date.

SUMMARY: This notice changes the hearing date set in Docket PB–7, Notice No. 1 from October 24, 1985 to October 25, 1985. The location and time of the hearing remain the same.

DATES: A public hearing will be held at 10:00 a.m. on October 25, 1985. Any person who desires to make a statement at the hearing should notify the Docket Clerk before October 17, 1985 by phone or mail .

ADDRESSES: A public hearing will be held on October 25, 1985 in room 7200 of the Nassif Building, 400 Seventh St., SW., Washington, DC 20590. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk by telephone (202–426–3984) or by writing to: Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Office of Safety, Federal Railroad Administration, Washington, DC 20590. Telephone 202–426–0897.

SUPPLEMENTARY INFORMATION: On September 3, 1985, FRA published a notice of proposed rulemaking in the **Federal Register** relating to the use of rear car telemetry devices to comply with certain requirements of FRA's power brake regulations in 49 CFR Part 232 (50 FR 35640). The notice scheduled a public hearing on the proposed rule for October 24, 1985 in Washington, DC. FRA is changing the hearing date from October 24, 1985 to October 25, 1985. The time of the hearing (10:00 a.m.) and the location of the hearing (room 7200 of the Nassif Building, Washington, DC) remain the same.

Issued in Washington, D.C. on September 23, 1985.

John M. Mason,

Chief Counsel.

[FR Doc. 85–23001 Filed 9–25–85; 8:45 am]

BILLING CODE 4910–06–M

---

49 CFR Part 232

[Docket No. RSSI–85–1, Notice No. 2]

Special Safety Inquiry; Railroad Power Brakes; Change of Hearing Date

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of change of hearing data.

SUMMARY: This notice changes the hearing date set in Docket No. RSSI–85–1, Notice No. 1 from October 25, 1985 to October 24, 1985. The location and time of the hearing remain the same.

DATES: (1) A public hearing will be held at 10:00 a.m. on October 24, 1985.

(2) Prepared statements to be made at the hearing should be submitted to the Docket Clerk at least seven days before the hearing date.

(3) Persons desiring to participate at the hearing should notify the Docket Clerk at least seven days before the hearing.

ADDRESSES: A public hearing will be held on October 24, 1985 in room 7200 of the Nassif Building, 400 Seventh St., SW., Washington, DC 20590. Prepared statements should be submitted to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Washington, DC 20590. Telephone 202–426–8285.

SUPPLEMENTARY INFORMATION: On September 3, 1985, FRA published in the **Federal Register** (50 FR 35643) a notice of Special Safety Inquiry to obtain information from the public to assist in evaluating the impact of the changes in the power brake regulations (49 CFR Part 232) made in August 1982 in Docket No. PB–6. The safety inquiry hearing was scheduled for October 25, 1985 in Washington, DC. FRA is changing the hearing date from October 25, 1985 to October 24, 1985. The time of the hearing (10:00 a.m.) and the location of the hearing (room 7200 of the Nassif Building, Washington, DC) remain the same.

Issued in Washington, DC on September 23, 1985.

John M. Mason,

Chief Counsel.

[FR Doc. 85–23002 Filed 9–25–85; 8:45 am]

BILLING CODE 4910–06–M

Notices

Federal Register
Vol. 50, No. 187
Thursday, September 26, 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 COMMERCE

Economic Affairs; Performance Review Board Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economic and Statistical Affairs Senior Executive Service (SES) Performance Appraisal System:
Barbara Ballar
Kenneth M. Brown
Joseph F. Caponio
John E. Cremeans
Lucy A. Falcone
C.L. Kincannon
Frederick T. Knickerbocker
Daniel B. Levine
Martin Marimont
Jerome Mark
Charles A. Waite
Katherine K. Wallman
Allan H. Young

Edward A. McCaw,

Executive Secretary, Economic and Statistical Affairs, Performance Appraisal System.

[FR Doc. 85-23031 Filed 9-25-85; 8:45 am]

BILLING CODE 3510-BS-M

International Trade Administration

Export Trade Certificate of Review, Notice of Application

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be issued.

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certifcate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted not later than October 16, 1985. to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 85-00012."

Applicant: Irrigation Components International (V.I.), Inc. 5 Norre Gade, Charlotte, Amalie, St. Thomas, U.S. Virgin Islands 00801.

Contact: Grey Redditt, Jr., c/o Kilborn, Redditt & Griggs, P.O. Box 1072, Mobile, Alabama 36633.

Application #: 85-00012.

Date Deemed Submitted: September 13, 1985.

Members in Addition to Applicant: Senninger Irrigation, Inc., Orlando, FL; Irrigation Industries, Inc., Colorado Springs, CO; Marion Miller & Associates, Inc., Colorado Springs, CO.

Summary of the Application

A. Export Trade

Products: Agricultural irrigation equipment and systems, component parts and related supplies (from both member and non-member manufacturers and distributors). Such products include, but are not limited to, input sprinkler heads; spray sprinklers; pressure regulators and gauges; flowmeters; underground mainline fittings; and related electrical components, valves, gear drives and other components of center pivot irrigation systems.

Services: technical training and assistance, installation, and repair of products.

ICIVI also intends to provide the following export trade services: (a) Market research and development (including market intelligence, sales generation, communication services and other research activities, (b) project services (including project research, specifications and standards analysis, product design, and ancillary equipment services), (c) financing (including credit research and payment processing services), (d) economic analysis and systems design for foreign customers, (e) shipping (including export documentation, freight forwarding and customs brokerage services), (f) consulting (including the development, design, installation, maintenance and repair of agricultural irrigation systems), and (g) warehousing and display services.

B. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

C. Export Trade Activities and Methods of Operation

ICIVI seeks certification to:

(a) Enter into exclusive or non-exclusive agreements with individual U.S. suppliers (members and non-members, manufacturers and distributors) of agricultural irrigation equipment, component parts, and related services to purchase these products and services and to act as an Export Intermediary, whereby:

(i) ICIVI agrees not to represent any competitors of the member suppliers unless authorized by these suppliers,

(ii) the supplier agrees not to sell, directly or indirectly, into the Export

Markets in which ICIVI exclusively represents the supplier.

(iii) purchase prices negotiated between IC IVI and member suppliers may be lower than prices quoted by those suppliers to other customers, and/or

(iv) ICIVI specifies or limits the prices at which the products and services are to be sold in the Export Markets.

(b) Enter into exclusive and non-exclusive agreements with foreign agents, sales representatives and distributors seeking agricultural irrigation equipment, component parts, and related services, whereby:

(i) ICIVI may agree to deal only with that agent, representative or distributor in particular Export Markets,

(ii) The Foreign agent, representative, or distributor agrees not to represent or buy from ICIVI's competitors in particular Export Markets, and/or

(iii) ICIVI specifies or limits the prices at which the products and services are to be sold in the Export Markets.

(c) Exchange such information among members as may be useful in conducting its export business.

(d) Establish restrictions on the sale of stock in ICIVI, whereby ICIVI and its member corporations retain a right of first refusal.

Dated: September 23, 1985.

James V. Lacy,

Director, Office of Export Trading Company Affairs.

[FR Doc. 85-23030 Filed 9-25-85; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council's Law Enforcement Advisory Panel will convene a public meeting jointly with the Gulf States Marine Fisheries Commission's Law Enforcement Committee, October 15, 1985, from 9 a.m. to 5 p.m., at the Hilton Inn Gateway, 7470 Highway 192, West, Kissimmee, FL, to review existing state and federal vessel identification requirements and to evaluate the feasibility of a Gulf-wide standardized vessel identification system. For further information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, FL 33609; telephone: (813) 228-2815.

Dated: September 23, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-23067 Filed 9-25-85; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Amended Meeting Notice

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The September 24-25, 1985 public meeting of the Pacific Fishery Management Council's Groundfish Select Group, as cited in the **Federal Register**, September 12, 1985 (50 FR 37263), has been rescheduled for October 16-17, 1985, and will be convened in Portland, OR. For further information contact Joseph C. Greenley, Pacific Fishery Management Council, 526 SW. Mill Street, Portland, OR 97201; telephone: (503) 221-6352.

Dated: September 23, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-23068 Filed 9-25-85; 8:45 am]

BILLING CODE 3510-22-M

Membership of National Oceanic and Atmospheric Administration Performance Review Boards

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Membership of NOAA Performance Review Boards.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4), NOAA announces the appointment of a supplemental member to the NOAA Performance Review Boards, J. Roy Spradley, Jr., Special Advisor, National Oceanic and Atomspheric Administration. The period of appointment is from October 1, 1985 to August 31, 1986. Reference Notice of Membership published August 29, 1985 in **Federal Register** Volume 50, No. 168, pages 35111 and 35112.

DATE: The effective date of service of the appointee to the NOAA Performance Review Board is October 1, 1985.

FOR FURTHER INFORMATION CONTACT: Susan Johnson, Chief, Personnel Division, National Capital Administrative Support Center, NOAA, 11400 Rockville Pike, Rockville, Maryland 20852, (301) 443-6667.

Dated: September 18, 1985.

Anthony J. Calio,

Deputy Administrator, National Oceanic and Atmospheric Administration.

[FR Doc. 85-22980 Filed 9-25-85; 8:45 am]

BILLING CODE 3510-12-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Gynex

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Gynex, having a place of business in Des Plains, Illinois, an exclusive right to manufacture, use, and sell products embodied on the invention entitled "Administration of Sex Hormones in the Form of Hydrophylic Cyclodextrin Derivatives," U.S. Patent Application Serial No. 6-603,839. The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.9. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submited to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 85-23066 Filed 9-25-85; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

September 23, 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 27, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive dated December 21, 1984 (49 FR 50233) established limits for certain specified categories of cotton, wool and man-made fiber textile products, including Category 631–W (work gloves in T.S.U.S.A numbers 704.3215, 704.8525, and 704.9000), produced or manufactured in Taiwan and exported during the agreement year which began on January 1, 1985. The import restraint limit for Category 631–W is filled. CITA has determined, however, that improper charges totalling 119,847, dozen pairs have been made to this limit. Accordingly, in the letter which follows this notice this amount is being deducted from the import charges.

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.

Committee for the Implementation of Textile Agreements

September 23, 1985.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: To facilitate implementation of the bilateral agreements concerning cotton, wool and man-made fiber textiles and textile products from Taiwan, I request that, effective on September 27, 1985, you deduct 119,847 dozen pairs from the imports charged to the restraint limit established for Category 631pt.[1] in the directive of December 21, 1984.

[1] In Category 631, only T.S.U.S.A. numbers 704.3215, 704.8525, and 704.9000.

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).

This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85–23000 Filed 9–25–85; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting the Import Limit for Certain Wool Apparel Products Produced or Manufactured in Taiwan

September 23, 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 27, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive dated December 21, 1984 (49 FR 50233) established limits for certain specified categories of cotton, wool and man-made fiber textile products, including Category 448, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1985. The limit for Category 448 is filled. At the request of the authorities in Taiwan, special carryforward in the amount of 1,772 dozen is being applied to the restraint limit for Category 448, increasing it from 12,382 dozen to 14,154 dozen for 1985, pending completion of a data reconciliation involving this category. The 1986 limit for Category 448 will be adjusted to account for carryforward used in the current year, depending on the outcome of the data reconciliation.

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.

Committee for the Implementation of Textile Agreements

September 23, 1985.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1984 from the Chairman of the Committee for the Implementaton of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan and exported during 1985.[1]

Effective on September 27, 1985, paragraph 1 of the directive of December 21, 1984 is hereby further amended to include an adjusted restraint limit for Category 448 of 14,154 dozen.[2]

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. 85–22999 Filed 9–25–85; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilaterial Textile Consultations With the Republic of South Africa on Trade in Category 335

September 23, 1985.

On August 29, 1985 the Government of the United States, under section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854), requested the Government of the Republic of South Africa to enter into consultations concerning exports to the United States of women's, girls', and infants' cotton coats in Category 335.

[1] The agreement of November 18, 1982 concerning cotton, wool and man-made fiber textile products from Taiwan provides, in part, that: (1) Specific limits or sublimits may be exceeded by certain designated percentages during the agreement year, provided a corresponding reduction in equivalent square yards is made in one or more specific limits or sublimits during the same agreement year; (2) certain specific limits or sublimits may be increased for carryforward; (3) special shift may be applied to certain categories, provided an equal amount in square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementaion of the agreement.

[2] The restraint limits have not been adjusted to reflect any imports exported after December 31, 1984.

produced or manufactured in South Africa.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations, the Committee for Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in this category, produced or manufactured in South Africa and exported to the United States during the twelve-month period which began on August 29, 1985 and extends through August 28, 1986 at a level of 25,925 dozen.

Anyone wishing to comment or provide data or information regarding the treatment of Category 335 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Category 335—Women's, Girls', and Infants' (WGI) Cotton Coats, etc.

August 1985.

Summary and Conclusions

United States imports of Category 335 from the Republic of South Africa were 28,129 dozens in the year-ending June 1985. This compares with 131 dozens imported in the previous twelve months. Seventy-three percent of these imports were shipped in the first six months of 1985. Annualized, the year to date imports would be close to 41,000 dozens. Imports from the Republic of South Africa were 7,555 dozens in calendar year 1984, and less than 400 dozen in any of the previous four years.

These increases of low price imports were sharp and substantial and present a real risk of contributing to the existing market disruption of this category.

Production

U.S. production of Category 335 coats averaged 1.5 million dozens during the first half of the seventies, 905,000 dozens during the second half and 665,000 dozens from 1980 through 1983. Production in 1983 amounted to 661,000 dozens, down 25 percent from the 782,000 dozens produced in 1982. Production in 1984 was down an additional 21 percent from the 1983 level.

Imports

U.S. imports of Category 335 from all sources were at a record level of 2,177,000 dozens in 1984, up 33 percent from the 1,632,000 dozens imported in 1983. Year-ending June 1985 imports were up 10 percent from the same period in 1984. Imports grew 55 percent between 1980 and 1985.

Import Penetration

During the first half of the seventies, the ratio of imports to domestic production of Category 335 averaged 30 percent. This almost tripled to 88 percent during the last half of the decade and rapidly escalated to 246 percent during the first four years of the eighties. The 1984 ratio reached an all time high of 414.7 percent, one of the highest ratios of all apparel items.

The domestic producers' share of the market for domestically produced and imported Category 335 declined precipitously during the seventies and continued downward in the early eighties. They accounted for only 19 percent of the market in 1984.

Import Values

Approximately to 69 percent of the year ending June 1985 imports of Category 335 from the Republic of South Africa entered under one TSUSA classification. This was 383.3477—women's other coats, not ornamented, over 4 U.S. dollars.[1] These items entered at duty paid values below the U.S. producers' prices for similar garments.

[FR Doc. 85-22998 Filed 9-25-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command; Directorate of Personal Property

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, DOD.

ACTION: Notice of Decision on the Procedures and Implementation Date for the DD Form 1840 and DD Form 1840R.

SUMMARY: Notice is hereby given on the procedures and implementation date for the DD Form 1840 and DD Form 1840R in the Military Traffic Management Command through Government bill of lading (TGBL) Procurement Program. The procedures are as follows:

DD Form 1940 and DD Form 1840R Procedures

1. Responsibilities.

a. Carrier shall:

(1) Complete Section A of the DD Form 1840 and make all (5) copies available upon delivery.

(2) In conjunction with member, annotate all loss and/or damage in Section B on all (5) copies of the DD Form 1840.

(3) Provide the member with (3) copies of the completed DD Form 1840 signed by both the carrier and the member.

(4) Trace all missing items annotated on DD Form 1840 and or DD Form 1840R immediately and respond to the destination ITO/TMO in writing within 30 working days of notification of loss.

(5) Provide the destination ITO/TMO a copy of DD Form 1840 within 30 workdays of delivery.

(6) Discontinue using Consignee's Statement of Delivery and Loss or Damage Portion of DD Form 619-1.

b. Member shall:

(1) In conjunction with the carrier, complete Section B and sign the DD Form 1840 at time of delivery.

(2) Retain (3) signed and completed copies of the DD Form 1840.

(3) Annotate additional loss or damage found after delivery on DD Form 1840R (reverse DD Form 1840).

(4) Within 70 days from date of delivery submit all (3) copies of the completed DD Forms 1840 and DD Form 1840R to the appropriate claims office. The claims office will return one copy acknowledging receipt for use in filing claim, provide one copy to the carrier for notice of additional loss and or damage, and retain one copy for filing within the claims office.

(5) Contact the ITO/TMO for any assistance required at time of delivery and for any supporting documents required in processing a claim.

(6) File a claim with appropriate claims office.

c. ITO/TMO shall:

(1) Retain the carrier provided copy of the DD Form 1840.

(2) Conduct inspection for loss or damage upon request by service member or military service claims office within 10 workdays of request and prepare the DD 1841 (Government Inspection Report).

(3) Upon request provide a copy of the PPGBL and any other shipment

[1] 1984 TSUSA Classification 383.3464.

documents to assist member in filing a claim.

(4) Take appropriate action against carrier for Tender of Service violation for failure to return documents if DD Form 1840 is not returned by carrier within 30 workdays of delivery.

DATE: Effective 1 October 1985 for personal property shipments. Effective 1 November 1985 for nontemporary storage shipments.

ADDRESS: HQ, Military Traffic Management Command, 5611 Columbia Pike, ATTN: MT-PPM, File: DD Form 1840, Falls Church, Virginia 22041-5050.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Gaige, HQ, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia 224041-5050, Telephone (703) 756-1600.

Joseph R. Marotta,

Colonel, General Staff, Director of Personal Property.

[FR Doc. 85-23011 Filed 9-25-85; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS); Village of Ontonagon, Ontonagon County, MI

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

Proposed Actions

The purpose of this report, which is being conducted under the 1984 Flood Control Act, section 205, is to determine a plan which best minimizes the flooding potential in the Village of Ontonagon, Ontonagon County, Michigan. The structural alternatives currently under consideration consist of constructing additional levees, the installation of flashboards, upgrading an existing emergency levee, and installing floodgates at two locations.

Alternatives

The Detroit District, in the reconnaissance study phase of the project, considered both structural and non-structural alternatives. The extent of development and nature of flooding that exists in the proposed project area realistically precludes the non-structural approach in itself. The alternatives to the proposed action described above include various levee location options and no action.

Scoping Process

a. Public Involvement—Copies of the Reconnaissance Report, Small Flood Control Study Section 205, Ontonagon, Michigan, February 1985, have been circulated to various agencies, public groups and citizens. Coordination concerning proposed plans has been initiated and maintained between the Corps and the Village of Ontonagon as well as with two major industries which are included in the flood protection plan. The U.S. Fish and Wildlife Service has also been coordinated with and has provided input to the proposed plans. Also, a public meeting is being planned to occur during the period of public review of the DEIS.

b. Significant issues to be addressed in the EIS are:

(1) Protection against flooding in the Village of Ontonagon including two commercial industries.

(2) Protection of the Ontonagon Light House, a site listed in the National Register of Historic Places.

(3) Proposed reopening of the east side slough to improve fish habitat.

c. Other Environmental Review and Consultation Requirements—This project will be reviewed for compliance with the following: The Fish and Wildlife Act of 1956; Fish and Wildlife Coordination Act of 1958; National Historical Preservation Act of 1966; National Environmental Policy Act of 1969; Endangered Species Act of 1973; Water Resources Development Act of 1976; Executive Order 11990, Wetlands Protection, May 1977; Executive Order 11988, Floodplain Management, May 1977; Clean Air Act of 1977; Clean Water Act of 1977; Corps of Engineers, Department of the Army, 33 CFR, Part 230, Environmental Quality; Corps of Engineers, Department of the Army, Policy and Procedure for Implementing NEPA (ER 200-2-2).

Estimated Date of Environmental Impact Statement Release

It is anticipated that the Draft Environmental Impact Statement will be available to the public in February 1986.

Address

Questions about the proposed action and Environmental Impact Statement can be answered by Mr. Les Weigum, Environmental Analysis Branch, U.S. Army Corps of Engineers, Box 1027, Detroit, Michigan 48231.

Dated: September 17, 1985.

Robert F. Harris,

Colonel, Corps of Engineers Commanding.

[FR Doc. 85-22981 Filed 9-25-85; 8:45 am]

BILLING CODE 3710-GA-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/SW(EU)-133, 9,090 kilograms of uranium, enriched to 2.49% in U-235, and 13,635 kilograms of uranium, enriched to 3.32% in U-235, to be used in fuel fabrication for the Oskarshamn II power reactor. The material is presently located at the EURODIF enrichment facility, Tricastin, France, and is to be transferred to ASEA-ATOM, Vasteras, Sweden. The material was originally exported pursuant to U.S. Nuclear Regulatory Commission license XUO8586.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: September 23, 1985.

For the Department of Energy.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 85-22989 Filed 9-25-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CI82-47-002]

Conoco Inc.; Application

September 23, 1985.

Take notice that on September 12, 1985, Conoco Inc. (Conoco), P.O. Box

2197, Houston, Texas 77252, filed in Docket No. CI82-47 an Application for an Amended Certificate of Public Convenience and Necessity and for Partial Abandonment pursuant to section 7 of the Natural Gas Act, 15 U.S.C. 717f, and Part 157 of the Regulations of the Federal Energy Regulatory Commission ("Commission").

Conoco states that the requested certificate and partial abandonment are necessary to implement the Settlement Agreement in Docket Nos. CP74-314, *et al.*, 31 F.E.R.C. (CCH) ¶61,370 (1985), between Conoco and El Paso Natural Gas Company ("El Paso") with respect to a single gas purchase contract pursuant to which Conoco presently sells gas to El Paso as authorized by a certificate of public convenience and necessity and Gas Rate Schedule No. 484.[1]

Conoco states that the requested authorities are necessary to effectuate the intent of the parties to amend all gas purchase agreements between Conoco and El Paso covering sales of gas produced in the San Juan Basis region of New Mexico and southern Colorado to provide for Conoco's right to process such gas in accordance with the terms of the above-referenced Settlement Agreement.

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, 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 October 9, 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 persons 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.

Under the procedure herein provided for, unless otherwise advised, it will not be necessary for Conoco to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23033 Filed 9-25-85; 8:45 am]

BILLING CODE 6717-01-M

[1] Docket No. CI82-47.

[Docket No. CI85-678-000]

Conoco Inc.; Application

September 23, 1985.

Take notice that on September 12, 1985, Conoco Inc. (Conoco), P.O. Box 2197, Houston, Texas 77252, filed in Docket No. 85-678-000 an Application for an Amended Certificate of Public Convenience and Necessity and for Partial Abandonment pursuant to section 7 of the Natural Gas Act, 15 U.S.C. 717f, and Part 157 of the Regulations of the Federal Energy Regulatory Commission ("Commission").

Conoco states that the requested certificate and partial abandonment are necessary to implement the Settlement Agreement in Docket Nos. CP74-314, *et al.*, 31 F.E.R.C. (CCH) ¶61,370 (1985), between Conoco and El Paso Natural Gas Company ("El Paso") with respect to a single gas purchase contract pursuant to which Conoco, as cosignatory party, presently sells gas to El Paso as authorized by a certificate of public convenience and necessity and Gas Rate Schedule No. 512 held by its cosignatory Arco Oil and Gas Company.[1]

Conoco states that the requested authorities are necessary to effectuate the intent of the parties to amend all gas purchase agreements between Conoco and El Paso covering sales of gas produced in the San Juan Basin region of New Mexico and southern Colorado to provide for Conoco's right to process such gas in accordance with the terms of the above-referenced Settlement Agreement.

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, 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 October 9, 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 persons 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.

Under the procedure herein provided for, unless otherwise advised, it will not be necessary for Conoco to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23034 Filed 9-25-85; 8:45 am]

BILLING CODE 6717-01-M

[1] Docket No. CI61-1249.

[Docket No. CI85-679-000]

Conoco Inc.; Application

September 23, 1985.

Take notice that on September 12, 1985 Conoco Inc. (Conoco), P.O. Box 2197, Houston, Texas 77252, filed in Docket No. 85-679-000 an Application for a Certificate of Public Convenience and Necessity and for Partial Abandonment pursuant to section 7 of the Natural Gas Act, 15 U.S.C. 717f, and Part 157 of the Regulations of the Federal Energy Regulatory Commission ("Commission").

Conoco states that the requested certificate and partial abandonment are necessary to implement the Settlement Agreement in Docket Nos. CP74-314, *et al.*, 31 F.E.R.C. (CCH) ¶61,370 (1985), between Conoco and El Paso Natural Gas Company ("El Paso") with respect to a single gas purchase contract pursuant to which Conoco, as cosignatory party, presently sells gas to El Paso as authorized by a certificate of public convenience and necessity and Gas Rate Schedule No. 57 held by its cosignatory Ladd Petroleum Corporation.[1]

Conoco states that the requested authorities are necessary to effectuate the intent of the parties to amend all gas purchase agreements between Conoco and El Paso covering sales of gas produced in the San Juan Basin region of New Mexico and southern Colorado to provide for Conoco's right to process such gas in accordance with the terms of the above-referenced Settlement Agreement.

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, 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 October 8, 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 persons wishing to become a party must file a motion to

[1] Docket No. CI72-450.

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Under the procedure herein provided for, unless otherwise advised, it will not be necessary for Conoco to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23035 Filed 9-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-37-003]

High Island Offshore System, Tariff Filing

September 20, 1985.

Take notice that on September 18, 1985, High Island Offshore System ("HIOS") tendered for filing Substitute Eleventh, Twelfth and Substitute Twelfth Revised Sheet Nos. 4 to be included in the High Island Offshore System F.E.R.C. Gas Tariff, Original Volume No. 1, to be effective on January 1, 1985, July 1, 1985 and July 1, 1985, respectively.

HIOS states that Substitute Eleventh and Twelfth Revised Sheet No. 4 reflect the settlement rates pursuant to Article I and Appendices A and B of the Stipulation and Agreement approved by the Federal Energy Regulatory Commission ("Commission") on July 22, 1985.

HIOS further states that Substitute Twelfth Revised Sheet No. 4 reflects a decrease of $.01 in its Demand Rate as a result of decreased costs paid to ANR Pipeline Company ("ANR") under its Rate Schedule X-64 for measurement, dehydration, and separation at the Grand Chenier facilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NW., Washington, DC 20426, in accordance with Rule 211 or Rule 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. 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 to the proceeding 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. 85-23036 Filed 9-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-3-26-003]

Natural Gas Pipeline Company of America Compliance Filing

September 20, 1985.

Take notice that on September 16, 1985, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff), the below listed tariff sheets to be effective on the dates indicated:

Revised Substitute Fifty-sixth Revised Sheet No. 5 and Revised Substitute Twenty-third Revised Sheet No. 5A to be effective September 1, 1984, through February 28, 1985.

Third Substitute Fifty-seventh Revised Sheet No. 5 and Third Substitute Twenty-fourth Revised Sheet No. 5A to be effective March 1, 1985.

Revised Fifty-eighth Revised Sheet No. 5 and Revised Twenty-fifth Revised Sheet No. 5A to be effective April 1, 1985.

Revised Substitute Fifty-eighth Revised Sheet No. 5 and Revised Substitute Twenty-fifth Revised Sheet No. 5A to be effective July 1, 1985.

Third Substitute Fifty-eighth Revised Sheet No. 5 and Third Substitute Twenty-fifth Revised Sheet No. 5A to be effective September 1, 1985.

Seventh Revised Sheet No. 118 to be effective June 1, 1985.

Natural states that the purpose of the instant compliance filing is to reflect the impact on its rates and the tariff language clause revision to its Purchased Gas Adjustment, as required by Ordering Paragraphs C(2) and C(3) of the Commission Order issued on August 30, 1985, in Docket Nos. TA85-3-26-000 and TA85-3-26-001. The Ordering Paragraphs required revisions relating to (i) the removal of certain payments to Great Lakes Gas Transmission Company as an alternative to otherwise applicable minimum commodity bill payments and (ii) reflecting current exchange imbalances in Account 191.

Natural stated that it has previously filed in this docket a motion seeking an extension of time with which to comply with the requirements of the subject order (September 12, 1985) as well as a request for rehearing of waiver of the subject order (September 16, 1985). Natural's submission of the above listed tariff sheets is to insure technical compliance with the above referenced order in the event that the request for extension and rehearing or waiver are not granted. Natural has requested the Commission to defer acceptance of the enclosed tariff sheets pending Commission action on Natural's extension and rehearing or waiver requests.

In the event that the request for extension and rehearing or waiver are not granted, Natural requests waivers of the Commission's Regulations to the extent necessary to permit the proposed tariff sheets to become effective on the dates indicated.

A copy of this 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. 85-23037 Filed 9-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-676-000]

Tenneco Oil Co.; Application

September 23, 1985.

Take notice that on September 12, 1985 Tenneco Oil Company ("Tenneco"), 1100 Milam, Houston, Texas 77002, filed in Docket No. 85-676-000 an Application for a successor Certificate of Public Convenience and Necessity and, conditionally, for Partial Abandonment pursuant to section 7 of the Natural Gas Act, 15 U.S.C. 717f, and Part 157 of the Regulations of the Federal Energy Regulatory Commission ("Commission").

Tenneco states that the requested certificate and partial abandonment are necessary to implement the Settlement Agreement in Docket Nos. CP74-314, *et al.*, 31 F.E.R.C. (CCH) ¶ 61,370 (1985), between Tenneco and El Paso Natural Gas Company ("El Paso") with respect to a single gas purchase contract to which Tenneco, as cosignatory party, presently sells gas to El Paso as authorized by a certificate of public convenience and necessity and Gas Rate Schedule No. 513 held by its cosignatory Arco Oil and Gas Company.[1]

---

[1] Docket No. CI72-450.

Tenneco states that the requested authorities are necessary to effectuate the intent of the parties to amend all gas purchase agreements between Tenneco and El Paso covering sales of gas produced in the San Juan Basin region of New Mexico and southern Colorado to provide for Tenneco's right to process such gas in accordance with the terms of the above-referenced Settlement Agreement.

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, 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 shuld be filed on or before October 9, 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 persons 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.

Under the procedure herein provided for, unless otherwise advised, it will not be necessary for Tenneco to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23038 Filed 9-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-677-000]

Tenneco Oil Co.; Application

September 23, 1985.

Take notice that on September 12, 1985 Tenneco Oil Company ("Tenneco"), 1100 Milam, Houston, Texas 77002, filed in Docket No. 85-677-000 an Application for a successor Certificate of Public Convenience and Necessity and, conditionally, for Partial Abandonment And For Waiver pursuant to section 7 of the Natural Gas Act, 15 U.S.C. 717f, and Part 157 of the Regulations of the Federal Energy Regulatory Commission ("Commission").

Tenneco states that the requested certificate and partial abandonment are necessary to implement the Settlement Agreement in Docket Nos. CP74-314, *et al.*, 31 F.E.R.C. (CCH) ¶ 61,370 (1985), between Tenneco and El Paso Natural Gas Company ("El Paso") with respect to a single gas purchase contract pursuant to which Tenneco, as cosignatory party, presently sells gas to El Paso as authorized by a certificate of public convenience and necessity and Gas Rate Schedule No. 513 held by its cosignatory Arco Oil and Gas Company.[1]

Tenneco states that the requested authorities are necessary to effectuate the intent of the parties to amend all gas purchase agreements between Tenneco and El Paso covering sales of gas produced in the San Juan Basin region of New Mexico and southern Colorado to provide for Tenneco's right to process such gas in accordance with the terms of the above-referenced Settlement Agreement.

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, 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 October 9, 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 persons 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.

Under the procedure herein provided for, unless otherwise advised, it will not be necessary for Tenneco to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23039 Filed 9-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-754-000 et al.]

Electric Rate and Corporate Regulation Filings; Gulf States Utilities Co. et al.

Take notice that the following filings have been made with the Commission:

1. Gulf States Utilities Company

[Docket No. ER85-754-000]

September 17, 1985.

Take notice that Gulf States Utilities Company (Gulf States), on September 11, 1985, tendered for filing an Amendment, executed as of August 27, 1985, to the Agreement for Wholesale Electric Service dated May 14, 1974, between Gulf States and the City of Kirbyville (Kirbyville). The Amendment does not provide for a rate increase.

The Amendment permits Kirbyville to cease to take service under Rate Schedule WSD (Wholesale Power at Distribution Voltage) and start to take service under Rate Schedule WST (Wholesale Power at Transmission Voltage). To qualify for the WST rate, Kirbyville agreed to pay a facilities charge of 2 percent per month of the allocated cost of the existing Gulf States substation and associated equipment. With such change, Kirbyville will pay less for electric service.

The Amendment also provides that a portion of Kirbyville's load that would otherwise be supplied by purchases of wholesale electric service from Gulf States shall instead be served by power purchased from others and delivered to Kirbyville by transmission service provided by Gulf States. The power Kirbyville will purchase from others will be power Gulf States has contracted for or will contract for with other utilities and will share, by assignment, with Kirbyville.

The Amendment would remain in effect for ten years unless terminated earlier pursuant to rights reserved in the Amendment.

Gulf States requests that any necessary waivers be granted so that the change from WSD to WST can become effective on September 1, 1985, and so the purchased power provisions can become effective on May 14, 1986.

Copies of the filing have been served upon Kirbyville, and upon the Louisiana Public Service Commission and the Public Utility Commission of Texas.

Comment date: September 26, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Gulf States Utilities Company

[Docket No. ER85-755-000]

September 17, 1985.

Take notice that Gulf States Utilities Company (Gulf States), on September 11, 1985, tendered for filing an Amendment, executed as of August 27, 1985, to the Agreement for Wholesale Electric Service dated February 1, 1975, between Gulf States and the City of Newton (Newton). The Amendment does not provide for a rate increase.

The Amendment permits Newton to cease to take service under Rate Schedule WSD (Wholesale Power at Distribution Voltage) and start to take service under Rate Schedule WST (Wholesale Power at Transmission Voltage). To qualify for the WST rate, Newton agreed to pay a facilities charge of 2 percent per month of the allocated cost of the existing Gulf States substation and associated equipment. With such change, Newton will pay less for electric service.

The Amendment also provides that a portion of Newton's load that would

[1] Docket No. CI72-450.

otherwise be supplied by purchases of wholesale electric service from Gulf States shall instead be served by power purchased from others and delivered to Newton by transmission service provided by Gulf States. The power Newton will purchase from others will be power Gulf States has contracted for or will contract for with other utilities and will share, by assignment, with Newton.

The Amendment would remain in effect for ten years unless terminated earlier pursuant to rights reserved in the Amendment.

Gulf States requests that any necessary waivers be granted so that the change from WSD to WST can become effective on September 1, 1985, and so the purchased power provisions can become effective on February 1, 1986.

Copies of the filing have been served upon Newton, and upon the Louisiana Public Service Commission and the Public Utility Commission of Texas.

Comment date: September 26, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Alamito Company

[Docket No. ER85-765-000]

September 19, 1985.

Take notice that on September 13, 1985 Alamito Company ("Alamito") submitted for filing Amendment No. Two to the 12 Year Power Sale Agreement between Alamito and Tucson Electric Power Company. The purpose of Amendment No. Two is to set forth new capitalization ratios relating to Springerville Unit 1.

Alamito requests an effective date of November 16, 1985.

Comment date: October 1, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Arizona Public Service Company

[Docket No. ER85-770-000]

September 19, 1985.

Take notice that Arizona Public Service Company on Sept. 16, 1985 tendered for filing Amendment No. 2 to the Arizona-Edison Cholla No. 4 Layoff Agreement between Arizona Public Service Company (Arizona) and Southern California Edison Company (Edison), executed August 30, 1985.

Arizona requests a waiver so that Agreement will become effective September 1, 1985.

Copies of this filing have been served upon the Arizona Corporation Commission and Edison.

Comment date: October 1, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. Carolina Power & Light Company

[Docket No. ER85-772-000]

September 19, 1985.

Take notice that Carolina Power & Light Company on September 16, 1985 tendered for filing changes outlined below in its agreement with Carteret-Craven EMC, French Broad EMC, and Tri-County EMC.

1. *French Broad EMC—Micaville 12 kV*—A revision to the Exhibit A to reflect the addition of the Special Provisions for the proposed addition of Christiansted Port Terminal Corporation's hydroelectric generating facility located on the East Fork of Crabtree Creek in Mitchell County, North Carolina. The Company will purchase the generation output from this hydroelectric generating facility.

2. *Tri-County EMC—Mount Olive*—Termination of the existing Mount Olive 12 kV Point of Delivery with the load transferred to the new Mount Olive 115 kV Point of Delivery.

3. Installation of special metering facilities required to provide metering pulse information to the EMCs from the points of delivery listed below. The metering pulse information will be provided under the Company's additional facilities plan.

Carteret-Craven EMC—Atlantic Beach 115 kV.

Tri-County EMC—LaGrange 115 kV.

Comment date: October 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Consolidated Edison Company of New York, Inc.

[Docket No. ER 85-763-000]

September 19, 1985.

Take notice that on September 13, 1985, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing as an initial rate schedule a Lease and Operating Agreement made as of July 1, 1985 between Con Edison and The City of New York acting by and through the New York City Public Utility Service (the "City"). The rate schedule provides for the City to pay a charge for use of Con Edison's facilities to sell and distribute hydroelectric power and energy to the City's retail electric consumers equal to the charges that would have been billed those consumers under Con Edison's retail electric rate schedule on file with the New York State Public Service Commission, less Con Edison's fuel and purchased power costs reflected in such rate schedule. The rate schedule also provides for subsequent withdrawal by the City of some portion of the power and energy for sale to industrial economic development consumers; Con Edison's charges to the City allocable to that portion of the power and energy will be determined and filed as an amendment to the rate schedule.

Con Edison requests a waiver of notice requirements so that the rate schedule can be made effective as of September 11, 1985.

Con Edison states that copies of this filing have been served by mail upon the City and the Power Authority of the State of New York, from whom the City is purchasing the hydroelectric power and energy to be sold and distributed to the City's consumers.

Comment date: October 1, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. El Paso Electric Company

[Docket No. ER 85-768-000]

September 19, 1985.

Take notice that on September 16, 1985, El Paso Electric Company (El Paso) tendered for filing as an initial rate filing, an "Interchange Agreement between El Paso Electric Company and Alamito Company" dated August 23, 1985 (Agreement). El Paso states that this Agreement provides a basis for the exchange of energy between parties on a returnable basis and on an economy basis. El Paso requests that this Agreement be accepted for filing and make effective sixty (60) days from the date of filing.

El Paso further states that copies of this filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission and Alamito Company.

Comment date: October 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power Corporation

[Docket No. ER 85-766-000]

September 19, 1985

Take notice that on *September 13, 1985,* Florida Power Corporation (Florida Power) tendered for filing Service Schedule F providing for assured capacity and energy interchange service between Florida Power and the City of Lake Worth, Florida. Florida Power states that Service Schedule F is submitted for inclusion as a supplement to the existing contract for interchange service between Florida Power and the City of Lake Worth designated as Florida Power's Rate Schedule FERC No. 101.

Florida Power requests that Service Schedule F be permitted to become effective September 16, 1985 and therefore, requests waiver of the sixty day notice requirement. Copies of this

filing have been served upon the City of Lake Worth and the Florida Service Commission.

Comment date: October 1, 1985, in accordance with Standard paragraph F at the end of this notice.

9. Florida Power Corporation

[Docket No. ER85-767-000]

September 19, 1985.

Take notice that on September 13, 1985, Florida Power Corporation (Florida Power) tendered for filing tariff revisions to Florida Power's FPC Electric Tariff, First Revised Volume No. 1. The tariff revisions reduce the power factor requirement for all and partial requirements service, reduce the notice requirements for termination or conversion of service, add a rate limitation supplement and a conjunctive billing supplement for all requirements service, and add a service agreement for partial requirements service.

Florida Power requests that the tariff revisions be permitted to become effective November 1, 1985, and therefore, requests waiver of the sixty day notice requirement. Copies of this filing have been served upon Florida Power's municipal and rural electric cooperative customers and the Florida Public Service Commission.

Comment date: October 1, 1985, in accordance with Standard Paragraph E at the end of this notice.

10. Pacific Power & Light Company an assumed business name of PacifiCorp.

[Docket No. ER85-756-000]

September 19, 1985.

Take notice that Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, on September 12, 1985, tendered for filing, in accordance with § 35.13a(d)(5) of the Commission's Regulations, Pacific's Revised Appendix 1 for the state of Montana. The Revised Appendix 1 calculates an average system cost for the state of Montana applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective October 1, 1984, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Montana Public Service Commission, and Bonneville's Direct Service Industrial Customers.

Comment date: September 30, 1985, in accordance with Standard Paragraph E at the end of this notice.

11. The Connecticut Light and Power Company

[Docket No. ER85-764-000]

September 19, 1985.

Take notice that on September 13, 1985, The Connecticut Light and Power Company ("CL&P") tendered for filing Rider C to Resale Service Rate W-2 (CL&P's FPC Rate Schedule 1) (the "W-2 Rate") under which CL&P provides partial requirements wholesale electric service to the Town of Wallingford, Connecticut, the Second Taxing District, City of Norwalk, and the Third Taxing District, City of Norwalk (collectively referred to as the "Buyers"). Each of the Buyers has accepted and consented to the rider and its filing.

CL&P states that Rider C provides a mechanism to be incorporated in the W-2 Rate to facilitate the delivery to the Buyers of their entitlement(s) in the output of the New York Power Authority's power projects. Rider C establishes a mechanism by which each Buyer may obtain an entitlement in power projects of the New York Power Authority, arrange for delivery of such power across the transmission and distribution system of the Northeast Utilities operating companies, have power delivered to its own system loads, and, with adjustments for losses, have such delivered power accounted for in the bills rendered under the W-2 Rate by CL&P.

CL&P and the Buyers propose to make the rider effective on July 1, 1985 in conjunction with the commencement of the power flow from entitlements in the New York Power Authority power projects. In order to accomplish this effective date, CL&P has requested a waiver of the notice requirement of § 35.3 of the Commission's Regulations.

Comment date: October 1, 1985, in accordance with Standard Paragraph E at the end of this notice.

12. Ohio Power Company

[Docket No. ER85-769-000]

September 19, 1985.

Take notice that American Electric Power Service Corporation (AEP) on behalf of its affiliate Ohio Power Company (OPCO) tendered for filing on September 16, 1985 the following:

1. Agreement, dated August 1, 1985, between Village of Arcadia (Arcadia) and Ohio Power Company;
2. Agreement, dated August 1, 1985, between Village of Bloomdale (Bloomdale) and Ohio Power Company;
3. Agreement, dated August 1, 1985, between City of Bryan (Bryan) and Ohio Power Company;
4. Agreement, dated August 1, 1985, between Village of Carey (Carey) and Ohio Power Company;
5. Agreement, dated August 1, 1985, between Village of Cygnet (Cygnet) and Ohio Power Company;
6. Agreement, dated August 1, 1985, between Village of Deshler (Deshler) and Ohio Power Company;
7. Agreement, dated August 1, 1985, between Village of Greenwich (Greenwich) and Ohio Power Company;
8. Agreement, dated August 1, 1985, between Village of Ohio City (Ohio City) and Ohio Power Company;
9. Agreement, dated August 1, 1985, between Village of Plymouth (Plymouth) and Ohio Power Company;
10. Agreement, dated August 1, 1985, between Village of Republic (Republic) and Ohio Power Company;
11. Agreement, dated August 1, 1985, between Village of Sycamore (Sycamore) and Ohio Power Company;
12. Agreement, dated August 1, 1985, between City of Wapakoneta (Wapakoneta) and Ohio Power Company;
13. Agreement, dated August 1, 1985, between Village of Wharton (Wharton) and Ohio Power Company.

The Agreements set forth terms pursuant to which OPCO proposes to supply Transmission Service to Arcadia, Bloomdale, Bryan, Carey, Cygnet, Deshler, Greenwich, Ohio City, Plymouth, Republic, Sycamore, Wapakoneta, and Wharton.

The parties request an effective date of October 1, 1985.

Comment date: October 1, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to interven. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-22974 Filed 9-25-85; 8:45 pm]

BILLING CODE 6717-01-M

[Docket Nos. CP85-415-001 et al.]

Natural Gas Certificate Filings; United Gas Pipe Line Co. et al.

September 18, 1985.

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP85-415-001]

Take notice that on September 4, 1985, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, filed in Docket No. CP85-415-001 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to modify its transportation arrangement on behalf of Brownsville Utility Department, City of Brownsville (Brownsville), as agent for the Haywood Company (Haywood), under the certificate issued in Docket No. CP82-430-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in this application which is on file with the Commission and open to public inspection.

United now proposes to transport a maximum contract demand of 600 mcf of natural gas per day in lieu of the original contract demand of 250 mcf per day for Brownsville, as agent for Haywood, until October 31, 1985. Should the Commission extend the end-user program beyond October 31, 1985, United would continue transportation of the natural gas volumes for Haywood. The gas to be transported would be purchased by Haywood from the Bishop Pipeline Corporation and would be used for low-priority space heating, boiler fuel and generator fuel at Haywood's plant in Brownsville, Tennessee.

United would receive the gas for Haywood's account from Bishop Pipeline Corporation on its 6-inch Floyd Field-Delhi pipeline located in Richland Parish, Louisiana, would redeliver the gas to the interconnection of United's and Texas Gas Transmission Corporation's facilities in Ouachita Parish, Louisiana.

United would charge Brownsville the rate equivalent to one-half of United's northern zone rate of 20.75 cents per Mcf. Such rate, it is explained, includes a component for gas consumed in company operations and the Gas Research Institute surcharge.

Comment date: November 4, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-853-000]

Take notice that on September 4, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-853-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Interlake, Inc. (Interlake), under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that the proposed service would be performed in accordance with a transportation agreement dated May 28, 1985, which provides for the transportation of up to 15,000 Mcf of natural gas per day. The gas would be received at the following Northern receipt points:

(1) The existing interconnection between Northern and Oklahoma Natural Gas Corporation (ONG) in Sec. 32, T.22N., R.22W., Woodward County, Oklahoma (ONG#1);

(2) And/or the existing interconnection between Northern and ONG Sec. 24, T.21N., R.21W., Woodward County, Oklahoma (ONG #2);

(3) And/or the existing interconnection between Northern and OHG in Sec. 4, T.12N., R.22W., Roger Mills County, Oklahoma (ONG/Roger Mills);

(4) And/or the existing interconnection between Northern and Northwest Central Pipeline Corporation (Northwest) in Sec. 32, T.19S., R.11W., Barton County, Kansas (Northwest/Barton);

(5) And/or the existing interconnection between Northern and Northwest in Sec. 31, T.17S., R.9W., Ellsworth County, Kansas (Northwest/Bushton);

Northern would redeliver equivalent volumes for the account of Interlake at the existing interconnection between Northern and Northern Illinois Gas Company (NIGAS) in Jo Daviess County, Illinois. It is stated that NIGAS would deliver the gas directly to the plant.

Northern proposes to provide this transportation service for a term not to extend beyond October 31, 1985.

Northern submits that the subject gas would be purchased by Interlake from Northern Gas Marketing, Inc. (NGMI), and would be used as boiler and furnace reheating fuel for the operation of Interlake's Riverdale, Illinois, plant.

Northern also requests flexible authority to add or delete sources of supply and/or receipt points. With respect to such flexible authority, Northern states that it would undertake within 30 days of the addition or deletion of any gas suppliers and/or receipt points, to file certain specified information to the Commission. Transco submits that any changes made pursuant to such flexible authority would be on behalf of the same end-user for use at the same end-user location and would remain within daily and annual volumes proposed herein.

Northern states it would charge Interlake the rest provided by its Rate Schedule EUT-1 (4.65 cents per Mcf per 100 miles forward haul plus one cent per Mcf for general and administrative expenses). Northern also indicates it will retain certain percentages of fuel and unaccounted-for gas. Specifically, Northern proposes to charge the following rates and retain the respective percentages of fuel:

Northern receipt point	Transportation rate (¢ Mcf)	Fuel retention percent
ONG No. 1	36.57	3.25
ONG No. 2	37.04	3.25
ONG/Roger Mills	40.15	3.50
Northwest/Barton	26.67	2.00
Northwest/Bushton	25.92	2.00

Northern estimates that the peak day volume, average day volume and annual volume would be 15,000 Mcf, 8,000 Mcf, and 2,800,000 Mcf, respectively.

Comment date: November 4, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. Equitable Gas Company, a division of Equitable Resources, Inc.

[Docket No. CP85-837-000]

Take notice that on August 29, 1985, Equitable Gas Company, a division of Equitable Resources, Inc. (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP85-837-000 a request pursuant to § 157.205 of the Commission Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas for Metaltech under authorization issued in Docket No. CP83-508-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Equitable proposes to transport up to 700 dt equivalent of natural gas per day for Metaltech for delivery into Equitable's distribution system for

ultimate delivery to Metaltech in Pittsburgh, Pennsylvania. Peak day and average day deliveries are estimated to be 650 and 600 dt equivalent of gas, respectively. The annual volumes transported would not exceed 200,000 dt. The gas would be purchased from Kepco, Inc., and would be delivered to Equitable at an existing delivery point in Ritchie County, West Virginia. Equitable proposes to deliver the gas into its distribution system at its Hartson Compressor Station, Washington County, Pennsylvania. The end-use of the gas is said to be 95 percent for tin galvenizing and five percent for plant protection.

Equitable states that the current transportation rate is 15.5 cents per Mcf in its Rate Schedule TS–1. Equitable's allowance for transportation shrinkage is said to be two percent. Equitable states that it filed in Docket No. RP85–180–000 to increase the rate under Rate Schedule TS–1 to 27 cents per Mcf effective August 30, 1985, and that as of the date of the instant request, no action had been taken on Equitable filing.

Equitable also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Equitable would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: November 4, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraph

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–22975 Filed 9–25–85; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Period of August 5 Through September 6, 1985

During the period of August 5 through September 6, 1985, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

September 13, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Barrier Oil Corp., Tarrytown, New York, HEE–0153

Barrier Oil Corp. filed an Application for Exception from the requirement to file Form EIA–782B, entitled "Reseller/retailers Monthly Petroleum Product Sales Report." The exception request, if granted, would relieve the firm from its obligation to file the monthly EIA survey. On September 5, 1985, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Ted's Truck Center, Quartzsite, Arizona, HEE–0156

Ted's Truck Center filed an Application for Exception from the requirement to file Form EIA–782B entitled "Reseller/retailers Monthly Petroleum Product Sales Report." The exception request, if granted, would relieve the firm from its obligation to file the monthly EIA survey. On September 6, 1985, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 85–22990 Filed 9–25–85; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of August 19 Through August 23, 1985

During the week of August 19 through August 23, 1985, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 13, 1985.

Appeal

John H. Hnatio, 08/23/85; HFA–0304

John H. Hnatio filed an Appeal under the Freedom of Information Act in which he sought undeleted versions of three documents released to him by the Department of Energy. In considering the Appeal, the DOE determined that the documents furnished Hnato had already been released in their entirety. Accordingly, that portion of the Appeal was denied. In addition, Hnatio asked the DOE to release documents for which the department had been conducting a FOIA search for six months. The DOE held that since no determination had been issued, the circumstances for an appeal did not exist. Accordingly, that portion of the Appeal was dismissed.

Motions for Discovery

Fedco Oil Company, 08/20/85; *HRD-0209, HRH-0209*

Fedco Oil Company filed Motions for Discovery and Evidentiary Hearing in connection with a Proposed Remedial Order (PRO) issued to the firm by the Economic Regulatory Administration (ERA). The discovery motion sought information from administrative records of DOE rulemakings, unofficial contemporaneous agency constructions of the regulations at issue (10 CFR Part 212, Subpart L), and information elaborating on the ERA's contentions in the PRO. In examining the motion, the DOE found that Fedco had failed to show that the official record of the disputed regulations was insufficient, or that the agency had interpreted the regulations inconsistently or in bad faith. The DOE therefore concluded that discovery of unofficial intra-agency documents would produce no relevant and material evidence. The DOE also pointed out that the PRO must stand or fall based on the specific conclusions of fact or law it sets forth. Accordingly, the DOE found no basis for any discovery requiring the ERA to elaborate on the contentions in the PRO. In its Motion for Evidentiary Hearing, Fedco sought to present testimony concerning the conduct of DOE personnel in enforcing the relevant regulations. The DOE denied the motion, finding that Fedco had not presented evidence of bad faith on the part of agency officials in conducting the audit and further that information necessary to establish whether the regulations were properly promulgated was already in the record of the proceeding. Both Fedco motions were therefore denied in their entirety.

RFB Petroleum, Inc., CMC Oil Company, 08/19/85; *HRD-0142, HRH-0142, HRD-0247, HRH-0247*

RFB Petroleum, Inc. and CMC Oil Company filed Motions for Discovery and Evidentiary Hearing in connection with their Statements of Objections to a Proposed Remedial Order. The DOE found that these motions, relating to the DOE's crude oil reseller regulations, were identical to those denied in *Merit Petroleum, Inc.*, 12 DOE ¶ 84,015 (1984). Since there were no differences in the circumstances of these cases that would make the reasoning of the *Merit* Decision inapplicable to the present proceeding, the Motions were denied for the reasons set forth in the *Merit* Decision.

Vanderbilt Energy Corporation, 08/23/85; *HRD-0098, HRH-0098*

Vanderbilt Energy Corporation filed Motions for Discovery and Evidentiary Hearing in connection with a Proposed Remedial Order issued to the Firm. In considering the firm's motions, the DOE found that Vanderbilt had not made the preliminary showing required to grant the firm's motions with respect to its allegation of bad faith and abuse of prosecutorial discretion by the Economic Regulatory Administration. The DOE also found that the proper method of calculating average daily production for purposes of applying the stripper well exemption is a legal and not a factual issue, and thus neither discovery nor an evidentiary hearing on this issue would be appropriate. In addition, the DOE determined that Vanderbilt had not set forth the reasons that its requests for discovery of worksheets, computations and other documents would be relevant to the down time issues in the proceeding and had not shown that its positions on these issues could only be established through an evidentiary hearing. The firm's Motions for Discovery and Evidentiary Hearing were therefore denied.

Interlocutory Orders

Economic Regulatory Administration/Fuel Oil Supply and Terminaling, Inc., 08/23/85; *HRZ-0267*

The Economic Regulatory Administration filed a Motion to Amend portions of a PRO issued to Fuel Oil Supply and Terminaling, Inc. and the Estate of Eddie E. "Bud" Hadsell. Specifically, the ERA wished to withdraw its reliance upon the regulatory definition of "firm" as the basis for asserting Hadsell's personal liability and further to clarify its position in the PRO that interest accrues on unrefunded overcharges until restitution is made. In considering the request, he DOE detemined that adopting the requested amendments would neither prejudice either of the parties nor unduly delay the enforcement proceeding. Accordingly, ERA's Motion to Amend was granted.

Gordon K. Walz, et al, Revere Petroleum, 08/21/85; *HRZ-0261, HRZ-0262*

Gordon K. Walz and four other parties (joined parties) filed a Motion for Disqualification with the Office of Hearings and Appeals (OHA). In their motion, the joined parties requested that the OHA disqualify the law firm of Chamberlin, Hrdlicka, White, Johnson & Williams (CHWJW) from continuing to repesent Revere Petroleum Corporation and Richard Dobyns (original parties) in a related Proposed Remedial Order (PRO) proceeding. In considering the joined parties' motion, the OHA determined that disqualification was inappropriate for two reasons. First, the joined parties failed to demonstrate that any testimony elicited from one of CHWJW's attorneys would prejudice the original parties under DR-102(b) of the Model Code of Professional Responsibility (Code). Second, the OHA found that disqualification of CHWJW would result in "substantial hardship" to the original parties, and thus was not warranted pursuant to DR5-102(A) of the Code. Accordingly, the Motion was denied. The OHA also considered a disqualification motion filed by the original parties and determined that the motion was based on unsubstantiated and speculative assertions. Accordingly, this Motion was also denied.

Implementation of Special Refund Procedures

Budget Airport Associates, Inc., Consolidated Leasing Corp., Grand Rent-A-Car Corp., Traveler's Rental, Inc., 08/20/85; *HEF-0044, HEF-0054, HEF-0083, HEF-0182*

The Office of Hearings and Appeals issued a final Decision and Order setting forth the procedures to be used in filing applications for refund from the settlement funds obtained by the DOE as a result of consent orders entered into with Budget Airport Associates, Inc. ($13,688.26), Consolidated Leasing Corp. ($16,500), Grand Rent-A-Car Corp. ($34,177.86), and Traveler's Rental, Inc. ($7,868.97). The funds will be available to customers who incurred refueling charges imposed by the consent order firms, when rented motor vehicles were returned with less motor gasoline than when rented. The consent orders cover only the operations of Budget, Consolidated and Grand at the Los Angeles International Airport, and Traveler's operations at Boston's Logan Airport. The Decision discussed specific information to be included in refund applications.

Naphsol Refining Company, 08/23/85; *HEF-0134*

The DOE issued a Decision and Order implementing a plan for the distribution of $29,673.56 plus interest received as a result of a consent order entered into by Naphsol Refining Company and the DOE on August 31, 1981. The DOE determined that the Naphsol settlement fund should be distributed to customers who were injured as a result of their purchases of motor gasoline, No. 1 fuel oil, or No. 2 fuel oil from Naphsol during the November 1, 1973 through March 31, 1975 consent order period. However, the DOE decided that a separate detailed showing of injury would not be required of applicants whose refund claim amounted to $5,000 or less. The Decision discussed specific information to be included in refund applications.

Northeast Petroleum Industries, 08/20/85; *HEF-0137*

The DOE issued a Decision and Order implementing a plan for the distribution of $322,748 plus interest received as a result of a consent order entered into by Northeast Petroleum Industries and the DOE. The DOE determined that the Northeast settlement fund should be distributed to customers who were injured as a result of their purchases of residual fuel oil from Northeast during the November 1, 1973 through June 30, 1975 consent order period. However, the DOE decided that a separate, detailed showing of injury would not be required of applicants whose refund claims amounted to $5,000 or less. The Decision discussed specific information to be included in refund applications.

VGS Corporation/Southland Oil Company, Young Refining Corporation, Macmillan Ring-Free Oil Co., Inc. 08/21/85; *HEF-0225, HEF-0228, HEF-0506*

The DOE issued a Decision and Order setting forth procedures to be used for distributing funds received pursuant to consent orders with VGS Corporation/ Southland Oil Company ($1,010,000), Young Refining Corporation ($75,000), and Macmillan Ring-Free Oil Co., Inc. ($1,550,000). The consent orders settled all disputes regarding each firm's compliance with the DOE petroleum regulations. The funds will be available to customers who were injured as a result of their purchases of covered petroleum products from any of the three firms during periods covered by the consent orders.

However, the DOE decided that no specific, detailed showing of injury would be required of applicants whose refund claims amounted to $5,000 or less. The Decision outlines specific information to be included in refund applications.

Refund Applications

Gulf Oil Corporation/Bursaw Oil Company, et al., 08/23/85; RF40-809, et al

Bursaw Oil Company and 48 other gasoline and middle distillate wholesalers and retailers filed Applications for Refund in which they sought a portion of the funds obtained by the DOE through a consent order entered into with the Gulf Oil Corporation. The DOE found that each of the firms satisfactorily demonstrated that it would not have been required to pass through to customers a cost reduction equal to the refund amount claimed. The DOE therefore decided that Bursaw and the 48 other wholesalers and resellers should receive a total refund of $378,702, representing $332,382 in principal and $46,320 in interest.

Gulf Oil Corporation/Jerry Dybul, et al., 08/23/85; RF40-00175, et al

The DOE issued a decision granting refunds from the Gulf Oil Corporation deposit escrow fund to five purchasers of Gulf refined petroleum products. The refunds to these firms total $17,584, representing $15,435 in principal and $2,149 in interest. All of the refund applicants demonstrated that they would not have been required to pass through to their customers a cost reduction equal to the amount of refund claimed.

Gulf Oil Corporation/Jim's Gulf Service Stations, Inc., et al., 08/21/85; RF40-00044, et al

The DOE issued a decision granting refunds from the Gulf Oil Corporation deposit escrow fund to 39 purchasers of Gulf refined petroleum products. The refunds to these firms total $152,797, representing $134,104 in principal and $18,693 in interest. All of the refund applicants demonstrated that they would not have been required to pass through to their customers a cost reduction equal to the amount of refund claimed.

Gulf Oil Corporation/John L. Boltz, et al., 08/23/85; RF40-00173, et al

The DOE issued a decision granting refunds from the Gulf Oil Corporation deposit escrow fund to 19 purchasers of Gulf refined petroleum products. The refunds to these firms total $88,876, representing $78,007 in principal and $10,869 in interest. All of the refund applicants demonstrated that they would not have been required to pass through to their customers a cost reduction equal to the amount of refund claimed.

Gulf Oil Corporation/Kirschner Brothers Oil Company, et al., 08/23/85; RF40-2004, et al

Kirschner Brothers Oil Company and 46 other gasoline and middle distillate wholesalers and retailers, filed Applications for Refund in which they sought a portion of the funds obtained by the DOE through a consent order entered into with the Gulf Oil Corporation. The DOE found that each of the firms demonstrated that it would not have been required to pass through to customers a cost reduction equal to the refund amount that it claimed. The DOE therefore decided that Kirschner and the 46 other wholesalers and resellers should receive a total refund of $297,468, representing $261,086 in principal and $36,382 in interest.

Gulf Oil Corporation/Pfleider Oil Corporation, et al., 08/23/85; RF40-877, et al

Pfleider Oil Corporation and 49 other gasoline and middle distillate wholesalers and retailers, filed Applications for Refund in which they sought a portion of the funds obtained by the DOE through a consent order entered into with the Gulf Oil Corporation. The DOE found that each of the firms demonstrated that it would not have been required to pass through to customers a cost reduction equal to the refund amount that it claimed. The DOE therefore decided that Pfleider and the 49 other wholesalers and resellers should receiver a total refund of $291,760, representing $256,075 in principal and $35,685 in interest.

Gulf Oil Corporation/Turner's E-Z Go #31, et al., 08/23/85; RF40-9 et al

The DOE issued a decision granting refunds from the Gulf Oil Corporation deposit escrow fund to 49 purchasers of Gulf refined petroleum products. The refunds to these firms total $124,532, representing $109,304 in principal and $15,228 in interest. All of the refund applicants demonstrated that they would not have been required to pass through to their customers a cost reduction equal to the amount of refund claimed.

Pioneer Corporation, Houston Natural Gas Corporation/Phillips Petroleum Company, 08/21/85; RF52-1, RF53-1

Phillips Petroleum Company filed an Application for Refund seeking a portion of the funds obtained by the DOE through consent orders entered into with Pioneer Corporation and Huston Natural Gas Corporation. Phillips claimed refunds on the grounds that it purchased natural gas liquid products from the consent order firms. The DOE found that Phillips experienced a competitive disadvantage and was injuried as a result of its NGLP purchases from the two firms during the consent order period. The DOE therefore determined that Phillips should receive 100 percent of its allocable share of the consent order funds, based on the volumetric approach. Accordingly, Phillips was granted a refund of $249,699.64 plus $82,153.18 in interest from the Pioneer escrow account, and a refund of $128,304.76 plus $55,548.24 in interest from the HNG escrow account.

Dismissal

The following submission was dismissed:

Name and Case No.

Hopland Band of Pomo Indians—RQ21-155

[FR Doc. 85-22991 Filed 9-25-85; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Second Meeting of the Land Mobile Radio/UHF Television Technical Advisory Committee

October 15, 1985.

The second meeting of the Land Mobile Radio/UHF Television Technical Advisory Committee will be held on October 15, 1985, in Room 856, (the Commission Meeting Room), 1919 M Street NW., Washington, DC. The meeting will start at 9:30 A.M.

All interested parties are invited to attend this meeting. Since this is to be a technical advisory committee, attendees should be prepared for technical discussions.

The agenda for the second meeting will consist of:

1. Approval of minutes of last meeting;
2. Status report from working group co-convenors;
3. Discussion of additional work for the working groups or deletion of work from the working groups;
4. Discussion of appropriate date and tentative agenda for next meeting.

Any questions regarding this meeting should be directed to Mr. Kenneth Nichols at (301) 725-1585.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-22969 Filed 9-25-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Wasington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room, 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Wasington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 207-009767-002.

Title: ACTA/USA Joint Service Agreement.

Parties:
Associated Container Transportation (Australia) Ltd.
Blue Star Line Limited
Ellerman Lines PLC
Port Line Limited

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's format, organization and content requirements. It would also add Associated Container Transportation (Australia) Ltd. as a party to the agreement.

Agreement No.: 221-010832.
Title: Savannah Terminal Agreement.
Parties:
Georgia Ports Authority (Authority)
Moller Steamship Co., Inc. as agents for Maersk Line (Maersk)

Synopsis: This agreement covers the lease by the Authority to Maersk of parking slots for operating a container yard within the confines of the Authority's Garden City Terminal in Savannah, Georgia. The container yard will be operated by employees of Maersk Line. The term of the lease shall be for one year, which term shall begin on the first day of the month following the determination of its effective date by the Federal Maritime Commission. A shortened review period for the agreement has been requested by the parties.

Dated: September 23,1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-23014 filed 9-25-85; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 224-003930-001]

Agreement Between the Port Authority of New York and New Jersey and Universal Maritime Service Corp.; Erratum

The **Federal Register** Notice published on September 9, 1985, (Vol. 509, No. 174, Pg. 36674), covering Agreement No. 224-003930-001 inadvertently indicated that the parties to the agreement were the Port Authority of New York and New Jersey, the City of New York and the State of New York. It should have read that the parties are the Port Authority of New York and New Jersey and Universal Maritime Service Corp.

Dated: September 23, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-23015 Filed 9-25-85; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Stena Cargo Line Ltd., Imperial Ocean Services Ltd. (Bahamas), Star Cruises Limited and SeaEscape Limited, c/o SeaEscape Limited, 1080 Port Boulevard, Miami, Florida 33132

Dated: September 20, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-23017 Filed 9-25-85; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Imperial Ocean Services Ltd. (Bahamas), Star Cruises Limited and SeaEscape Limited, c/o SeaEscape Limited, 1080 Port Boulevard, Miami, Florida 33132

Dated: September 20, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-23016 Filed 9-25-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

September 20, 1985.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822);

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-6880).

Proposal to approve under OMB delegated authority the extension with revision of the following report:

1. Report title: Weekly Report to Assets and Liabilities for Large U.S. Branches and Agencies of Foreign Banks
Agency form number: FR 2069
OMB Docket number: 7100-0030
Frequency: Weekly
Reporters: U.S. Branches and Agencies of Foreign Banks
Small businesses are not affected.
General description of report:

This information collection is voluntary (12 U.S.C. 3105) and is given confidential treatment (5 U.S.C. 552(b)(4) and b(8)).

This report provides current information on credit developments and sources of funds at U.S. branches and agencies of foreign banks. These data are used to estimate bank credit and nondeposit funds and for analyzing banking and monetary conditions.

Board of Governors of the Federal Reserve System, September 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-22982 Filed 9-25-85; 8:45 am]

BILLING CODE 6210-01-M

Amoskeag Bank Shares, 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 18, 1985.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Amoskeag Bank Shares, Inc.*, Manchester, New Hampshire; to acquire 100 percent of the voting shares of Portsmouth Savings Bank, Portsmouth, New Hampshire, and indirectly acquire 7.64 prcent of the voting shares of First Coastal Bank, Inc., and indirectly acquire The First National Bank of Portsmouth, Portsmouth, New Hampshire.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The Colonial BancGroup, Inc.*, Montgomery, Alabama; to acquire 100 percent of the voting shares of Peoples Bancshares, Inc., Pell City, Alabama, and indirectly acquire The Peoples Bank, Pell City, Alabama.

2. *The Colonial BancGroup, Inc.*, Montgomery, Alabama; to acquire 100 percent of the voting shares of The Bank of Oxford, Oxford, Alabama; Bank of Heflin, Heflin, Alabama; and The Colonial Bank of East-Central Alabama, Pell City, Alabama, a phantom bank.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Illini Bancorp, Inc.*, Galesburg, Illinois; to acquire 100 percent of the voting shares of Madison Park Bank, Peoria, Illinois.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Regency Bancorporation*, Pueblo, Colorado; to become a bank holding company by acquiring 97 percent of the voting shares of Pueblo Boulevard Bank, Pueblo, Colorado. Comments on this application must be received not later than October 16, 1985.

Board of Governors of the Federal Reserve System, September 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-22983 Filed 9-25-85; 8:45 am]

BILLING CODE 6210-01-M

Citicorp; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 85-20338), published at page 34754 of the issue for Tuesday, August 27, 1985.

Citicorp, New York, New York; to engage in data processing and data transmission activities. Citicorp proposes to engage in these activities world-wide.

Board of Governors of the Federal Reserve System, September 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-22984 Filed 9-25-85; 8:45 am]

BILLING CODE 6210-01-M

First Indiana Bancorp; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 85-22272), published at page 37911 of the issue for Wednesday, September 18, 1985.

These activities would be conducted in the State of Indiana.

Board of Governors of the Federal Reserve System, September 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-22985 Filed 9-25-85; 8:45 am]

BILLING CODE 6210-01-M

T N Bancshares, Inc.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 85-22398), published at page 38033 of the issue for Thursday, September 19, 1985.

These activities would be conducted in the states of Texas and New Mexico.

Board of Governors of the Federal Reserve System, September 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-22986 Filed 9-25-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services covers the Social Security Administration.

Notice is given that the **Federal Register** Document 85-19983, Page 33850, published Wednesday, August 21, 1985 be amended to reflect a change in the office of Legislative and Regulatory Policy (OLRP) **Federal Register** code.

The OLRP material is amended as follows:

1. In the first column, nineteenth line, "Chapter (SY)" should have read "Chapter (SH)."

2. All subsequent references in the first and second columns to "SY" should have read "SH."

Dated: September 13, 1985.

Nelson J. Sabatini,

Acting Deputy Commissioner for Management and Assessment.

[FR Doc. 85-23019 Filed 9-25-85; 8:45 am]

BILLING CODE 4190-11-M

Alcohol, Drug Abuse, and Mental Health Administration

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I) announcement is made of the following national advisory bodies scheduled to assemble during the month of October 1985.

Biological and Neurosciences Subcommittee of the Mental Health Research Education Review Committee

October 3; 1:00 p.m.
Parklawn Building
Conference Room O
5600 Fishers Lane, 3rd Floor
Rockville, Maryland 20857

Open—October 3; 1:00–2:00 p.m.
Closed—Otherwise

Contact: Betty Russell
Parklawn Building, Room 9–101
5600 Fisher Lane 20857
Rockville, Maryland 20857 (301) 443–3857

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the area of biological sciences related to mental

health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 1:00–2:00 p.m., October 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applicants for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Basic Psychopharmacology Research Review Subcommittee of the Neurosciences Research Review Committee
October 3–4; 8:30 a.m.
Ramada Inn—Bethesda
8400 Wisconsin Avenue
Bethesda, Maryland 20814

Open—October 3; 8:30–9:30 a.m.
Closed—Otherwise
Contact: Lynn Warwick
Parklawn Building, Room 9C26
5600 Fisher Lane
Rockville, Maryland 20857 (301) 443–3944

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities relating to basic psychopharmacology and neuropsychology, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 8:30–9:30 a.m., October 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applicants for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee
October 7–9; 9:00 a.m.
Holiday Inn—Chevy Chase
5520 Wisconsin Avenue
Chevy Chase, Maryland 20815

Open—October 7; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Nell Brock
Parklawn Building, Room 9C08
5600 Fisher Lane
Rockville, Maryland 20857 (301) 443–1177

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health of the child and family and prevention, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 7, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applicants for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Applied Behavioral Sciences Subcommittee of the Mental Health Research Education Review Committee
October 10–11; 9:00 a.m.
Connecticut Avenue Club
2661 Connecticut Avenue
Washington, D.C. 20008

Open—October 10; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Emilie Embrey
Parklawn Building, Room 9–101
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–3857

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the areas of biological sciences, the psychological sciences, and the applied behavioral sciences related to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 10, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Psychological Sciences Subcommittee of the Mental Health Research Education Review Committee
October 10–11; 12 noon
Linden Hill Hotel
5400 Pooks Hill Road
Bethesda, Maryland 20814

Open—October 10; 12:00 noon–1:00 p.m.
Closed—Otherwise
Contact: Sandra Buckhalter
Parklawn Building, Room 9–101
Rockville, Maryland 20857, (301) 443–3857

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the areas of psychological sciences related to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 12 noon–1:00 p.m., October 10, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Biochemistry Research Subcommittee of the Drug Abuse Biomedical Research Review Committee
October 15–17; 9:00 a.m.
Holiday Inn Crowne Plaza
Woodmont Conference Room
1750 Rockville Pike
Rockville, Maryland 20852

Open—October 15; 9:00-9:30 a.m.
Closed—Otherwise
Contact: Yuth Nimit, Ph.D.
Parklawn Building, Room 10–42
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the

National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., October 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Pharmacology Research Subcommittee of the Drug Abuse Biomedical Research Review Committee
October 15–17; 9:00 a.m.
Crowne Plaza Holiday Inn
Woodmont Conference Room
1750 Rockville Pike
Rockville, Maryland 20852

Open—October 15; 9:00–9:30 a.m.
Closed—Otherwise
Contact: Heinz Sorer, Ph.D.
Parklawn Building, Room 10–42
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., October 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Drug Abuse Clinical and Behavioral Research Review Committee
October 15–18; 9:00 a.m.
Holiday Inn Crowne Plaza
1750 Rockville Pike
Rockville, Maryland 20852

Open—October 15; 9:00–9:30 a.m.
Closed—Otherwise
Contact: Daniel L. Mintz
Parklawn Building, Room 10–42
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., October 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Epidemiology and Prevention Subcommittee of the Drug Abuse Epidemiology, Prevention, and Services Research Review Committee
October 16–18; 8:30 a.m.
Ramada Inn
Embassy 1
8400 Wisconsin Avenue
Bethesda, Maryland 20814

Open—October 16; 8:30–9:30 a.m.
Closed—Otherwise
Contact: Ron Gold
Parklawn Building, Room 10–42
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30–9:30 a.m., October 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Clinical and Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee
October 16–17; 9:00 a.m.
The Gramercy Hotel
1616 Rhode Island Avenue, N.W.
Washington, D.C. 20036

Open—October 16; 1:30–2:30 p.m.
Closed—Otherwise
Contact: Laura Weinstein, Ph.D.
Parklawn Building, Room 16C26
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–6106

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol and Alcoholism for final review.

Agenda: From 1:30–2:30 p.m., October 16, the meeting will be open for discussion of review policies and procedures, administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Prevention and Epidemiology Subcommittee of the Alcohol Psychosocial Research Review Committee
October 16–18; 9:00 a.m.
The Gramercy Hotel
1616 Rhode Island Avenue, N.W.
Washington, D.C. 20036

Open—October 16; 9:00–10:30 a.m.
Closed—Otherwise
Contact: Mary L. Ganikos, Ph.D.
Parklawn Building, Room 16C26
5600 Fishers Lane
Rockville, Maryland 20857 (301) 443–2860

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00–10:30 a.m., October 16, the meeting will be open for discussion of review policies and procedures, administrative announcements and program

developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * * *

Services Research Subcommittee of the Drug Abuse Epidemiology, Prevention, and Services Research Review Committee
October 16–18; 8:30 a.m.
Ramada Inn
Embassy 11
8400 Wisconsin Avenue
Bethesda, Maryland 20814
Open—October 16; 8:30–9:30 a.m.
Closed—Otherwise
Contact: H. Noble Jones
Parklawn Building, Room 10–42
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30–9:30 a.m., October 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * * *

Aging Subcommittee of the Life Course and Prevention Research Review Committee
October 17–18; 9:00 a.m.
Shoreham Hotel
Executive Conference Room
Room 763
2500 Calvert Street, N.W.
Washington, D.C. 20008
Open—October 17; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Victoria Souder
Parklawn Building, Room 9C02
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–4728

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and activities in the fields of child, family, and aging, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing intial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * * *

Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee
October 17–18; 9:00 a.m.
Holiday Inn Chevy Chase
5520 Wisconsin Avenue
Chevy Chase, Maryland 20815
Open—October 17; 9:00 a.m.–10:00 a.m.
Closed—Otherwise
Contact: Pamela J. Mitchell
Parklawn Building, Room 9C18
5600 Fishers Lane
Rockville, Maryland 20857 (301) 443–1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * * *

Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee
October 17–18; 9:00 a.m.
Dupont Plaza Hotel
1500 New Hampshire Avenue, NW.,
Washington, DC 20036
Open–October 17; 9:00–10:00 a.m.
Closed–Otherwise
Contact: Maureen Eister
Parklawn Building, Room 9C14
5600 Fishers Lane
Rockville, Maryland 20857 (301) 443–4868

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * * *

Cognition, Emotion, and Personality Research Review Committee
October 21–22; 9:00 a.m.
Chevy Chase Holiday Inn
5520 Wisconsin Avenue
Chevy Chase, Maryland 20815
Open—October 21; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Shirley Maltz
Parklawn Building, Room 9C26
5600 Fishers Lane
Rockville, Maryland 20857 (301) 443–3944

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the areas of personality, emotion, cognition, and related higher mental processes, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 21, the meeting will be open for discussion of administrative announcements and program

developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appenix I).

* * * * *

Psychopathology and Clinical Biology Research Review Committee
October 21-23; 9:00 a.m.
Shoreham Hotel
Calvert Street and Connecticut Avenue, N.W.
Washington, D.C. 20008
Open—October 21; 9:00-10:00 a.m.
Closed—Otherwise
Contact: Mary F. Curvey
Parklawn Building, Room 9C24
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443-1340

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and research training in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., October 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

* * * * *

Criminal and Violent Behavior Research Review Committee
October 23-25; 9:00 a.m.
The Gramercy Hotel
1616 Rhode Island Avenue, N.W.
Washington, D.C. 20036
Open—October 23; 9:00-10:30 a.m.
Closed—Otherwise
Contact: Jean Byrne
Parklawn Building, Room 9C14
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443-4868

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to the mental health aspects of criminal, delinquent, and antisocial behavior; individual violent behavior; sexual assault; and law-mental health interactions related to these areas, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:30 a.m., October 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

* * * * *

Epidemiologic and Services Research Review Committee
October 23-25; 9:00 a.m.
Holiday Inn—Chevy Chase
5520 Wisconsin Avenue
Chevy Chase, Maryland 20815
Open—October 23; 9:00-10:00 a.m.
Closed—Otherwise
Contact: Gloria Yockelson
5600 Fishers Lane
Rockville, Maryland, (301) 443-1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., October 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92 463 (5 U.S.C. Appendix I).

* * * * * *

Clinical Program Projects/Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee
October 24; 9:00 a.m.
Holiday Inn Crowne Plaza
1750 Rockville Pike
Rockville, Maryland 20852
Open—October 24; 9:00-10:00 a.m.
Closed—Otherwise
Contact: Pamela J. Mitchell
Parklawn Building, Room 9C18
5600 Fishers Lane
Rockville, Maryland 20857 (301) 443-1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of mental health clinical research centers, clinical program projects, and other large-scale multidisciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., October 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

* * * * * *

Mental Health Behavioral Sciences Research Review Committee
October 24-26; 9:00 a.m.
Wellington Hotel
2505 Wisconsin Avenue, NW.,
Washington, D.C. 20007
Open—October 24; 9:00-10:00 a.m.
Closed—Otherwise
Contact: Naomi Lichtenberg
Parklawn Building, Room 9C26
5600 Fishers Lane
Rockville, Maryland 20857 (301) 443-3936

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to behavioral science areas relevant to mental health and makes recommendations to the National

Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Research Review Committee
October 28–30; 9:00 a.m.
Wellington Hotel
2505 Wisconsin Avenue, NW.,
Washington, DC 20007
OPEN—October 28; 9:00–11:00 a.m.
CLOSED—Otherwise
Contact: Walter T. Shaffer, Ph.D.
Parklawn Building, Room 16C26
5600 Fishers Lane
Rockville, Maryland 20857 (301) 443–6106

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00–11:00 a.m., October 28, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Neuroscience and Behavior Subcommittee of the Alcohol Biomedical Research Review Committee
October 30–November 1; 9:00 a.m.
Wellington Hotel
2505 Wisconsin Avenue, NW.,
Washington, DC 20007
Open—October 30; 9:00–11 a.m.
Closed—Otherwise
Contact: Mark R. Green, Ph.D.
Parklawn Building, Room 16C26
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–6106

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00–11:00 am., October 30, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6a), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Research Scientist Development Review Committee
October 30–November 1; 7:00 p.m.
Holiday Inn Chevy Chase
5520 Wisconsin Avenue
Chevy Chase, Maryland 20815
Open—October 30; 9:00–9:30 a.m.
Closed—Otherwise
Contact: Linda Rainey
Parklawn Building, Room 9C05
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–6470

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals who are engaged full time in research and related activities relevant to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–9:30 a.m., October 30, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of committee members may be obtained as follows: MIAAA: Ms. Diana Widner, Committee Management Officer, Room 16C20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375. NIDA: Ms Mary Kielkopf, Acting Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1644. NIMH: Ms. Helen Garrett, Committee Management Officer, Room 17C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: September 20, 1985.

Robin I. Kawazoe,

Committee Management Officer Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 85–22970 Filed 9–25–85; 8:45 am]
BILLING CODE 4160-20-M

Public Health Service

Grants Program for Baccalaureate Degree-Granting Institutions; Academic Research Enhancement Award

In its report accompanying the Fiscal Year 1985 appropriation for the National Institutes of Health (NIH), Congress called for an initiative to strengthen the research milieu of non-research-intensive, four-year colleges and universities which provide undergraduate training for significant number of our nation's research scientists. In FY 1985, the NIH made $5,000,000 available for this purpose and will be able to award approximately 75 "Academic Research Enhancement Awards" (AREAs). This award is designed to enhance the research environment of educational institutions that have not been traditional recipients of NIH research funds. The award is intended to support new research projects to expand ongoing research activities proposed by faculty members of these institutions in areas related to the health sciences.

The NIH is inviting grant applications for a second round of AREAs to be awarded in FY 1986.

Institutions eligible for the AREA Program are defined as those that offer baccalaureate degrees in the sciences related to health, but did not receive an

NIH Biomedical Research Support Grant (BRSG) in FY 1985. (If in doubt about whether an institution has received a BRSG, contact the Office of Grants Inquiries, Westwood Building, NIH, Bethesda, Maryland 20892.) Investigators eligible for the Program are those who will not have active research grant support (including another AREA) from either NIH or ADAMHA (Alcohol, Drug Abuse, and Mental Health Administration) at the time of award of an AREA grant. Applicants for AREAs are not eligible to submit a regular NIH or ADAMHA research grant application for essentially the same project.

Funding decisions will be based on the proposed research project's scientific merit and relevance to NIH programs, and the institution's contribution to the undergraduate preparation of doctoral-level health professionals. Among projects of essentially equivalent scientific merit and program relevance, preference will be given to those submitted by institutions that have granted baccalaureate degrees to 25 or more indiviuals who, during the period 1977–1984, obtained academic or professional doctoral degrees in the health related sciences.

AREAs are awarded on a competitive basis. Applicants may request support for up to $50,000 in direct costs (plus applicable indirect costs) for a period not to exceed 24 months. Although this award is non-renewable, it will enable qualified individual scientists within the eligible institutions to receive support for feasibility studies, pilot studies and other small-scale research projects preparatory to seeking more substantial funding from the regular NIH research grant programs.

Applications for this award will be accepted under the regular application submission procedures of the Division of Research Grants (DRG) of NIH. Grant applications must be prepared and submitted on PHS 398 grant application forms. An abbreviated format and simplified instructions will be provided for use in preparing these applications. The receipt date is January 15, 1986.

Those individual and institutions meeting eligibility requirements and wishing to receive further information and/or application materials should write to: AREA, Office of Grants Inquiries, Division of Research Grants, National Institutes of Health, Westwood Building—Room 449, Bethesda, Maryland 20892.

Dated: September 19, 1985.

J.E. Rall,

Acting Director, National Institutes of Health.

[FR Doc. 85–22988 Filed 9–25–85; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination That the Southeastern Cherokee Confederacy, Inc., the Northwest Cherokee Wolf Band, and the Red Clay Inter-Tribal Indian Band Do Not Exist as Indian Tribes

September 16, 1985.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(f) (formerly 25 CFR 54.9(f)), notice is hereby given that the Assistant Secretary has determined that three separate but related petitioners (the Southeastern Cherokee Confederacy, Inc., the Northwest Cherokee Wolf Band, and the Red Clay Inter-tribal Indian Band) do not exist as Indian tribes, either individually or collectively as one tribe, within the meaning of Federal law. This determination includes all bands and clans which are now affiliated or which have been affiliated in the past with the petitioners listed below:

Southeastern Cherokee Confederacy Inc. (hereinafter SECC), c/o William R. Jackson, Route 1, Box 111, Leesburg, Georgia 31763.

Northwest Cherokee Wolf Band (NWCWB), Southeastern Cherokee Confederacy, Inc., c/o Robert E. Ponder, P.O. Box 592, Talent, Oregon 97540.

Red Clay Inter-tribal Indian Band (RCIIB), Southeastern Cherokee Confederacy, Inc., c/o John F. Neikirk, 7703 Georgetown Road, Ooltewah, Tennessee 37363.

This notice is based on determinations following a review of public comments on the proposed finding that these groups individually as well as collectively do not meet four of the criteria set forth in 25 CFR 83.7 and, therefore, do not meet the requirements necessary for a government-to-government relationship with the United States.

A notice of the proposed finding to decline to acknowledge the SECC, the NWCWB, and the RCIIB was published in the **Federal Register** on Monday, April 1, 1985 (page 12872, Vol. 50, No. 62). Interested parties were given 120 days in which to submit factual or legal arguments to rebut the evidence used to support the proposed finding.

Two written comments were received during the comment period. A letter was received on May 13 from Ruby Walls, Executive Secretary of the Northwest Cherokee Wolf Band (one of the petitioning organizations), which supported the Department's proposed finding and stated, on behalf of the group, that they realized that "there is no possible chance of federal recognition . . . [and that] It is also recognized by our members that our ancestors did not keep their tribal contact from the early 1800's and went on to adapt to the white man's ways."

One rebuttal was received on July 29, 1985 from Bettie L. Buford, principal vice chief of the SECC, presumably on behalf of the SECC petitioner, which challenged the proposed finding. This letter and its supporting documentation were carefully considered to determine whether the evidence and arguments presented would strengthen the group's overall petition for acknowledgment.

Supporting material submitted included numerous personal affidavits and photos attesting to the American Indian heritage of selected individuals, copies of recent corrections to vital records, miscellaneous newspaper articles and other published materials referring to Indians in general but not to the petitioning groups in particular, minutes and reports of meetings and other notices (all dated 1985) describing the participation of the Crow Band of the SECC and/or its members in local activities, and miscellaneous envelopes and other mail of recent origin addressed to individuals using Indian names.

Most of the genealogical materials submitted with the rebuttal dealt with persons who could not be identified with and were apparently different from and in addition to individuals previously reported as SECC members for acknowledgment purposes. Personal affidavits submitted were insufficient as evidence of Indian heritage since they were of recent origin and unsupported by other corroborating evidence. Vital records and corrections thereto were of recent origin, based in unsupported personal affidavits and, thus, were insufficient as evidence in the context within which they were used. News articles and other publsihed materials were of a very general nature and did not address the historical continuity or political authority of the current petitioners. Meeting minutes and reports of Crow Band activities were of very recent (1985) origin. Although they did

discuss the group's current activities within their local community, they did not address the question of historical identification of the group and its members as a separate and distinct community of Indians. Current mail addressed to an individual who uses an Indian name is not historical evidence, nor does it necessarily show Indian ancestry or recognition as Indian.

A second mailing was received from Mrs. Buford on August 20, 21 days after the close of the 120-day period for public comment. This mailing included five letters petitioning against the Secretary's preliminary decision to deny Federal acknowledgment to the SECC and an affiliate band, the Badger Band of Oregon; as well as a few additional genealogical materials and personal affidavits, but no new substantive evidence. The petitions contained 50 signatures, only 8 of which could be identified as belonging to members of the petitioning group.

None of the evidence or arguments submitted refuted the perliminary finding that the SECC, the NWCWB, the RCIIB and their affiliated bands and clans are recently formed, overtly multi-tribal voluntary associations of individuals recruited into membership. The petitioning organizations are not derived from nor are they the historical successors of the pre-removal Cherokee Nation.

Based on information originally provided by the petitioners, on independent research conducted by the Acknowledgment staff, and on comments and supporting evidence received from the SECC petitioner in response to the proposed finding, we conclude that the SECC, the NWCWB, and the RCIIB do not meet the requirements necessary under Federal law for a government-to-government relationship with the United States.

In accordance with 25 CFR 83.9(j) of the Acknowledgment regulations, an analysis was made to determine what, if any, options other than acknowledgment would be available under which the petitioning groups could make application for services and other benefits. No viable alternatives could be found due to the mixed and uncertain Indian ancestry of each group, the geographical dispersion of its membership, and their lack of inherent social and political cohesion and continuity.

This determination is final and will become effective 60 days after the date on which this notice appears in the **Federal Register** unless the Secretary of the Interior requests reconsideration pursuant to 25 CFR 83.10.

Hazel E. Elbert,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85-23064 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-02-M

Information Collections Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

September 19, 1985.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Budget Clearance Officer and to the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone number (202) 395-7313.

Title: Financial Assistance and Social Services Program (25 CFR Part 20).

Abstract: These forms request financial, demographic and employment information on clientele for the purpose of determining eligibility to receive financial assistance. These forms allow the Bureau worker to determine the degree of unmet need and arrange for a money payment.

Bureau Form Number: 5-6601, 5-6603, 5-6604, 5-6605, 5-1201B.

Description of Respondents: Individuals whose needs have not been met and some form of subsistence is required.

Annual Response: 213,288.

Annual Burden Hours: 33,498.

Bureau Clearance Officer: Cathie L. Martin (202) 343-3574.

Hazel E. Elbert,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85-23065 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Availability of Record of Decision and Rangeland Program Summary for the John Day Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Record of Decision for the John Day Resource Management Plan.

SUMMARY: In accordance with 43 CFR 1610.5 and section 102(2)(c) of the National Environmental Policy Act of 1969 (40 CFR 1505.2), the Department of the Interior, Bureau of Land Management, notice is hereby given of the issuance of the Record of Decision and Rangeland Program Summary for the John Day Resource Management Plan. Initiation of actions which implement this plan can begin with the signing of the Record of Decision.

DATES: The Record of Decision became effective with the signing of that document on August 28, 1985 by William G. Leavell, State Director, Oregon. Copies of this document will be mailed to those people who received the draft and final RMP/EIS documents. Copies will be available for the public on or about September 20, 1985.

ADDRESS: Requests for copies of the approved Resource Management Plan Record of Decision and Rangeland Programs Summary or questions on specific activity plans, management plans or development/protection plans should be addressed to Malcolm Shrode, Three Rivers Resource Area Manager, Bureau of Land Management, Burns District, 74 S. Alvord Street, Burns, Oregon 97720.

SUPPLEMENTARY INFORMATION: The Draft RMP/EIS was released for a 90 day public comment period on June 15, 1984. The proposed RMP/Final EIS was released for public review on November 30, 1984. Two protests were received, analyzed and denied by the Director, BLM. The Governor of Oregon did not identify any inconsistencies with State or local plans, programs or policies or recommend any changes in the proposed plan.

Alternatives Analyzed: Four alternatives for managing 182,120 acres of public land in the John Day planning area (Grant and northern Harney counties) were analyzed in the Resource Management Plan/Environmental Impact Statement.

The Proposed Resource Management Plan (the Preferred Alternative in the Resource Management Plan/Environmental Impact Statement) emphasizes management, production on a sustained yield basis and use of renewable resources on the majority of the public lands in the John Day RMP area. The proposed plan provides for protection of cultural, soil, water, botanical and recreational resources,

aquatic and riparian habitats, and big, small and nongame habitats.

The Emphasize Production of Commodities Alternative would provide economic benefits to the local economy through production of goods and services on public lands to meet local and possibly regional demands.

The Emphasize Enhancement of Natural Resources Alternative would provide protection, maintenance and enhancement of the natural environment for its enjoyment and use by present and future generations.

The Continuation of Present Management Alternative would provide for management of all resources at current levels. This is the No Action Alternative required by the National Environmental Policy Act.

Decision

The decision is to adopt the Proposed Plan as the John Day Resource Management Plan. Major actions contained in the plan are to:

Manage 32,242 acres of commercial forest land for a sustainable harvest level of approximately 21.7 million board feet per decade and sell minor forest products where consistent with other resource values.

Make competitive forage available for wildlife and wild horses at current levels except for bighorn sheep which will be emphasized. Improve forage production and conditions for livestock and big game populations on targeted allotments.

Dispose of 5,240 acres through sale and an additional 16,000 acres through sale, exchange or transfer when in the public interest.

Modify grazing systems or construct improvements to enhance 28 stream miles. Develop instream structures along 55 miles of streams supporting anadromous fisheries. Construct a fish ladder to open up 85 miles of streams to anadromous fish.

Leave all locatable minerals on public lands in the planning area open to entry under the provisions of the Mining Law of 1872 as amended, except for exclusions currently under protective withdrawal. All lands currently available for mineral leasing will remain available and no additional leasing restrictions are imposed. Material sales will continue to be made when consistent with other resource values.

Designate 121,945 acres of public lands open to ORV use. An additional 49,652 acres are identified for seasonal closures to enhance wildlife habitat in the cooperative road management area and the remaining 10,523 acreas are subject to the BLM Interim Management Policy and Guidelines for Lands Under Wilderness Review.

Mitigating Measures

All practicable measures will be taken to mitigate adverse impacts. These measures will be strictly enforced during plan implementation. Monitoring will tell how effective these measures are in minimizing environmental impacts. Therefore, additional measures to protect the environment may be taken during or following monitoring.

Dated: August 30, 1985.

Joshua L. Warburton,

District Manager.

[FR Doc. 85-23049 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-33-M

[CA 7035 WR, CA 7037 WR, CA 7038 WR, CA 7039 WR, LA 0103629 WR, LA 0126161 WR]

California; Proposed Continuation of Withdrawals

September 19, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Los Angeles District, Corps of Engineers, proposes that six land withdrawals for the Department of the Air Force, aggregating approximately 83,110 acres, at Edwards Air Force Base continue for an additional 25 years. The lands will remain closed to surface entry and mining. A portion of the land totalling 21,218 acres would be opened to mineral leasing subject to the consent of the Department of the Air Force. The remaining 61,892 acres have been and would remain open to mineral leasing.

DATE: Comments should be received by December 26, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Sonia Santillan, California State Office, (916) 978-4815.

The Los Angeles District, Corps of Engineers, proposes that six existing land withdrawals for the Department of the Air Force made by Executive Order No. 8450 of June 20, 1940, as amended by Public Land Order (PLO) No. 1750 of November 8, 1958, and PLO No. 480 of June 2, 1948, PLO No. 613 of October 19, 1949, PLO No. 646 of May 10, 1950, PLO No. 1126 of April 15, 1955, and PLO No. 2270 of February 21, 1961, 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 lands are located on the western edge of the Mojave Desert, approximately 90 statute miles north of the City of Los Angeles, near the communities of Palmdale and Lancaster in Kern, Los Angeles, and San Bernardino Counties, affecting certain lands in the following townships and ranges.

San Bernardino Meridian

Tps. 9 and 10 N., R. 6 W.;
Tps. 9 and 10 N., R. 7 W.;
Tps. 9 and 10 N., R. 8 W.;
Tps. 8, 9 and 10 N., R. 9 W.;
Tps. 8, 9, 10, and 11 N., R. 10 W.;
Tps. 8, 9, and 10 N., R. 11 W.;
Tps. 9 and 10 N., R. 12 W.;

The purpose of the withdrawals is to provide protection for lands in support of various military testing, research, training, and evaluation functions. The withdrawals segregate the lands from operation of the public lands laws generally, including the mining laws. Five of the withdrawals aggregating approximately 21,218 acres further segregate the lands from operation of the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals, except that the 21,218 acres would be opened to mineral leasing subject to the provisions of section 6 of the Defense Withdrawals Act of February 28, 1958 (72 Stat. 30; 43 U.S.C. 30; 43 U.S.C. 158), which provides that consultation shall be made with the Secretary of Defense regarding the disposition of or exploration for minerals in the land.

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 Chief, Branch of Lands and Minerals Operations, California State Office.

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 withdrawals will be continued and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will

continue until such final determination is made.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

[FR Doc. 85-23056 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-40-M

[CA 7042 WR and LA 099557 WR]

California; Proposed Continuation of Withdrawals

September 19, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Navy proposes that two land withdrawals affecting approximately 472,649 acres for the Marine Corps Air-Ground Combat Center at Twentynine Palms be continued for an additional 25 years. The lands have been and will remain closed to surface entry and mining but would be opened to mineral leasing subject to the consent of the Department of the Navy.

DATE: Comments should be received by December 26, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Sonia Santillan, California State Office, (916) 978-4815.

The Department of the Navy proposes that two existing land withdrawals made by Public Land Order (PLO) No. 985 of July 26, 1954 and PLO No. 1860 of May 29, 1959, 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 Combat Center is located 60 miles north-northeast of Palm Springs and about 150 miles east of Los Angeles in the high desert region of the juncture of the Mohave and Colorado Deserts in San Bernardino County, affecting certain lands in the following townships and ranges:

San Bernardino Meridian

Tps. 5, 6, and 7 N., R. 5 E.,
Tps. 2, 3, 4, 5, 6, and 7 N., Rgs. 6 and 7 E.,
Tps. 2, 3, 4, 5, and 6 N., Rgs. 8 and 9 E.,
Tps. 3, 4, and 5 N., Rgs. 10 and 11 E.,
Tps. 3 and 4 N., RS. 12 E.

The purpose of the withdrawals is to provide protection of lands in support of various military testing, evaluation, and training systems. The withdrawals segregate the lands from operation of the public land laws generally, including the mining and mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals except that the lands would be opened to mineral leasing, subject to the provisions of section 6 of the Defense Withdrawals Act of February 28, 1958 (72 Stat. 30; 43 U.S.C. 158), which provides that consultation shall be made with the Secretary of Defense regarding the disposition of or exploration for any minerals in the land.

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 Chief, Branch of Lands and Minerals Operations, California State Office.

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 withdrawals will be continued and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

[FR Doc. 85-23055 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-40-M

[R 1151 WR]

California; Proposed Continuation of Withdrawal

September 19, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, proposes that a withdrawal containing 40 acres for the Majave River Forks Reservoir Flood Control Project continue for an additional 91 years. The land will remain closed to surface entry and mining but would be opened to mineral leasing subject to the consent of the Department of the Army.

DATE: Comments should be received by September 26, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Sonia Santillan, California State Office, (919) 978-4815.

The Department of the Army proposes that the existing land withdrawal made by Public Land Order No. 5533 of September 8, 1975, be continued for a period of 91 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The withdrawal is described as follows:

San Bernardino Meridian

T. 3 N., R. 4 W.,
Sec. 22, SE¼NE¼.

The area described contains 40 acres in San Bernardino County.

The purpose of the withdrawal is to protect the water course of the Mojave River, the major drainage way of the entire Mohave River Valley. The withdrawal segregates the land from operation of the public land laws generally, including the mining and mineral leasing laws. No change is proposed in the purpose of segregative effect of the withdrawal except that the lands would be opened to mineral leasing subject to the provisions of section 6 of the Defense Withdrawals Act of February 28, 1958 (72 Stat. 30; 43 U.S.C. 158), which provides that consulation shall be made with the Secretary of Defense regarding the disposition of or exploration for any minerals in the land.

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 lives in writing to the Chief, Branch of Lands and Minerals Operations, California State Office.

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.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

[FR Doc. 85-23054 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-40-M

[CA 7034 WR and LA 0106066 WR]

California; Proposed Continuation of Withdrawals

September 19, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Navy proposes that two land withdrawals affecting approximately 94,681 acres for the northern portion of the Chocolate Mountains Aerial Gunnery Range continue for an additional 25 years. The lands will remain closed to surface entry and mining but would be opened to mineral leasing subject to the consent of the Department of the Navy.

DATE: Comments should be received by December 26, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Sonia Santillan, California State Office, (916) 978-4815.

The Department of the Navy proposes that two existing land withdrawals made by Public Land Order (PLO) No. 281 of May 29, 1945, as amended by PLO No. 2312 of March 24, 1961, and PLO No. 893 of May 6, 1953, continue 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 northern portion of the Chocolate Mountains Aerial Gunnery Range is located in the lower Mohave Desert, a few miles east of the Salton Sea in Riverside and Imperial Counties, affecting certain lands in the following townships and ranges:

San Bernardino Meridian

Tps. 7, 8, 9, S., R. 15 E.;
Tps. 7, 8, S., R. 12 E.;
Tps. 7, 8, 9, S., R. 13 E.;
Tps. 7, 8, 9, 10 S., R. 14 E.;
Tps. 7, 8, 9, 10 S., R. 15 E.;
Tps. 8, 9, 10 S., R. 16 E.;
Tps. 8, 9, S., R. 17 E.

The purpose of the withdrawals is to protect lands for military aerial gunnery training purposes. The withdrawals segregate the lands from operation of the public land laws generally, including the mining and mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals except that the lands would be opened to mineral leasing subject to the provisions of section 6 of the Defense Withdrawals Act of February 28, 1958 (72 Stat. 30; 43 U.S.C. 158), which provides that consultation shall be made with the Secretary of Defense regarding the disposition of or exploration for minerals in the land.

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 Chief, Branch of Lands and Minerals Operations, California State Office.

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 withdrawals will be continued and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

[FR Doc. 85-23053 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-40-M

[C-39289]

Amendment to Withdrawal Application; Segregation of Lands; Opening of Lands; Colorado

September 18, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and Opening Order.

SUMMARY: The Department of Energy has filed an amendment to their existing withdrawal application which requested the withdrawal of three proposed sites for the disposal of radioactive wastes pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, 92 Stat. 3021; 42 U.S.C. 7901. This amendment will delete the 6 and 50 Reservoir Site from the original application and replace it with the Two Road Site. This notice will remove the segregations imposed on the 6 and 50 Reservoir Site by the original notice and place these restrictions on the Two Road Site. This will not affect the original application other than to replace one site with another and does not extend the 2-year segregation which will terminate on July 31, 1986. The proposed withdrawal is requested for a period of five years pending permanent Congressional action.

DATE: Comments or requests for hearing should be received on or before December 26, 1985.

ADDRESS: Correspondence should be addressed to the State Director, BLM Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80205.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, 303-294-7635.

Colorado; Proposed Withdrawal; Opportunity for Public Hearing, published August 1, 1984, 49 FR 30801, is hereby amended as follows:

1. Withdrawal application C-39289 is amended to include the following described lands:

Sixth Principal Meridian

Two Road Site

T. 9 S., R. 104 W.,
Sec. 7, SE¼;
Sec. 8, W½W½SW¼;
Sec. 17, NW¼NW¼NW¼;
Sec. 18, N½N½NE¼.
The area described aggregates 250 acres in Mesa County.

Effective on date of publication, this land is segregated from all forms of appropriation under the public land laws, including the mining laws. The lands remain open to mineral leasing subject to concurrence by the Department of Energy, the Nuclear Regulatory Commission and the Department of the Interior.

Any interested persons who desire to comment in connection with this site may present their views in writing to the State Director, Colorado State Office. This site is subject to all restrictions and requirements imposed by the original notice.

2. Effective on date of publication, approximately 246 acres of land in the original notice which were described as 6 and 50 Reservoir, lots 1 and 2, S½NW¼, N½SW¼, sec. 36, T. 9 S., R. 104 W., are relieved of the restrictions imposed on mineral leasing by the original notice and opened to operation of the public land laws, including the mining laws.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-23057 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-JB-M

[M-60014]

Montana; Realty Action—Exchange of Public and Private Lands

AGENCY: Bureau of Land Management—Lewistown District Office, Interior.

ACTION: Notice of Realty Action M-60014—Exchange of public and private lands, in Lewis and Clark, Toole, and Cascade Counties, Montana.

SUMMARY: This exchange will be between the United States of America and Alfred B. Muri. The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian Montana

T. 36 N., R. 3 E.,
Sec. 1, NW¼SW¼.
T. 30 N., R. 3 E.,
Sec. 27, SE¼SW¼;
Sec. 28, SW¼;
Sec. 29, E½SE¼.
T. 17 N., R. 7 E.,
Sec. 26, NW¼NW¼.
Aggregating 360 acres.

In exchange for these lands, the United States Government will acquire the surface estate in the following described land:

Principal Meridian Montana

T. 21 N., R. 6 W.
Sec. 27, That part of the NW¼SW¼ lying west of U.S. Highway 287; that part of the SW¼NW¼ south of the Sun River and west of U.S. Highway 287.
Sec. 28, That part of the SE¼NE¼ lying south of the Sun River. There is expressly reserved out of the foregoing conveyance of the SE¼NE¼ of section 28 lying south of the Sun River, however, unto the Party of the First Part, his heirs, successors, representatives and assigns, a perpetual easement 60 feet in width along the westernmost 60 feet of the property hereby conveyed for right of ingress and egress to the Sun River for any purpose whatsoever, and to include, and without limitation, the construction of, and maintenance and repair of pipelines to and from said river.
Aggregating approximately 53.23 acres.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Managment, at the address below. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of these reservations, which will be incorporated in the patent document is available for review at this BLM Office.

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record).

4. Mr. Muri has waived the $400.00 cash equalization payment.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with local officials. The public interest will be served by completion of this exchange as we will be acquiring access as well as recreational opportunities.

Dated: September 20, 1985.

David E. Little,

Acting District Manager.

[FR Doc. 85-23046 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-DN-M

[Designation Order NM-030-8502; Supersedes Designation Order NM-030-8002 (in part) and NM-030-8201]

New Mexico Off-Road Vehicle Designations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Off-Road Vehicle Designation Decisions.

DECISION: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as open, limited, or closed to off-road motorized vehicle use.

The area affected by the designations is within Dona Ana County, New Mexico which is within the Las Cruces-Lordsburg Resource Area. These designations are a result of resource management decisions made in the 1981 Southern Rio Grande Management Framework Plan. Comments received from public meetings, workshops, and numerous written responses influenced the designation decisions. This designation order supersedes interim off-road vehicle designations which were made prior to development of the 1981 Management Framework Plan. These designations are published as final today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Broad of Land Appeals.

A. Open Designations

Airport ORV management area is approximately 2,160 acres and is just east of Las Cruces Crawford Airport.

B. Limited Designations

1. Designate Las Uvas Mountains Wilderness Study Area (WSA), Robledo Mountain WSA, West Potrillo Mountains WSA, Mount Riley WSA, Aden Lava Flow WSA and Organ Mountains WSA as limited to existing roads and ways. These are identified with signs and maps.

2. Designate the Organ Mountains Recreation Lands, Dona Ana Mountains, Kilbourne Hole National Landmark, Aden Lava Flow Research Natural Area and the Franklin Mountains as limited to designated roads and trails. These open roads and trails are identified with signs and maps.

3. Designate a ¼ mile strip along the International Border with Mexico as limited to permitted or licensed use only.

C. Closed Designations

Designate the 2½ acre Diamond and Rodrick Ecological Plots as closed to off-road travel by vehicles. The two areas are identified on maps and with signs. These designations become effective upon publication in this **Federal Register** and will remain in effect until rescinded or modified by the authorized officer. An environmental assessment describing the impacts of these designations is available for inspection at the office listed below.

For further information about these designations contact: Tim Read, Bureau

of Land Management, 1800 Marquess Street, Las Cruces, NM 88005.

H. James Fox,

District Manager.

[FR Doc. 85-23048 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-FB-M

District Grazing Advisory Board Meeting; Ely, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Ely District Grazing Advisory Board will be help on Tuesday, October 22, 1985.

The meeting will convene at 9:30 a.m. in the Conference Room of the Ely District Office located on the Pioche Highway one mile south of Ely, Nevada.

The main agenda items will be the status of activity planning efforts in the district and projects programmed for construction or feasibility and survey and design studies next fiscal year.

Public comment time is scheduled for 11 a.m. The public is invited to attend this meeting and may, at the designated time, submit written or oral statements for the advisory group's consideration.

Minutes of the meeting will be available for public inspection and reproduction during regular office hours within 30 days following the meeting.

DATE: September 13, 1985.

ADDRESS: Comments and suggestions should be sent to: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT: Kathy Lindsey, 702-289-4865.

Dated: September 13, 1985.

Merrill L. DeSpain,

District Manager.

[FR Doc. 85-23047 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-HC-M

Realty Action—Competitive Sale of Public Land; in Van Buren County, AR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action: Competitive Sale of Public Land in Van Buren, County, Arkansas.

SUMMARY: The following described lands have been examined and identified as suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value.

5th Principle Meridian, Arkansas

T. 11 N., R 17 W.,

Sec. 24: SE¼NW¼.

Containing 40.00 acres, more or less at a Fair Market Value of $10,000.00.

The method of sale will be by sealed bid. Sealed bids must be received in the BLM Jackson District Office, P.O. Box 11348, Jackson, Mississippi 39213, not later than 4:00 p.m. on (47 days). Bids must be accompanied by not less than (10%) of the bid price. The declared high bidder will be required to submit the remainder of the payment by certified check, bank draft, money order, or combination thereof, within thirty (30) days after receipt of the decision. Should the land not be sold by close of business (47 days), it will be available for purchase over-the-counter at the Jackson District Office, P.O. Box 11348, Jackson, Mississippi 39213.

The patent will be subject to all valid existing rights and reservations of all minerals to the Untied States.

Publication of this Notice will segregate the subject land from all appropriations under the public land laws; but not the minerals leasing laws. This segregation will terminate upon issuance of patent, or 270 days from the date of this Notice or upon publication of a Notice of termination. Detailed information concerning the sale, including the environmental assessment and land report, is available for review at the BLM office listed below.

For a period of 45 days after the date of issuance of this Notice, the public and interested parties may submit comments to the District Manager, Jackson District Office, P.O. Box 11348, Jackson, Mississippi 39213. Comments will be evaluated by the District Manager, who may vacate or modify this Realty Action. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Douglas Jones (601) 960-4405.

Dated: September 18, 1985.

Robert L. Todd,

Acting District Manager.

[FR Doc. 85-23050 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-PP-M

[I-21974 et al.]

Realty Action; Sale of Public Lands in Lincoln and Gooding Counties, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I-21974 through I-21981, inclusive; I-19639, I-19640 Sale of Public Lands in Lincoln and Gooding Counties, Idaho.

SUMMARY: The following described lands were examined, and through land use planning and public input were determined to the suitable for disposal by sale pursuant to section 203(a) of the Federal Land Policy and Management Act of 1976. Only sealed bids will be accepted.

Parcel No.	Serial No.	Legal description	Acres	Type of sale	Fair market value
1	I-21974	T. 5 S., R. 15 E., B.M. Sec. 27: NW¼SE¼	40	Competitive	$6,000
2	I-21975	T. 5 S., R. 15 E., B.M. Sec. 12: SE¼SW¼	40	do	5,000
3	I-21976	T. 5 S., R. 15 E., B.M. Sec. 14: NE¼SW¼N W¼.	10	do	1,000
4	I-21977	T. 5 S., R. 15 E., B.M. Sec. 15: SE¼NW¼	40	do	3,000
5	I-21978	T. 5 S., R. 15 E., B.M. Sec. 15: E½SW¼	80	do	1,500
6	I-21979	T. 5 S., R. 15 E., B.M. Sec. 22: NW¼NW¼	40	do	3,000
7	I-21980	T. 5 S., R. 15 E., B.M. Sec. 22: SW¼NW¼	40	do	750
8	I-21981	T. 6 S., R. 18 E., B.M. Sec. 17: S½S½N E¼SE¼.	10	Modified competitive	4,250
9	I-19639	T. 4 S., R. 19 E., B.M. Sec. 17: NW¼SW¼	40	Competitive	3,400
10	I-19640	T. 3 S., R. 19 E., B.M. Sec. 32: W½NW¼	80	do	6,800

Parcels 1 through 10, when patented, will be subject to the following reservations:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. Oil and Gas shall be reserved to the United States.

3. All valid existing rights and reservations of record.

Parcels 2 through 6, when patented, will also be subject to the following covenants:

1. Pursuant to the authority contained in section 3(d) of the Executive Order 11988 of May 24, 1977, and section 203(a)(1) of the Pub. L. 94-579, Federal Land Policy and Management Act, this patent is subject to a restriction which constitutes a covenant running with the land, that any portion of the land lying within the 100-year floodplain may be used only for agricultural purposes, but not for dwellings or buildings.

2. Pursuant to the authority contained in section 4 of Executive Order 11990 of

May 24, 1977, and section 203(a)(1) of Pub. L. 94–579, Federal Land Policy and Management Act, this patent is subject to a restriction which constitutes a covenant running with the land, that any portion of the land containing wetland-riparian habitat must be managed to protect and maintain the wetland-riparian habitat on a continuing basis.

The lands are hereby segregated from all appropriation under the public land laws including the mining laws until sold or this sale is suspended.

Sealed bids must be received in this office no later than 1:00 p.m. on December 13, 1985. Bids for less than the appraised fair market value will not be accepted. A bid will constitute an application for conveyance of mineral interests of no known value. A $50.00 filing fee for processing such mineral conveyance, along with but separate from, 30% of the full bid price, must accompany each bid.

Parcels 9 and 10 were previously offered on August 31, 1984. The two parcels were not sold and the sale was suspended. This is a reoffering of those two parcels.

If a parcel is not sold at this time, the parcel(s) will be offered the second Friday of each month at the same time and place until sold or the sale if suspended.

All parcels are offered as open competitive sales without preference to past users or adjacent landowners, except parcel 8. Parcel number 8 is a modified competitive bid.

Parcel 8 is being sold at public auction, subject to a preference bidding designation to allow Mr. & Mrs. J. Frank Depew to meet the highest bid based on historical occupancy use and adjacent landownership. Refusal or failure to meet the highest bid by Mr. & Mrs. Depew within 30 days of this offering shall constitute a waiver of such bidding provisions and the land will be offered to the high bidder. If no bid is received on the date of this offering, preference provisions will be waived and the land will be offered for sale using competitive procedures on January 10, 1986 and thereafter on the second Friday of each month until sold or the sale is suspended.

DATE AND ADDRESS: The sale offering will be held on December 13, 1985 at 1:00 p.m. in the Shoshone District, 400 West F Street, Shoshone, ID 83352.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale and conditions, appraised value, bidding procedures, and other details can be obtained by contacting Joe Aitken at (208) 886–2206 or writing to BLM, P.O. Box 2–B, Shoshone, ID 83352.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Shoshone District Manager at the above address.

Dated: September 18, 1985.

Charles J. Haszier,

District Manager.

[FR Doc. 85–23051 Filed 9–25–85; 8:45 am]

BILLING CODE 4310–GG–M

[U–55651]

Realty Action Sale of Public Land in Kane County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) public land described as: S2SESE, SESWSE, SESWSWSE, Section 22; Lot 7, S2SESW, S2SWSE, Section 23; NWNWNW, Section 25; Lot 5, Lot 6, Section 26; N2NE, SENENW, SESWNENW, SENENENW, Section 27; All T 43 S., R. 6 W., SLB&M, Utah totaling 295.18 acres is proposed for direct sale to Golden Circle Tours, Inc. at the appraised fair market value of $88,500.00. The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

SUMMARY: The purpose of the sale is to dispose of public land that is difficult and uneconomical to manage by a government agency and land that will serve important public objectives such as economic development which cannot be achieved prudently or feasibly on land other than public land.

DATES: Comments should be submitted by November 15, 1985. The sale will be held on December 5, 1985 at 10:00 a.m.

ADDRESS: Detailed information concerning the sale is available at the Kanab Area Office, 320 North First East, Kanab, Utah 84741, (801) 644–2672. Comments should also be sent to the same address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the sale are:

1. The sale will be for the surface estate only. Minerals will remain with the United States Government.

2. There is reserved to the United States a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

3. Title transfer will be subject to valid existing rights.

Any comments received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of ojections, this realty action notice will be the final determination of the Department of the Interior.

Dated: September 19, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85–23052 Filed 9–25–85; 8:45 am]

BILLING CODE 4310–DQ–M

[Int. DEIS 85–41]

Eastern Arizona Draft Grazing Management; Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of Draft Environmental Impact Statement (DEIS) and Public Meeting Schedule.

DATES: BLM invites written comments on the DEIS to be submitted within 60 days of its filing with the Environmental Protection Agency. Comments to be received by December 6, 1985.

ADDRESS: Comments should be sent to the District Manager, Bureau of Land Management, 425 E. 45th Street, Safford, Arizona 85546.

SUMMARY: Purpose of section 102(2)(c) of the National Environmental Policy Act of 1969. BLM has prepared a DEIS on the Grazing Program for the scattered Public Lands in Phoenix and Safford Districts, Apache, Cochise, Coconino, Gila, Graham, Maricopa, Navajo, Pima, Pinal, Santa Cruz and Yavapai Counties, Arizona.

The Preferred Alternative (Alternative A) is the Rangeland Improvement Alternative. Other alternatives analyzed in the EIS are No Action, Reduced Livestock Use and No Grazing.

A limited number of DEIS copies are available upon request to the District Manager at the above address.

Public reading copies are available for review at the following locations:

Safford District Office, Bureau of Land Management, 425 E. 4th Street, Safford, AZ, Telephone: (602) 428–4040.

Public Room, Arizona State Office, 3707 N. 7th Street, Phoenix, AZ 85011, Telephone: (602) 241–5547.

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, DC 20240, Telephone: (202) 343–5717.

Phoenix District Office, Bureau of Land Management, 2015 W. Deer Valley

Road, Phoenix, AZ 85027, Telephone: (602) 863–4464.

In addition, the DEIS will be available for review in city libraries in Phoenix, Safford, Scottsdale, Sierra Vista and Tucson and at libraries at Arizona State University in Tempe, Northern Arizona University at Flagstaff and University of Arizona at Tucson.

FOR FURTHER INFORMATION CONTACT: Lester K. Rosenkrance, District Manager, Safford District; Jerrold O. Coolidge, Team Leader, Safford District; or Marlyn V. Jones, District Manager, Phoenix District; or James Anderson, Assistant Team Leader, Phoenix District.

SUPPLEMENTARY INFORMATION: BLM will conduct a series of public meetings to be held in St. Johns, Arizona on October 29, 1985 at the County Annex Building, Board Room, 75 W. Cleveland; in Phoenix, Arizona on October 30, 1985 at Phoenix District Office, 2015 W. Deer Valley Road; in Tucson, Arizona on November 5, 1985 at the Executive Inn, Banquet Room B, 333 N. Drachman; Sierra Vista, Arizona on November 6, 1985 at Thunder Mountain Inn, Canyon Room, 1631 S. Highway 92. All meetings will begin at 7:00 p.m. and continue until 9:00 p.m. Oral testimony will not be taken at the meetings, however, written comments will be accepted.

Dated: September 16, 1985.

Lester K. Rosenkrance,

Safford District Manager.

Dated: September 16, 1985.

Marlyn V. Jones,

Phoenix District Manager.

[FR Doc. 85–23045 Filed 9–25–85; 8:45 am]

BILLING CODE 4310-32-M

Wyoming; Emergency Closure of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency Closure of Public Lands.

SUMMARY: Notice is hereby given that effective immediately, all public lands two miles either side of the Green River from its confluence with the New Fork River westerly, and southerly to the north end of Fontenelle Reservoir, is closed to all overnight uses except those specifically authorized. Specific legal descriptions and maps are available in the Pinedale Resource Area Office, Pinedale, Wyoming.

The purpose of this closure is to protect the fragile riparian habitat, and to eliminate health hazards caused by unauthorized use, specifically: Camping in excess of the established time limit, setting or attempting to set up a primary residence on public lands, and violations of public health laws.

The authority for this closure is 43 CFR Part 8364. The closure will remain in effect until January 1, 1986.

DATE: September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Donald H Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902–1869 (307–382–5350).

Donald H. Sweep,

District Manager.

[FR Doc. 85–23044 Filed 9–25–85; 8:45 am]

BILLING CODE 4310-22-M

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement for the Comprehensive Conservation Plan for Innoko National Wildlife Refuge, AK

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service intends to gather information necessary for the preparation of a Comprehensive Conservation Plan (CCP), Environmental Impact Statement (EIS), and Wilderness Review for the Innoko National Wildlife Refuge in interior Alaska. Public meetings regarding preparation of this CCP, EIS, and Wilderness Review will be held. This notice is being furnished as required by the National Environmental Policy Act Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by December 15, 1985 Public meetings regarding the Innoko National Wildlife Refuge plan and EIS will be held in Holy Cross, Anvik, Grayling, Shageluk, McGrath, and Anchorage during the fall of 1985. Oral Comments regarding the issues to be addressed by the CCP will be accepted at these meetings.

ADDRESS: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503 (Attn.: Mike Evans or Maggie Arend).

FOR MORE INFORMATION CONTACT: Mike Evans or Maggie Arend, Refuge Planning, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503. Telephone (907) 786–3369.

SUPPLEMENTARY INFORMATION: This comprehensive conservation plan is being prepared to fulfill requirements of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), section 304(g). The plan will also consider the oil and gas leasing program for the refuge as required by section 1008 of ANILCA. The environmental review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations. The Wilderness Review is being prepared in response to section 1317 of ANILCA and the Wilderness Act of 1964.

We estimate the Draft Environmental Impact Statement and plan will be made available to the public by March 1987.

Dated: September 19, 1985.

Robert E. Gilmore,

Regional Director.

[FR Doc. 85–23063 Filed 9–25–85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf; Development Operations Coordination Document; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 074, Block 20, South Pelto Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Dulac and Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on September 18, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: 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 section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 18, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-23012 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Self; Development Operations Coordination Document; Union Texas Petroleum Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Texas Petroleum Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1130, Block 171, Vermilion 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 Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 18, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. 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 section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 18, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-23013 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Corpus Christi Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Corpus Christi Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4258, Block 436, Brazos Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Port O'Conner, Texas.

DATE: The subject DOCD was deemed submitted on September 18, 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: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the 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 18, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-23060 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Huffco Petroleum Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Huffco Petroleum Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1831, Block 206, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 18, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: 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 section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 20, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-23061 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Union Oil Co. of California

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Oil Co. of California has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4442, Block 113A, Eugene Island 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 Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 17, 1985. Comments must be received within 15 days of the date of this Notice for 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

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 18, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-23062 Filed 9-25-85; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[OP3MCF-489]

Motor Carriers; Decision-Notice

Decided: September 16, 1985.

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1181.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal and ICC Registers. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or

the application of a non-complying applicant shall stand denied.

James H. Bayne,

Secretary.

MC-F-16639, filed August 16, 1985. Cardinal Buses, Inc., (Cardinal) (2101 West 37th Avenue, Gary, IN 46408)—Purchase—Justak Corporation, d/b/a V.I.P. Coach Lines (Justak) (2336 Schrage Avenue, Whiting, IN 46394). Representative: Robert B. Walker, Sims, Walker and Steinfeld, P.C., 1275 K Street NW., Suite 875, Washington, DC 20005. Cardinal, a non-carrier (authority in No. MC-111864 revoked on June 29, 1983), seeks authority to purchase the regular-route passenger authority of Justak in Certificate No. MC-154175. The operating rights being transferred authorize the transportation of passengers, over regular routes, between: (1) Chicago, IL and Hammond, IN; (2) Chicago, IL and Gary, IN; (3) Hammond, IN and Calumet City, IL; (4) Hammond and Griffith, IN and Oak Glen, IL; (5) Hammond, and East Chicago, IN; (6) points in Hammond, IN; (7) points in East Chicago, IN; (8) points in Whiting and Highland, IN; (9) points in Chicago, IL; and (10) points in Hammond and Whiting, IN.

Cardinal is controlled through stock ownership by John Shoup and Margaret Shoup who each own 50 percent of the outstanding stock. John Shoup also owns 100 percent of the outstanding stock of Shoup Buses, Inc. (MC-70384) and John and Margaret Shoup together own 100 percent of the outstanding stock of Tri-State Coach Lines, Inc. (MC-129038). The common control of these transportation companies was the subject of prior Commission approval in No. MC-F-12459.

An application for temporary authority to lease the involved operating right has been granted by the Motor Carrier Board.

[FR Doc. 85-22993 Filed 9-25-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30726]

Michigan Interstate Railway Co.; Exemption From 49 U.S.C. 10901

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts the acquisition by the Michigan Interstate Railway Company of 53 miles of railroad it has operated for the State of Michigan. The line, to be acquired from the State, includes 47.5 miles of main line track between Ann Arbor, MI, and Toledo, OH (in Lucas County, OH, and Monroe and Washtenaw County, MI), and a 5.6 mile branch line between East Pittsfield, MI, and Saline, MI (Washtenaw County.

DATES: This exemption is effective on September 25, 1985. Petitions to reopen must be filed by October 16, 1985.

Send pleadings referring to Finance Docket No. 30726 to:

(1) Office of the Secretary Case Control Branch Interstate Commerce Commission Washington, DC 20423

(2) Petitioner's representative: Jeffrey M. Petrash 1901 L St. N.W. Suite 801 Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystem, Inc., Room 2229, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: September 20, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Chairman Taylor dissented in part with a separate expression. Commissioner Simmons dissented in part and will submit a separate expression at a later date. Commissioner Lamboley dissented in part with a seaprate expression.

James H. Bayne,

Secretary.

[FR Doc. 85-23133 Filed 9-25-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Attorney General's Commission on Pornography, Open Meeting; Correction

The original Notice of Meeting appeared at page 37444 in the **Federal Register** of September 13, 1985. The following Notice supersedes the original Notice.

In acordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Department of Justice announces the following meetings and hearings of the Attorney General's Commission on Pornography.

Meeting:

Date and Time: October 15, 1985, 10:00 a.m.-11:00 p.m.

Place: Hall of Administration, ERC Room 374, 500 West Temple, Los Angeles, California 90012.

Status: Open to the public.

Matters to be considered at meeting:

Discussion of (1) Issues and methodology to be utilized, (2) Previous hearings and evidence received, and (3) Any other relevant matters.

Hearing:

Date and Time: October 16, 1985, 8:30 a.m.-11:00 p.m.

Place: Board of Supervisors: County of Los Angeles—Hearing Room, Hall of Administration, Room 381, 500 West Temple, Los Angeles, California 90012.

Status: Open to the public.

Matters to be considered at hearing:

Opening of Fourth Public Hearing—Welcoming remarks: 8:40 a.m.—Testimony of witnesses and examination by Commissioners. At the conclusion of the last witness' testimony, the Commission may conduct a meeting.

Matters to be considered at meeting:

Discussion of (1) Issues and methodology to be utilized, (2) Previous hearings and evidence received, (3) Review of alleged obscene and pornographic material, and (4) Any other relevant matters.

Hearing:

Date and Time: October 17, 1985, 8:30 a.m.-7:30 p.m.

Place: Board of Supervisors: County of Los Angeles—Hearing Room, Hall of Administration, Room 381, 500 West Temple, Los Angeles, California 90012.

Status: Open to the public.

Matters to be considered at hearing:

Testimony of witnesses and examination by Commissioners. At the conclusion of the last witness' testimony, the Commission may conduct a meeting.

Matters to be considered at meeting:

Discussion of (1) Issues and methodology to be utilized, (2) Previous hearings and evidence received, (3) Review of alleged obscene and pornographic material, and (4) Any other relevant matters.

Meeting:

Date and Time: October 18, 1985, 9:00 a.m.-11:00 p.m.

Place: Hall of Administration, ERC Room 374, 500 West Temple, Los Angeles, California 90012.

Status: Open to the public.

Matters to be considered at meeting:

Discussion of (1) Issues and methodology to be utilized, (2) Previous hearings and evidence received, (3) Review of alleged obscence and pornographic material, and (4) Any other relevant matters.

The meetings and hearings will be open to the public, and written comments may be submitted regarding relevant issues. Approximately 400 seats will be available for the public (including 40 seats reserved for media representatives) on a first-come, first-served basis at the meetings and hearings on October 15, 16, 17, and 18, 1985.

Copies of minutes will be available upon request, at the actual cost of duplication, 60 days after the final meeting on October 18, 1985.

Contact person for more information: Alan E. Sears, Executive Director, Attorney General's Commission on Pornography, Room 1018, HOLC Building, Department of Justice

320 First Street NW., Washington, DC 20530, (202) 724–7837.

Henry Hudson,

Commission Chairman.

[FR Doc. 85–22994 Filed 9–25–85; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL CAPITAL PLANNING COMMISSION

Proposed Amendments to Master Plan Submission Requirements

AGENCY: National Capital Planning Commission.

ACTION: Notice of Availability of Proposed Amendments.

SUMMARY: The Master Plan Submission Requirements list the contents and procedures for the submission of master plans for Federal installations in the National Capital Region and for District of Columbia installations. The proposed changes in these requirements and procedures would require the provision of certain reduced size drawings in master plan and project plan submissions and would provide an expanded review period for master plans for installations in the District of Columbia, consistent with the review period already established for jurisdictions in the National Capital Region outside the District of Columbia.

DATE: Any interested persons or agencies may submit written comments on or before October 30, 1985.

ADDRESS: Copies of the proposed amendments may be obtained from Robert E. Gresham, Assistant Executive Director for Operations, National Capital Planning Commission, 1325 G Street, NW., Washington, DC 20576. Written comments should be addressed to: Katherine Barns Soffer, General Counsel, National Capital Planning Commission, 1325 G Street, NW., Washington, DC 20576, Telephone (202) 724–0170.

FOR FURTHER INFORMATION CONTACT: Robert E. Gresham, Assistant Executive Director for Operations at (202) 724–0176 or Robert H. Cosby, Director, Review and Implementation Division at (202) 724–0191, National Capital Planning Commission, 1325 G Street, NW., Washington, DC 20576.

Katherine Barns Soffer,

General Counsel.

[FR Doc. 85–23018 Filed 9–25–85; 8:45 am]

BILLING CODE 7520–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

Date: October 21–22, 1985.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the Humanities Projects in Media Program, Division of General Programs, for projects beginning after April 1, 1986.

Date: October 24–25, 1985.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the Humanities Projects in Media Program, Division of General Programs, for projects beginning after April 1, 1986.

Date: October 31–November 1, 1985.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the Humanities Projects for Adults, Division of General Programs, for projects beginning after April 1, 1986.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 85–23003 Filed 9–25–85; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Availability of the PRA Review Manual (NUREG/CR–3485) for Public Comments

The Nuclear Regulatory Commission has issued for public comments the PRA Review Manual (NUREG/CR–3485). The manual was developed to provide guidance in reviewing PRA studies submitted to NRC for evaluation. It is written to enhance the consistency of the review process and to provide the NRC reviewer with systematic guidance as well as insights and lessons learned from previous PRA studies and reviews of these studies.

The present scope of the manual covers level 1 PRAs (Evaluation and analyses of contributors to core-damage frequency). From within this defined scope, the manual guides the reviewer in defining and evaluating strengths and weaknesses in the plant design and operations from a risk/safety significance viewpoint.

The approach adopted in the manual comprises three sequential phases; the secreening phase, the qualitative evaluation phase, and the verification phase. This approach offers flexibility in defining and appropriate level of effort for reviewing PRAs based on NRC review objectives. Another attractive feature of the phased approach is that it allows timely and effective interaction between NRC and the utilities.

Phase 1 (the sreening phase) examines the form, composition and content of the submitted study for completeness and scrutability and then endeavors to identify noteworthy and distinctive aspects of the data and methods used and the reported results, particularly in light of NRC concerns and interests. This necessarily involves some comparison with the existing PRA studies. The NRC reviewers are asked to cast Phase 1 conclusions in a special format. In case a particular study feature is identified (or suspected to be

important), it will be listed together with its potential root causes. Typical root causes include methodology, assumptions, design features, operational features, and data base used. Findings of the phase will indicate to what extent the PRA can usefully be subjected to further investigations and detailed examination.

Phase 2 (the qualitative examination phase) involves further examination of the PRA study tasks in a natural sequence. The examination focuses on methodologic questions in each task and on examination of important aspects of the study as identified in Phase 1 review. A typical Phase 2 task (e.g., success criteria or treatment of human factors) is structured to include:

a. A brief discussion of the methodology and state-of-the-art of the area under review;

b. Stepwise instructions about how to conduct the review,

c. Examples of typical pitfalls and limitations in the treatment of this area as revealed from previous review experience, and

d. Review results.

Phase 3 focuses attention on safety significance of specific issues that may alter the PRA study conclusions. It may involve verification of accident sequence quantification and associated uncertainty and sensitivity analyses.

The enclosed NUREG was developed by the Reliability and Risk Assessment Branch (RRAB) of DST, with technical support from Brookhaven National Laboratory and its consultants. This draft was preceded by the May 1, 1983 issue of the NUREG which covered only the internal events (and loss of offsite power) aspects of Level 1 PRA. The current draft takes into account the 1983–1985 advancements in internal events PRA state-of-the-art in Part A, while Part B covers external events which include earthquakes, fires, floods, and high wind.

Public comments are being solicited on the draft manual and should be sent to Adel El-Bassioni, Reliability and Risk Assessment Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 no later than 45 days following the date of issuance of this notice.

Copies of the NUREG/CR–3485 are available for inspection, and copying for a fee, in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555. Copies may be purchased by calling (202) 275–2060 or (202) 275–2171, or by writing to the Superintendent of Documents, US Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies may also be purchased by calling (703) 487–4650 or by writing to the National Technical Information Service, Springfield, Va. 22161.

For further information contact Adel El-Bassioni, Reliability and Risk Assessment Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492–7646.

Dated at Bethesda, Maryland this 18th day of September, 1985.

Ashok Thadani,

Chief, Reliability and Risk Assessment Branch, Division of Safety Technology, Office of Nuclear Reactor Regulation.

[FR Doc. 85–23040 Filed 9–25–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 40–8681]

Umetco Minerals Corp.; Final Finding of No Significant Impact Regarding the Renewal of Source and Byproduct Material License SUA–1358 for Operation of Umetco Minerals Corp.'s White Mesa Uranium Mill, San Juan County, UT

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Finding of No Significant Impact.

(1) Proposed Action

The U.S. Nuclear Regulatory Commission (the Commission) is issuing a renewed Source and Byproduct Material License SUA–1358 authorizing Umetco Minerals Corporation to operate a uranium mill at their White Mesa site located in San Juan County, Utah.

(2) Reasons for Finding of No Significant Impact

The Commission's Uranium Recovery Field Office has prepared an Environmental Assessment for the proposed action. Based on this assessment, the Commission has determined that an Environmental Impact Statement for this particular action is not warranted.

The Environmental Assessment prepared by the Commission's staff evaluated potential impacts on surface and ground water due to mill accidents, seepage, and reclamation and decommissioning activities. Additionally, the assessment evaluated potential impacts on-site and off-side due to radiological releases which may occur during the course of the proposed operations. Documents used in preparing the assessment included operational data from the licensee's White Mesa Mill, the licensee's renewal application dated January 30, 1985, a revised application dated June 20, 1985, and the Safety Evaluation Report prepared by the Commission staff for the White Mesa uranium milling operation.

Based on these evaluations, the Commission's staff has determined that the proposed operations will not have a significant effect on the quality of the human environment. Specific reasons for making this determination are as follows:

(a) The synthetic liner and leak detection system underlying all tailings cells at the White Mesa mill should assure that impacts to ground water are minimal.

(b) Radiological releases from the proposed operations will be small and will be continuously monitored.

(c) Environmental monitoring is comprehensive enough to detect any significant radiological release from the milling operation.

(d) Radioactive wastes will be disposed of in tailings cells which will be reclaimed in accordance with applicable federal and state regulation.

In accordance with 10 CFR 51.33(a), the Director, Uranium Recovery Field Office, made the determination to issue a draft Finding of No Significant Impact. A draft Finding of No Significant Impact was published on August 6, 1985, and no comments were received. In accordance with 10 CFR 51.33(e), the Director, Uranium Recovery Field Office, made the determination to issue a final Finding of No Significant Impact. This finding, together with the Environmental Assessment setting forth the basis for the finding, and other related environmental documents are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, CO and at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

Dated at Denver, Colorado, this 18th day of September, 1985.

For the Nuclear Regulatory Commission.

Harry J. Pettengill,

Chief, Licensing Branch 2, Uranium Recovery Field Office, RIV.

[FR Doc. 85–23041 Filed 9–25–85; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 85–066]

Equipment, Construction, and Materials

AGENCY: Coast Guard, DOT.

ACTION: Termination of Approval Notice.

SUMMARY: This notice contains a listing of Coast Guard approvals terminated between 1 February 1984 and 31 January 1985. These terminated approvals were for safety equipment and materials required by regulation to be used on certain merchant vessels and recreational boats, and also in Outer Continental Shelf activities.

FOR FURTHER INFORMATION CONTACT: Ms. Valarie Williams, Office of Merchant Marine Safety (G–MVI–3/14), Room 1404, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593, (202) 426–1444. Normal office hours are between 7 a.m. and 3:30 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: Certain regulations in Titles 33 and 46 of the Code of Federal Regulations require that various items of lifesaving, firefighting and other safety equipment and materials used on board merchant vessels and recreational boats, and in Outer Continental Shelf activities be approved by the Commandant, U.S. Coast Guard. This document notifies interested persons that certain approvals have been terminated during the period from 1 February 1984 to 31 January 1985. These actions were taken under the procedures in 46 CFR 2.75–1 to 2.75–50.

The statutory authority for regulations governing this equipment is in sections 3306(a), 4102, and 4302(a)(2) of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)).

Most of the items in this list were terminated because they are no longer produced. Unless otherwise stated in the list, terminated items may continue to be used on vessels as long as the equipment is in good and serviceable condition.

Gas Mask

Termination of Approval 160.011/16/0 dated 13 July 1979, Terminated effective date 21 November 1984. Manufactured by Scott Aviation Division of ATO, Inc., 225 Erie Street, Lancaster, NY 14086.

Termination of Approval 160.011/26/0 dated 25 April 1978, Terminated effective dated 21 November 1984. Manufactured by Willson Products Division, ESB Incorporated, 2nd and Washington Streets, Reading, PA 19603.

Lifeboat Winch

Termination of Approval 160.015/92/0 dated 25 October 1977, Terminated effective date 21 November 1984. Manufactured by Carroll Engineering Company, 313 State Street, Box 711, Perth Amboy, NJ 08862.

Termination of Approval 160.015/96/0 dated 5 April 1979, Approval Terminated effective date 21 November 1984. Manufactured by Carroll Engineering Company, 313 State Street, Box 711, Perth Amboy, NJ 08862.

Termination of Approval 160.015/107/0 dated 11 September 1979, Terminated effective date 21 November 1984. Manufactured by Lake Shore, Inc., Iron Mountain, MI 49801.

Lifeboat Sea Anchor

Termination of Approval 160.019/11/0 dated 27 July 1977, Terminated effective date 21 November 1984. Manufactured by Samuel Fassman Company, 2776 Atlantic Avenue, Brooklyn, NY 11207.

Hand Red Flare Distress Signal

Termination of Approval 160.021/12/2 dated 28 January 1981, Terminated effective date 21 November 1984. Manufactured by Smith & Wesson Chemical Co., 2399 Forman Road, Rock Creek, OH 44084.

Floating Orange Smoke Distress Signal

Termination of Approval 160.022/9/1 dated 30 December 1980, Terminated effective date 21 November 1984. Manufactured by Smith & Wesson Chemical Co., Inc., 2399 Forman Road, Rock Creek, OH 44084.

Emergency Drinking Water

Termination of Approval 160.026/53/0 dated 28 October 1982, Terminated effective date 21 November 1984. Manufactured by Capilano Springs Co., Ltd., 4903–44B Avenue, Delta, B. C. V4K 1H9, CANADA.

Life Float

Termination of Approval 160.027/60/3 dated 13 July 1979, Terminated effective date 21 November 1984. Manufactured by Atlantic-Pacific Mfg. Corp., 124 Altantic Ave., Brooklyn, NY 11201.

Termination of Approval 160.027/61/4 dated 8 November 1979, Terminated effective date 21 November 1984. Manufactured by Atlantic-Pacific Mfg. Corp., 124 Altantic Ave., Brooklyn, NY 11201.

Termination of Approval 160.027/62/3 dated 8 November 1979, Terminated effective date 21 November 1984. Manufactured by Atlantic-Pacific Mfg. Corp., 124 Atlantic Ave., Brooklyn, NY 11201.

Termination of Approval 160.027/70/3 dated 8 November 1979, Terminated effective date 21 November 1984. Manufactured by Atlantic-Pacific Mfg. Corp., 124 Atlantic Ave., Brooklyn, NY 11201.

Termination of Approval 160.027/71/3 dated 8 November 1979, Terminated effective date 21 November 1984. Manufactured by Atlantic-Pacific Mfg. Corp., 124 Atlantic Ave., Brooklyn, NY 11201.

Lifeboat Davit

Termination of Approval 160.032/177/0 dated 25 October 1977, Terminated effective date 21 November 1984. Manufactured by Carroll Engineering Company, 313 State Street, Box 711, Perth Amboy, NJ 08862.

Termination of Approval 160.032/182/0 dated 5 April 1979, Terminated effective date 21 November 1984. Manufactured by Carroll Engineering Company, 313 State Street, Box 711, Perth Amboy, NJ 08862.

Termination of Approval 160.032/192/1 dated 5 April 1979, Terminated effective date 21 November 1984. Manufactured by Whittaker Corporation, 5159 Baltimore Drive, La Mesa, CA 92041.

Termination of Approval 160.032/195/0 dated 11 April 1979, Terminated effective date 21 November 1984. Manufactured by Whittaker Corporation, 5159 Baltimore Drive, La Mesa, CA 92041.

Termination of Approval 160.032/223/0 dated 22 November 1978, Terminated effective date 21 November 1984. Manufactured by Whittaker Corporation, 5159 Baltimore Drive, La Mesa, CA 92041.

Mechanical Disengaging Apparatus (for lifeboats)

Termination of Approval 160.033/65/1, dated 1 August 1977. Termination effective date 21 November 1984. Manufactured by Watercraft America, Inc., P.O. Box 307, Mims, FL 32754.

Lifeboat

Termination of Appr. 160.035/381/4, dated 27 September 1977.

Termination effective date 21 November 1984. Manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727.

Termination of Appr. 160.035/397/7, dated 27 September 1977. Termination effective date 21 November 1984. Manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727.

Termination of Appr. 160.035/410/8, dated 4 December 1980. Termination

effective date 21 November 1984. Manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727.

Termination of Appr. 160.035/443/6, dated 16 March 1981. Termination effective date 21 November 1984. Manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727.

Hand-Held Rocket-Propelled Parachute Red Flare Distress Signal

Termination of Appr. 160.036/3/2, dated 30 December 1980. Termination effective date 21 November 1984. Manufactured by Smith & Wesson Chemical Co. Inc., 2399 Forman Road, Rock Creek, OH 44084.

Termination of Appr. 160.036/4/0, dated 9 August 1979, Terminated effective date 21 November 1984. Manufactured by Kilgore Corporation, Toone, TN 38381.

Hand Orange Smoke Distress Signal

Termination of Appr. 160.037/11/1, dated 28 January 1981, Termination effective date 21 November 1984. Manufactured by Smith & Wesson Chemical Co., 2399 Forman Road, Rock Creek, OH 44084.

Termination of Appr. 160.037/14/0 dated 27 October 1977, Termination effective date 21 November 1984. Manufactured by Olin Corporation, Peru, Indiana 50222.

Impulse-Projected Rocket-Type Line Throwing Appliance

Termination of Appr. 160.040/2/2 dated 30 December 1980, Termination effective date 21 November 1984. Manufactured by Smith & Wesson Chemical Co. Inc., 2399 Forman Road, Rock Creek, OH 44084.

First-Aid Kit

Termination of Appr. 160.041/5/0 dated 13 December 1977, Terminated effective date 21 November 1984. Manufactured by Mine Safety Appliances Company, 3880 Meadowbrook Road, Murraysville, PA 15668.

Termination of Appr. 160.041/6/0 dated 2 November 1977, Termination effective date 21 November 1984. Manufactured by Pac-Kit Safety Equipment Div. of K. W. Griffin Company, 100 Pearl Street, Norwalk, Connecticut 07850.

Lifeboat Bilge Pump

Termination of Appr. 160.044/4/1 dated 20 March 1978, Termination effective date 21 November 1984. Manufactured by Tap-Rite Products Division Vending Components, Inc., 2–4 Railroad Avenue, Hackensack, NJ 07601.

Termination of Appr. 160.044/4/1 dated 20 March 1978, Termination effective date 21 November 1984. Manufactured by Tap Rite Products Division Vending Components, Inc., 2–4 Railroad Avenue, Hackensack, NJ 07601.

Kapok Buoyant Vest

Termination of Appr. 160.047/429/0, dated 6 December 1979, Termination effective date 21 November 1984. Manufactured by Noble Products Company, 306 West Street, Caldwell, OH 43724.

Termination of Appr. 160.047/431/0, dated 6 December 1979, Termination effective date 21 November 1984. Manufactured by Noble Products Company, 306 West Street, Caldwell, OH 43724.

Termination of Appr. 160.047/638/0, dated 15 December 1977, Termination effective date 21 November 1984. Manufactured by Elvin Salow Co., 15 East Street, Boston, MA 02211.

Termination of Appr. 160.047/639/0, dated 15 December 1977, Termination effective date 21 November 1984. Manufactured by Elvin Salow Co., 15 East Street, Boston, MA 02211.

Termination of Appr. 160.047/640/0, dated 15 December 1977, Termination effective date 21 November 1984. Manufactured by Elvin Salow Co., 15 East Street, Boston, MA 02211.

Kapok Buoyant Cushions

Termination of Appr. 160.048/32/0, dated 15 December 1977, Termination effective date 21 November 1984. Manufactured by Elvin Salow Co., 15 East Street, Boston, MA 02211.

Termination of Appr. 160.048/234/0, dated 15 September 1979, Termination effective date 21 November 1984. Manufactured by Sears, Roebuck and Co., 925 S. Homan Avenue, Chicago, IL 60607.

Unicellular Plastic Ring Life Buoy

Termination of Appr. 160.050/76/0, dated 9 May 1979, Termination effective date 21 November 1984. Manufactured by Aquality, Inc., P.O. Box 60, Bloomsburg, PA 17815.

Inflatable Liferaft (Ocean Service)

Termination of Appr. 160.051/89/1, dated 24 July 1979, Termination effective 21 November 1984. Manufactured by C.J. Hendry Company, 139 Townsend Street, San Francisco, CA 94107.

Termination of Appr. 160.051/90/1, dated 24 July 1979, Termination effective 21 November 1984. Manufactured by C.J. Hendry Company, 139 Townsend Street, San Francisco, CA 94107.

Termination of Appr. 160.051/93/1, dated 24 July 1979, Termination effective 21 November 1984. Manufactured by C.J. Hendry Company, 139 Townsend Street, San Francisco, CA 94107.

Termination of Appr. 160.051/94/1, dated 24 July 1979, Termination effective 21 November 1984. Manufactured by C.J. Hendry Company, 139 Townsend Street, San Francisco, CA 94107.

Termination of Appr. 160.051/95/1, dated 24 July 1979, Termination effective 21 November 1984. Manufactured by C.J. Hendry Company, 139 Townsend Street, San Francisco, CA 94107.

Termination of Appr. 160.051/96/1, dated 24 July 1979, Termination effective 21 November 1984. Manufactured by C.J. Hendry Company, 139 Townsend Street, San Francisco, CA 94107.

Termination of Appr. 160.051/97/1, dated 24 July 1979, Termination effective 21 November 1984. Manufactured by C.J. Hendry Company, 139 Townsend Street, San Francisco, CA 94107.

Termination of Appr. 160.051/98/1, dated 24 July 1979, Termination effective 21 November 1984. Manufactured by C.J. Hendry Company, 139 Townsend Street, San Francisco, CA 94107.

Termination of Appr. 160.051/132/0, dated 29 December 1982, Termination effective 21 November 1984. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Termination of Appr. 160.051/133/0, dated 29 December 1982, Termination effective 21 November 1984. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Termination of Appr. 160.051/134/0, dated 29 December 1982, Termination effective 21 November 1984. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Unicellular Plastic Form Buoyant Vest

Termination of Appr. 160.052/190/1, dated 8 November 1979, Termination effective 21 November 1984. Manufactured by Ero Industries, Inc., 308 South Williams Street, Hazlehurst, GA 31539.

Termination of Appr. 160.052/191/1, dated 8 November 1979, Termination effective 21 November 1984. Manufactured by Ero Industries, Inc., 308 South Williams Street, Hazlehurst, GA 31539.

Termination of Appr. 160.052/192/1, dated 8 November 1979, Termination effective 21 November 1984. Manufactured by Ero Industries, Inc., 308 South Williams Street, Hazlehurst, GA 31539.

Termination of Appr. 160.052/347/0, dated 1 September 1977, Termination effective 21 November 1984. Manufactured by The Carlon Products Company, 1 New Haven Avenue, Derby, Connecticut 06418.

Termination of Appr. 160.052/348/0, dated 1 September 1977, Termination effective 21 November 1984. Manufactured by The Carlon Products Company, 1 New Haven Avenue, Derby, CT 06418.

Termination of Appr. 160.052/349/0, dated 1 September 1977, Termination effective 21 November 1984. Manufactured by The Carlon Products Company, 1 New Haven Avenue, Derby, CT 06418.

Termination of Appr. 160.052/361/0, dated 20 September 1977, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Unicellular Plastic Foam Life Preserver

Termination of Appr. 160.055/101/0, dated 6 June 1979, Termination effective 21 November 1984. Manufactured by Universal Oil Products Company, Aerospace Division, Bantam, CT 06750.

Marine Buoyant Device

Termination of Appr. 160.064/14/0, dated 17 January 1980, Termination effective 21 November 1984. Manufactured by Aquality, Inc., 8938 Mason Avenue, Chatsworth, CA 91311.

Termination of Appr. 160.064/15/0, dated 4 April 1978, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/16/0, dated 2 April 1979, Termination effective 21 November 1984. Manufactured by Crawford Manufacturing Co., 3rd & Decatur Streets, Richmond, VA 23212.

Termination of Appr. 160.064/19/0, dated 4 April 1978, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/20/0, dated 4 April 1978, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/21/0, dated 4 April 1978, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/22/0, dated 4 April 1978, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/159/1, dated 4 April 1978, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/160/1, dated 4 April 1978, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/161/1, dated 4 April 1978, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/226/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/389/0, dated 19 April 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/395/0, dated 19 April 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/408/0, dated 13 October 1977, Termination effective 21 November 1984. Manufactured by Red Head Brand Corporation, 4949 Joseph Hardin Drive, Dallas, TX 75236.

Termination of Appr. 160.064/409/0, dated 13 October 1977, Termination effective 21 November 1984. Manufactured by Red Head Brand Corporation, 4949 Joseph Hardin Drive, Dallas, TX 75236.

Termination of Appr. 160.064/410/0, dated 13 October 1977, Termination effective 21 November 1984. Manufactured by Red Head Brand Corporation, 4949 Joseph Hardin Drive, Dallas, TX 75236.

Termination of Appr. 160.064/412/0, dated 12 October 1977, Termination effective 21 November 1984. Manufactured by Red Head Brand Corporation, 4949 Joseph Hardin Drive, Dallas, TX 75236.

Termination of Appr. 160.064/413/0, dated 12 October 1977, Termination effective 21 November 1984. Manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Drive, Dallas, TX 75236.

Termination of Appr. 160.064/414/0, dated 12 October 1977, Termination effective 21 November 1984. Manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Drive, Dallas, TX 75236.

Termination of Appr. 160.064/415/0, dated 12 October 1977, Termination effective 21 November 1984. Manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Drive, Dallas, TX 75236.

Termination of Appr. 160.064/416/0, dated 12 October 1977, Termination effective 21 November 1984. Manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Drive, Dallas, TX 75236.

Termination of Appr. 160.064/417/0, dated 12 October 1977, Termination effective 21 November 1984. Manufactured by Buddy Schoellkopf Products, Inc., 4949 Joseph Hardin Drive, Dallas, TX 75236.

Termination of Appr. 160.064/503/0, dated 19 January 1979, Termination effective 21 November 1984. Manufactured by Wellington Puritan Mills, Inc., Wellington Cordage Division, Monticello Highway, Madison, GA 30650.

Termination of Appr. 160.064/504/0, dated 19 January 1979, Termination effective 21 November 1984. Manufactured by Wellington Puritan Mills, Inc., Wellington Cordage Division, Monticello Highway, Madison, GA 30650.

Termination of Appr. 160.064/526/0, dated 20 April 1978, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, 912 N. Beverly Drive, Wichita Falls, TX 76307.

Termination of Appr. 160.064/573/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/574/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/576/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/577/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/578/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/579/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/580/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/581/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/582/0, dated 2 April 1979, Termination effective 21 November 1984. Manufactured by Cypress Gardens Skis, Inc., Hoover Road, P.O. Box 8, Cypress Gardens, FL 33880.

Termination of Appr. 160.064/585/0, dated 2 April 1979, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/586/0, dated 2 April 1979, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/587/0, dated 2 April 1979, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539,. Wichita Falls, TX 76307.

Termination of Appr. 160.064/588/0, dated 2 April 1979, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/589/0, dated 2 April 1979, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/590/0, dated 2 April 1979, Termination effective 21 November 1984. Manufactured by Texas Recreation Corporation, Texas Watercrafters Division, P.O. Drawer 539, Wichita Falls, TX 76307.

Termination of Appr. 160.064/647/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/648/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/649/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/650/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/651/0, dated 17 May 1979, Termination effective 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/850/0, dated 25 October 1979, Termination effective 21 November 1984. Manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128.

Termination of Appr. 160.064/851/0, dated 25 October 1979, Termination effective 21 November 1984. Manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128.

Termination of Appr. 160.064/852/0, dated 25 October 1979, Termination effective 21 November 1984. Manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128.

Termination of Appr. 160.064/1039/0, dated 25 October 1979, Termination effective 21 November 1984. Manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128.

Termination of Appr. 160.064/1040/0, dated 25 October 1979, Termination effective 21 November 1984. Manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128.

Termination of Appr. 160.064/1135/0, dated 23 June 1976, Termination effective 21 November 1984. Manufactured by American Marine Products, Inc., 240 W. Shore Drive, Hinsdale, IL 60521.

Termination of Appr. 160.064/1230/0, dated 9 November 1978, Termination effective 21 November 1984. Manufactured by Fabronics, Inc., P.O. Box 1061, Tolono, IL 61880.

Termination of Appr. 160.064/1378/0, dated 15 March 1979, Termination effective 21 November 1984. Manufactured by Ero Industries, Inc., One S. Wacker Drive, Chicago, IL 60606.

Termination of Appr. 160.064/1406/0, dated 10 November 1982, Termination effective 21 November 1984. Manufactured by Willmington Industries, Inc., P.O. Box 244, Madison, GA 30650.

Termination of Appr. 160.064/1407/0, dated 10 November 1982, Termination effective 21 November 1984. Manufactured by Willmington Industries, Inc., P.O. Box 244, Madison, GA 30650.

Termination of Appr. 160.064/1406/0, dated 10 November 1982, Termination effective 21 November 1984. Manufactured by Willmington Industries, Inc., P.O. Box 244, Madison, GA 30650.

Termination of Appr. 160.064/1409/0, dated 10 November 1982, Termination effective 21 November 1984. Manufactured by Willmington Industries, Inc., P.O. Box 244, Madison, GA 30650.

Termination of Appr. 160.064/1409/0, dated 10 November 1982, Termination effective 21 November 1984. Manufactured by Willmington Industries, Inc., P.O. Box 244, Madison, GA 30650.

Termination of Appr. 160.064/1422/0, dated 1 April 1980, Termination effective 21 November 1984. Manufactured by Sears, Roebuck & Co., Sears Tower, Chicago, IL 60684.

Termination of Appr. 160.064/1460/0, dated 8 January 1980, Termination effective 21 November 1984. Manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341.

Termination of Appr. 160.064/1461/0, dated 8 January 1980, Termination effective 21 November 1984. Manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341.

Termination of Appr. 160.064/1462/0, dated 8 January 1980, Termination effective 21 November 1984. Manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341.

Termination of Appr. 160.064/1463/0, dated 8 January 1980, Termination effective 21 November 1984. Manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341.

Termination of Appr. 160.064/1464/0, dated 8 January 1980, Termination effective 21 November 1984. Manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341.

Termination of Appr. 160.064/1465/0, dated 8 January 1980, Termination effective 21 November 1984. Manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341.

Termination of Appr. 160.064/1466/0, dated 8 January 1980, Termination effective 21 November 1984. Manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341.

Termination of Appr. 160.064/1526/0, dated 24 April 1980, Termination effective 21 November 1984. Manufactured by Ero Industries, Inc., 189 West Madison, Chicago, IL 60602.

Termination of Appr. 160.064/1527/0, dated 21 March 1979, Termination effective 21 November 1984.

Manufactured by Ero Industries, Inc., 189 West Madison, Chicago, IL 60602.

Termination of Appr. 160.064/1528/0, dated 21 March 1979, Termination effective 21 November 1984. Manufactured by Ero Industries, Inc., 189 West Madison, Chicago, IL 60602.

Termination of Appr. 160.064/1536/0, dated 26 January 1979, Termination effective date 21 November 1984. Manufactured by America's Cup, Inc., 1443 Potrero, S. El Monte, CA 91733.

Termination of Appr. 160.064/1537/0, dated 26 January 1979, Termination effective date 21 November 1984. Manufactured by America's Cup, Inc., 1443 Potrero, S. El Monte, CA 91733.

Termination of Appr. 160.064/1538/0, dated 26 January 1979, Termination effective date 21 November 1984. Manufactured by America's Cup, Inc., 1443 Potrero, S. El Monte, CA 91733.

Termination of Appr. 160.064/1539/0, dated 26 January 1979, Termination effective date 21 November 1984. Manufactured by America's Cup, Inc., 1443 Potrero, S. El Monte, CA 91733.

Termination of Appr. 160.064/1539/0, dated 26 January 1979, Termination effective date 21 November 1984. Manufactured by America's Cup, Inc., 1443 Potrero, S. El Monte, CA 91733.

Termination of Appr. 160.064/1579/0, dated 2 April 1980, Termination effective date 21 November 1984. Manufactured by Sears, Roebuck & Co., Sears Tower, Chicago, IL 60684.

Termination of Appr. 160.064/1586/0, dated 26 January 1979, Termination effective date 21 November 1984. Manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1580/0, dated 2 April 1980, Termination effective date 21 November 1984. Manufactured by Sears, Roebuck & Co., Sears Tower, Chicago, IL 60684.

Termination of Appr. 160.064/1587/0, dated 26 January 1979, Termination effective date 21 November 1984. Manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1588/0, dated 26 January 1979, Termination effective date 21 November 1984. Manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1589/0, dated 26 January 1979, Termination effective date 21 November 1984. Manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1644/0, dated 6 April 1979, Termination effective date 21 November 1984. Manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1658/0, dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Gentex Corporation, Carbondale, PA 18407.

Termination of Appr. 160.064/1660/0, dated 27 March 1980, Termination effective date 21 November 1984. Manufactured by Sears, Roebuck & Co., Sears Tower, Chicago, IL 60684.

Termination of Appr. 160.064/1672/0, dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1675/0, dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1676/0, dated 6 June 1979, Termination effective date 21 November 1984. Manufactured by Gladding Corporation, Flotation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604.

Termination of Appr. 160.064/1677/0, dated 6 June 1979, Termination effective date 21 November 1984. Manufactured by Gladding Corporation, Flotation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604.

Termination of Appr. 160.064/1678/0, dated 6 June 1979, Termination effective date 21 November 1984. Manufactured by Gladding Corporation, Flotation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604.

Termination of Appr. 160.064/1679/0, dated 6 June 1979, Termination effective date 21 November 1984. Manufactured by Gladding Corporation, Flotation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604.

Termination of Appr. 160.064/1715/0, dated 5 November 1979, Termination effective date 21 November 1984. Manufactured by Float Gear, Inc., 705A Arroyo Ave., San Fernando, CA 91341.

Termination of Appr. 160.064/1725/0, dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Toyomenka (America) Inc., Suite 4011, One World Trade Center, New York, NY 10048.

Termination of Appr. 160.064/1739/0, dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1740/0, dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Medalist Water Sports, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1747/0, dated 14 January 1980, Termination effective date 21 November 1984. Manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341.

Termination of Appr. 160.064/1748/0, dated 14 January 1980, Termination effective date 21 November 1984. Manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341.

Termination of Appr. 160.064/1749/0, dated 14 January 1980, Termination effective date 21 November 1984. Manufactured by Taperpro U.S.A., 558 Library Street, San Fernando, CA 91341.

Termination of Appr. 160.064/1750/0 dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Medalist Water Sport, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1751/0 dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Medalist Water Sport, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1752/0 dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Medalist Water Sport, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1753/0 dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Medalist Water Sport, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1754/0 dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Medalist Water Sport, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1755/0 dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Medalist Water Sport, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1756/0 dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Medalist Water Sport, 11525 Sorrento Valley Road, San Diego, CA 92121.

Termination of Appr. 160.064/1758/0 dated 5 November 1979, Termination effective date 21 November 1984. Manufactured by Ettinger Enterprises, Inc., 5310 Lance Drive, Knoxville, TN 37919.

Termination of Appr. 160.064/1767/0 dated 17 January 1980, Termination

effective date 21 November 1984. Manufactured by Gladding Corporation, Flotation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604.

Termination of Appr. 160.064/1768/0 dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Gladding Corporation, Flotation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604.

Termination of Appr. 160.064/1769/0 dated 17 January 1980, Termination effective date 21 November 1984. Manufactured by Gladding Corporation, Flotation Division, P.O. Drawer 9038, Station A, Greenville, SC 29604.

Termination of Appr. 160.064/1775/0 dated 20 February 1981, Termination effective date 21 November 1984. Manufactured by Miltco Products Corp., 139 Emerson Place, Brooklyn, NY 11205.

Fire Protective System

Termination of Appr. 161.002/2/1 dated 9 March 1979, Termination effective date 21 November 1984. Manufactured by Fenwal, Inc., Ashland, Massachusetts 01721.

Termination of Appr. 161.002/3/1 dated 8 November 1979, Termination effective date 21 November 1984. Manufactured by Fenwal, Inc., Ashland, Massachusetts 01721.

Termination of Appr. 161.002/9/1 dated 8 November 1979, Termination effective date 21 November 1984. Manufactured by Henschel Corporation Amesbury, MA 01913.

Hand Electric Flashlight

Termination of Appr. 161.008/13/0 dated 6 June 1974, Termination effective date 21 November 1984. Manufactured by Fulton Manufacturing, Division of Chromalloy American Corporation, Wauseon, OH 43567.

Termination of Appr. 161.008/17/0 dated 15 September 1976, Termination effective date 21 November 1984. Manufactured by West Products Corporation, 161 Prescott Street, Logan International Airport, E. Boston, MA 02128.

Termination of Appr. 161.008/18/0 dated 15 September 1976, Termination effective date 21 November 1984. Manufactured by West Products Corporation, 161 Prescott Street, Logan International Airport, E. Boston, MA 02128.

Floating Electric Water Light

Termination of Appr. 161.010/3/2 dated 25 May 1976, Termination effective date 21 November 1984. Manufactured by Automatic Lite Company, 900 N. Iris Avenue, Baltimore, Maryland 21205.

Termination of Appr. 161.010/8/2 dated 26 August 1980, Termination effective date 21 November 1984. Manufactured by Automatic Lite Company, 900 N. Iris Avenue, Baltimore, Maryland 21205.

Termination of Appr. 161.010/13/0 dated 8 August 1980, Termination effective date 21 November 1984. Manufactured by Automatic Lite Company, 900 N. Iris Avenue, Baltimore, Maryland 21205.

Class A EPIRB

Termination of Appr. 161.011/8/0 dated 13 December 1977, Termination effective date 21 November 1984. Manufactured by Leigh Systems, Inc., 6081 Court Street Road, Syracuse, New York 13206.

Pressure-Vacuum Relief Valve

Termination of Appr. 162.017/132/0 dated 17 December 1981, Termination effective date 21 November 1984. Manufactured by PRES-VAC, S.A., Capitan Haya, 3,1., Madrid-20, SPAIN.

Halon 1301 Fixed Fire Extinguishing System

Termination of Appr. 162.029/1/0 dated 15 January 1979, Termination effective date 21 November 1984. Manufactured by Fike Metal Products Corp., 704 S. 10th Street, Blue Springs, Missouri 64015.

Termination of Appr. 162.029/3/0 dated 13 July 1979, Termination effective date 21 November 1984. Manufactured by Fike Metal Products Corp., 704 S. 10th Street, Blue Springs, Missouri 64015.

Termination of Appr. 162.029/4/0 dated 13 July 1979, Termination effective date 21 November 1984. Manufactured by Fike Metal Products Corp., 704 S. 10th Street, Blue Springs, Missouri 64015.

Termination of Appr. 162.029/11/0 dated 7 March 1978, Termination effective date 21 November 1984. Manufactured by Sea Fire Marine Products, 4139 Sunset Lane, Northbrook, IL 60062.

Termination of Appr. 162.029/12/0 dated 31 October 1979, Termination effective date 21 November 1984. Manufactured by AD-X Corporation, P.O. Box 272, Littleton, CO 80160.

Termination of Appr. 162.029/26/0 dated 2 June 1982, Termination effective date 21 November 1984. Manufactured by MHI, Inc., Star Route Fairplay Rd., Somerset, CA 95684.

Termination of Appr. 162.029/27/0 dated 2 June 1982, Termination effective date 21 November 1984. Manufactured by MHI, Inc., Star Route Fairplay Rd., Somerset, CA 95684.

Termination of Appr. 162.029/28/0 dated 2 June 1982, Termination effective date 21 November 1984. Manufactured by MHI, Inc., Star Route Fairplay Rd., Somerset, CA 95684.

Termination of Appr. 162.029/29/0 dated 2 June 1982, Termination effective date 21 November 1984. Manufactured by MHI, Inc., Star Route Fairplay Rd., Somerset, CA 95684.

Termination of Appr. 162.029/30/0 dated 2 June 1982, Termination effective date 21 November 1984. Manufactured by MHI, Inc., Star Route Fairplay Rd., Somerset, CA 95684.

Termination of Appr. 162.029/31/0 dated 2 June 1982, Termination effective date 21 November 1984. Manufactured by MHI, Inc., Star Route Fairplay Rd., Somerset, CA 95684.

Carbon Dioxide Type Fire Extinguishing Systems

Termination of Appr. 162.038/1/0 dated 5 October 1979, Termination effective date 21 November 1984. Manufactured by Walter Kidde & Company, Inc., Industrial and Marine Division, Belleville, NJ 07109.

Deck Covering

Termination of Appr. 164.006/49/0 dated 12 June 1978, Termination effective date 21 November 1984. Manufactured by Chartres Company, Inc., 2121 Chartres Street, New Orleans, LA 70116.

Bulkhead Panel

Termination of Appr. 164.008/12/2 dated 29 June 1979, Termination effective date 21 November 1984. Manufactured by Johns-Manville Sales Corporation, Ken-Caryl Ranch, Denver, CO 90217.

Termination of Appr. 164.008/14/2 dated 6 June 1979, Termination effective date 21 November 1984. Manufactured by Johns-Manville Sales Corporation, Ken-Caryl Ranch, Denver, CO 90217.

Termination of Appr. 164.008/59/0 dated 5 October 1977, Termination effective date 21 November 1984. Manufactured by Eternit, C.A.P. 16121, Piazza Della Vitteria, 11, Genova, Italy.

Noncombustible Material

Termination of Appr. 164.009/21/2 dated 30 August 1979, Termination effective date 21 November 1984. Manufactured by Owens-Corning Fiberglas Corp., 900 17th St., NW., Washington, DC 20006.

Termination of Appr. 164.009/109/0 dated 26 May 1978, Termination effective date 21 November 1984. Manufactured by Rock Wool Manufacturing Company, Leeds, AL 35094.

Termination of Appr. 164.009/155/0 dated 15 June 1978, Termination effective date 21 November 1984. Manufactured by Birma Products Corporation, Jernee Mill Rd., Sayreville, NJ 08872.

Interior Finish

Termination of Appr. 164.012/2/0 dated 12 March 1979, Termination effective date 21 November 1984. Manufactured by Consoweld Corporation, 700 Durabeauty Lane, Rapids, WI 55494.

Termination of Appr. 164.012/31/0 dated 10 July 1978, Termination effective date 21 November 1984. Manufactured by Insul-Coustic Corp., Jernee Mill Rd., Sayreville, NJ 08872.

Termination of Appr. 164.012/32/0 dated 16 August 1978, Termination effective date 21 November 1984. Manufactured by W.R. Grace & Company, Hatco Plastics Division, P.O. Box 948, Colding Drive, Corinth, Mississippi 38834.

W.J. Ecker,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

September 23, 1985.

[FR Doc. 85-23042 Filed 9-25-85; 8:45 am]

BILLING CODE 4910-14-M

[CGD 85-070]

U.S. Coast Guard Academy Advisory Committee; Membership Applications

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applications for appointment to membership of the Coast Guard Academy Advisory Committee. This committee advises the Commandant, United States Coast Guard, on the status of the curricula and faculty of the United States Coast Guard Academy. The Committee consists of seven members who are recognized persons of distinction in the field of education and other fields relating to the purpose of the Academy. The Secretary of Transportation appoints members to serve three-year terms.

ADDRESS: Persons interested in applying should write to Commandant (G-PTE), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593 (202 426-9866).

Issued in Washington, DC, on September 19, 1985.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard Chief, Office of Personnel.

[FR Doc. 85-23049 Filed 9-25-85; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[FAA Order 6850.26A]

Federal Funding of Visual Glideslope Indicators

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Funding Policy; extension of comment period.

SUMMARY: This notice announces the extension of the comment period for Notice of Proposed Funding Policy, FAA Order 6850.26A, which invites comments concerning the Order establishing a policy for the Federal funding of visual glideslope indicators. The full text of the Notice appears at 50 FR 34573 (August 26, 1985), and a correction of that Notice appears at 50 FR 35630 (September 3, 1985). This extension is necessary to afford all interested parties an opportunity to present their views on the proposed policy.

DATE: Comments must be received on or before October 28, 1985.

ADDRESS: Comments on the proposed funding policy should identify the Order number and be submitted in duplicate to: Federal Aviation Administration, Office of Airport Standards, Attention: Mr. Robert Bates, AAS-200, 800 Independence Avenue, SW., Washington, DC 20591. All comments submitted will be available, both before and after the closing date for comments, in the Office of Airport Standards for examination by interested persons on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

Availability of Notice: Any person may obtain a copy of the Notice 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) 426-3058. Communications must identify the Order number.

Issued in Washington, DC on September 20, 1985.

Donald D. Engen,

Administrator.

[FR Doc. 85-22961 Filed 9-25-85; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Public Meeting; Change

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

ACTION: Notice of change of time of public meeting.

SUMMARY: This notice announces a change of time of a public meeting (originally announced at 50 FR 35901; September 4, 1985) at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs (including defects). The public meeting, originally scheduled to begin at 10:30 a.m., will now begin at 9:00 a.m., and run until 1:00 p.m. It will be held on October 16, 1985, in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

Issued on September 23, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-22979 Filed 9-25-85; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

Receipt of Domestic Interested Party Petition Concerning Tariff Treatment of Hook and Eye Tabs Incorporated in Brassieres

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of several domestic interested parties with respect to the tariff treatment of hook and eye tabs incorporated in imported brassieres. The metal hooks and eyes are manufactured and attached to continuous textile strips in the Philippines, imported into the U.S. duty-free under the Generalized System of Preferences and further processed into individual hook and eye tabs which are then exported and assembled abroad into finished brassieres. The petitioners contend that when the finished brassieres are imported, Customs is incorrectly excluding the value of the hook and eye tabs, and that no allowances should be made for the value of the tabs in the duty assessed on the brassieres because the processing in the U.S. is not sufficient to transform the strips into products of the U.S. This document invites comments with respect to the correctness of the current tariff treatment of the imported articles.

DATE: Comments must be received on or before November 25, 1985.

ADDRESS: Written comments (preferably in triplicate) may be addressed to, and inspected at the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–8237).

FOR FURTHER INFORMATION CONTACT: Frank Foote, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–2938).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), and Part 175, Customs Regulations (19 CFR Part 175), a domestic interested party petition has been filed with Customs concerning the tariff treatment of hook and eye tabs incorporated in imported brassieres. The petitioners are manufacturers and producers of metal hook and eye components which are sewn by machine onto textile strips. These strips are placed on reels and then fed into sealing machines which sever the strips into individual tab units. After heat-sealing, these tab units are ready for incorporation into brassieres.

The imported merchandise is produced using nearly identical methods. However, unlike the domestically-produced merchandise which is produced in one location, the U.S., the imported merchandise is completed in two locations. The textile strips with the hooks and eyes attached are manufactured and produced in the Philippines. These strips are then imported into the U.S. where they are currently classified under the dutiable provision for "Hooks and eyes," in item 745.60, Tariff Schedules of the United States (TSUS; 19 U.S.C. 1202). However, these strips are eligible for duty-free treatment under the Generalized System of Preferences (GSP) provided for in Title 5 of the Trade Act of 1974, as amended (19 U.S.C. 2461 *et seq.*). The GSP provides that when an eligible article is imported into the customs territory of the U.S. directly from a country, territory or association of countries listed in General Headnote 3(c)(i), TSUS, it shall receive duty-free treatment, unless excluded. These strips of uncut hook and eye tabs are being imported from the Philippines which appears on the GSP list of designated beneficiary developing countries whose articles receive duty-free treatment from the U.S. Accordingly, no duty is paid on these articles when they are imported.

Once in the U.S., these strips of hook and eye tabs are then cut into individual tab units, heat-sealed, then exported and assembled abroad into finished brassieres. The finished brassieres are then imported into the U.S. under the provisions for "Articles assembled abroad in whole or in part of fabricated components, the product of the United States, which (a) were exported in condition ready for assembly without further fabrication, (b) have not lost their physical identity in such articles by change in form, shape, or otherwise, and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process such as cleaning, lubricating, and painting. . . ," in item 807.00, TSUS. The duty on these articles is based on the full value of the imported article, less the cost or value of any fabricated components which are products of the U.S. In Customs Ruling #053121 M, dated November 7, 1977, Customs determined that cutting and heat-sealing imported hook and eye strips in the U.S. into individual hook and eye tab units substantially transforms the strips into products of the U.S. Since these completed tabs are considered to be products of the U.S. for purposes of item 807.00, TSUS, their value is excluded from the dutiable value of the imported brassieres.

The petitioners contend that this previous Customs ruling is erroneous. It is their view that hook and eye strips of foreign origin that are imported into the U.S. and merely cut and heat-sealed into individual tabs are not substantially transformed into products of the U.S. Accordingly, they claim that the cost or value of the tabs should not be excluded from the dutiable value of the brassieres imported under item 807.00, TSUS.

Comments

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties on the classification issue. The domestic interested party petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Authority

This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: August 28, 1985.

David D. Queen,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85–23009 Filed 9–25–85; 8:45 am]

BILLING CODE 4820–02–M

VETERANS ADMINISTRATION

Veterans Administration Medical Center; Modernization or Replacement, Allen Park, MI; Availability of the Supplemental Draft Environmental Impact Statement

Notice is hereby given that a document entitled "Supplemental Draft Environmental Impact Statement (SDEIS), Modernization or Replacement, Veterans Administration Medical Center (VAMC), Allen Park, Michigan," dated August 1985, has been prepared as required by the National Environmental Policy Act of 1969.

The Supplemental Draft Statement discusses the potential environmental impacts associated with the Modernization or Replacement of the VAMC Allen Park. The alternatives considered include three different degrees of renovation and new construction at the existing VAMC Allen Park; a total replacement VAMC at a site in Detroit, Michigan; a split facility alternative (Allen Park would be retained for use as a nursing home and long-term psychiatric care facility, while ambulatory and acute care including medical, surgery, and acute psychiatric care would be relocated to a site in Detroit); an enlarged VAMC at Allen Park (a replacement hospital totaling 941 beds) and the "No Action" alternative.

All the alternatives, except the "No Action" alternative, respond to a 1995 medical program and will meet the required space needs for a modern hospital providing medical care for veterans. In the renovation alternatives, some of the program space will be located in existing buildings that must

modernized with the remainder of the program in new construction. The split facility concept also would involve major renovation and new construction.

The Supplemental Draft Statement includes comments and the discussion of issues that were identified during the public comment period on the original Draft EIS and the public hearings in the Allen Park/Detroit area. The document also includes information generated by the technical analysis of various key environmental elements

The Supplemental Draft Statement is being placed for public examination at the Veterans Administration, Washington, DC. In addition, Appendix "K" which contains the transcript of the public hearing held in the Allen Park/Detroit area on September 11 and 12, 1984, is available upon request. Persons wishing to examine a copy of the documents may do so at the following office: Director, Office fo Environmental Affairs (088B), Room 419, Veterans Administration, 811 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2922. Questions or requests for single copies of the Environmental Impact Statement and/or Appendix "K" may be addressed to the above office.

Dated: September 23, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 85-22997 Filed 9-25-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 187
Thursday, September 26, 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 ELECTION COMMISSION

DATE AND TIME: Tuesday, October 1, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

The meeting scheduled for the date of October 3, 1985, has been cancelled.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 85–23167 Filed 9–24–85; 3:36 pm]

BILLING CODE 6715–01–M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 1:00 p.m.—October 1, 1985.

PLACE: Hearing Room One—1100 L Street, NW., Washington, DC 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion Open to the Public

1. Consideration of a draft proposed rule concerning retroactive provisons in agreements subject to the Shipping Act of 1984.

Portions Closed to the Public

1. Agreement No. 207–010811: The Peru Lines Service Agreement.

2. Docket No. 84–38: Ariel Maritime Group, Inc., et al.—Consideration of exceptions and replies to exceptions relative to the administrative law judge's Initial Decision.

CONTACT PERSON FOR MORE INFORMATION: Bruce A. Dombrowski, Acting Secretary (202) 523–5725.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–23119 Filed 9–24–85; 1:31 pm]

BILLING CODE 6730–01–M

3

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, October 3, 1985.

PLACE: Suite 410, 1825 K Street, NW., Washington, DC.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller (202) 634–4015.

Dated: September 24, 1985.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 85–23138 Filed 9–24–85; 2:11 pm]

BILLING CODE 7600–01–M

4

POSTAL RATE COMMISSION.

TIME AND DATE: 2:00 p.m., October 7, 1985.

PLACE: Suite 300, 1333 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. RM85–2, Rules of Practice and Procedure Governing Workpapers and Computer-Generated Evidence.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 85–23071 Filed 9–24–85; 9:50 am]

BILLING CODE 7715–01–M

5

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1355]

TIME AND DATE: 9:30 a.m. (EDT), Monday, September 30, 1985.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on September 17, 1985.

Action Items

A—Budget and Financing

A1. Fiscal year 1986 Capital Budget for the Power Program comprising expenditures for ongoing and new projects during the fiscal year and the estimated total project cost for those projects.

Note.—Discussion of Item A1 will begin at 1 p.m. after the completion of all other items on the agenda.

B—Purchase Awards

B1. Invitation 33–972099—Feedwater heaters for Bull Run Fossil Plant.

B2. Amendment to Indefinite Quality Term Agreement 84KJ3–663301–2 with Wang Laboratories, Inc., for automated office systems.

B3. Proposal LC–964346—Piping ID inspection and repair equipment and related services for Browns Ferry Nuclear Plant.

B4. Requisition 11—Term coal for Paradise Steam Plant.

C—Power Items

*C1. Disposal and other actions relating to certain uranium properties located in Converse County, Wyoming.

D—Personnel Items

D1. Proposed compensation adjustments for Management and Specialist Schedule, the Physician Schedule, and excluded employees schedules. This also includes a plan authorizing the lease of automobiles for certain power managers who have round-the-clock responsibility for critical power system functions.

E—Real Property Transactions

E1. Grant of permanent easement to Roane County, Tennessee, affecting approximately 0.8 acre of Watts Bar Reservoir land located in Roane County, for the construction, operation, and

*Items approved by individual Board members. This would give formal ratification to the Board's action.

maintenance of a road—Tract No. XTWBR-133H.

*E2. Grant of permit and right of way to East Tennessee Natural Gas Company affecting approximately 2.4 acres of Melton Hill Reservoir land located in Knox County, Tennessee, for the construction, operation, and maintenance of a natural gas pipeline—Tract No. XMHR-50P.

F—Unclassified

F1. Authority to write off uncollectible accounts receivable.

F2. Contribution rate to the TVA Retirement System for fiscal year 1986.

F3. Payments to States and counties in lieu of taxes for fiscal year ending September 30, 1985, as provided under Section 13 of the TVA Act, as amended.

F4. Drawdown of Fontana Reservoir below normal minimum level for inspection of sluiceways.

F5. Supplement to Agreement No. TV-61214A with Oak Ridge Operations, U.S. Department of Energy (DOE) providing for TVA to continue performing mapping services for DOE.

F6. Supplement to Agreement No. TV-60244A with Office of Surface Mining, U.S. Department of the Interior, for aerial photographic and related activities to be performed by TVA.

F7. Interagency Agreement No. TV-67779A between Office of Surface Mining (OSM), U.S. Department of the Interior, and TVA for the continued support of the OSM Abandoned Mine Lands Inventory Program by TVA.

F8. Contract No. TV-67746A between TVA and ANFLOW, Incorporated, providing for TVA assistance to monitor and evaluate the ANFLOW wastewater treatment demonstration at Haleyville, Alabama.

F9. Supplement to interagency agreement (TV-59928A), between TVA and Agency for International Development (AID) covering arrangements for TVA's assistance to AID's Bioenergy Program.

F10. Supplement to interagency agreement (TV-66099A), between TVA and the Department of Energy (DOE) Western Area Power Administration covering arrangements for TVA to continue providing equipment inspection services.

F11. Supplement to Contract No. TV-58784A between TVA and the Department of Energy (DOE), for DOE to provide technical assistance and perform tasks as requested by TVA at the Oak Ridge National Laboratory.

F12. Cooperative Agreement No. TV-67747A between TVA and City of Bristol, Tennessee, for the planning and construction of approximately eight miles of 36-inch-diameter waterline.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: September 23, 1985.

W.F. Willis,

General Manager.

[FR Doc. 85-23139 Filed 9-24-85; 2:11 pm]

BILLING CODE 8120-01-M

Reader Aids

Federal Register

Vol 50, No. 187

Thursday, September 26, 1985

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

35533-35766.....3
35767-36030.....4
36031-36404.....5
36405-36562.....6
36563-36860.....9
36861-36982.....10
36983-37162.....11
37163-37342.....12
37343-37502.....13
37503-37634.....16
37635-37830.....17
37831-37984.....18
37985-38096.....19
38097-38502.....20
38503-38632.....23
38633-38776.....24
38777-38968.....25
38969-39072.....26

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....35533

3 CFR

Administrative Orders:
Presidential
Determinations:
No. 85-20
September 7, 1985.....37503
Memorandums:
September 5, 1985.....36563
August 7, 1985.....36565

Executive Orders:
11888 (Amended by Proc. 5365).....36220
12530.....36031
12531.....36033
12532.....36861

Proclamations:
4707 (Amended by Proc. 5365).....36220
4768 (Amended by Proc. 5365).....36220
5133 (Amended by Proc. 5365).....36220
5142 (Amended by Proc. 5365).....36220
5291 (Amended by Proc. 5365).....36220
5305 (Amended by Proc. 5365).....36220
5308 (Amended by Proc. 5365).....36220
5365.....36220
5366.....37635
5367.....37831

5 CFR

Ch. XIV.....38636
532.....38633
534.....38634

Proposed Rules:
532.....37537
540.....37537

7 CFR

6.....36037, 36040
51.....36041, 37163
250.....37163
252.....37163
319.....35533, 37637
736.....35535
800.....38503
908.....35767, 37171, 37505, 37638, 37833, 38777
919.....37343
920.....36567
931.....37343
981.....35767, 37343
982.....37343
989.....35769
993.....37343
1036.....36865
1079.....37505
1106.....37638, 37639
1135.....36043
1137.....37640
1150.....37642
1427.....36568
1435.....37171
1472.....35772
1772.....37507

Proposed Rules:
3.....37378, 38821
27.....37378
51.....37379, 38662
52.....36094
53.....38006
54.....37663, 38006
235.....37667
420.....36580
423.....36584
432.....36589
433.....36593
442.....36597
911.....37669
915.....37669
917.....35828
920.....35828
989.....36436, 38772
999.....35564
1079.....38007
1102.....39017
1106.....39017
1135.....35829
1427.....38008
1806.....37200
1944.....37538
1951.....38662

8 CFR

100.....37833
204.....38969
238.....37985
287.....37834

9 CFR

72.....38505
81.....38969
381.....37508, 38097

Proposed Rules:
51.....37201
71.....37201, 37673
77.....35564
78.....37201
80.....37201, 37673
92.....37201
309.....36094, 36998
317.....38824
318.....38824
381.....38824

10 CFR

2.....38097

9 37642
25 36983
35 36866
50 ..... 38097, 38970
95 36983
458 37818
903 37835

Proposed Rules:
34 38011

12 CFR

4 37344
561 38636
563 38636
611 ..... 36985, 37985

Proposed Rules:
541 38832
542 38832
563 38839
563c 38839
563g 38839
615 36868
701 36998
748 37380

13 CFR

Proposed Rules:
121 37539

14 CFR

39 ..... 35772, 36044–36046, 36570, 36869, 36987–36990, 37172, 37173, 38505, 38506
71 ..... 36047, 37344, 37345, 37514, 37840, 37841, 37994, 38971–38973,
73 38777–38778
75 ..... 37646, 37841, 38973
95 37515
97 ..... 37646, 38974
108 35535
399 38508

Proposed Rules:
Ch. I 36884
21 36437
39 ..... 35830–35839, 36095–36102, 36441, 36600
43 37674
71 ..... 35840, 36884, 37004, 37541, 37542, 37683–37685, 37864–37866, 38012
71 38855–38857
73 38857
75 37686
91 37674
121 37674
127 37674
135 37674
323 38539
399 38539

15 CFR

371 38511
373 37996
374 38511
376 37112
379 ..... 37112–37136, 38639
386 38511
399 ..... 37112–37136, 38511

Proposed Rules:
801 37867
802 37871
803 37871

16 CFR

4 36048
13 38514
455 37345

Proposed Rules:
13 ..... 35565, 37229, 37686, 38548
801 38742
802 38742
803 38742

17 CFR

1 36049
31 ..... 36405, 37519
190 36405
211 37346
240 ..... 37648, 38515, 38640
270 37654

Proposed Rules:
1 36104
3 36104
240 ..... 38671, 38673

18 CFR

154 36571
157 36571
282 38779
385 36051

Proposed Rules:
357 36601

19 CFR

4 37519
6 37996
10 38975
101 38977–38978
134 37842
142 38979
158 38519
175 38649
178 38519

Proposed Rules:
101 37004
162 36603

20 CFR

302 36870
322 36870
340 36870
404 ..... 36571, 38113
416 38981

Proposed Rules:
295 35568
416 36108

21 CFR

73 37845
74 35774
81 35774–35789
82 35774
184 38779
177 35535
178 ..... 36872, 37845, 37987
193 37845
452 36991
510 ..... 35535, 37347, 38781–38782
520 ..... 38113, 38114
522 37347
558 ..... 35535, 35536, 36419, 38782–38783
561 ..... 36874, 37347, 37846, 37847
606 38114
640 38114
1040 36548

Proposed Rules:
74 35841
82 35841
160 37871
170 35571
182 37381
314 37381
808 36441–36443
884 38548

22 CFR

213 38521

23 CFR

Proposed Rules:
480 38130
637 38136
658 37969
668 37688

24 CFR

200 37519
207 38784
232 ..... 37520, 38784
234 38784
242 38784
244 38787
247 38784
300 37523
510 38789
570 37524
590 38114
880 38791
881 38791
882 38791
883 38791
884 38791
885 38797
886 38791
888 38791

25 CFR

36 36575

26 CFR

1 ..... 35536, 35540, 36575, 37347
5f 37347
6a 35540
145 37350
602 ..... 35536, 35540, 37347, 37350

Proposed Rules:
1 ..... 35572, 37004, 37381, 39018
301 37871
602 35572

27 CFR

Proposed Rules:
9 ..... 37692, 37696

28 CFR

0 36054
2 ..... 36419–36423, 37352

Proposed Rules:
16 37232–37236

29 CFR

1601 38115
1910 ..... 36992, 37352
2619 37354
2641 36992

Proposed Rules:
33 ..... 36885, 38860
1926 37543
2642 36603

30 CFR

906 38860–38861
917 37656
920 36970
935 37848
948 38651

Proposed Rules:
Ch. I 36885
57 37815
817 35573
870 36858
913 37318
917 ..... 37382, 37699
925 37383
944 36554
946 38137

31 CFR

51 36055
103 36875
206 35547

Proposed Rules:
223 36115

32 CFR

155 35790
169 37527
199 38522
706 36424–36425
865 36426

Proposed Rules:
230 36610
231 36619
231a 36622

33 CFR

100 ..... 35552–35554, 36576, 37998, 37999, 38983
117 ..... 37174, 37175, 37355, 38000, 38001, 38523
151 36768
158 36768
165 ..... 35555, 38001, 38002
207 37849

Proposed Rules:
80 38013
100 36628–36629
110 37237
117 ..... 36630, 37384, 38548
153 38139
204 37554
207 ..... 35573, 37554

34 CFR

74 37356
298 37974
361 38628
362 38628
365 38628
366 38628
369 38628
373 38628
379 38628
385 38628
386 38628
389 38628
400 38801
401 38801
407 38801
408 38801
409 38801
410 38801
411 38801
412 38801
414 38801

232.....35640, 35643, 39024–39025
571.....35583, 37240, 37702, 37882
1206.....38559
1249.....38559

50 CFR

17.....36085, 36089, 37192, 37194, 37858
20.....35762, 36198, 36432–36433, 36996, 38952
32.....35563, 35815, 37198
33.....35563
216.....37377
285.....37534, 38538
611.....35825, 36997
621.....36434
630.....35563
642.....38538
646.....38818
650.....38820
658.....37198
661.....35827, 36092, 37535
672.....35825
675.....35825, 36997

Proposed Rules:

13.....38683
17.....35584, 36118, 37249, 37252, 37391, 37703, 37958, 38683
23.....38683
671.....38867
684.....38869

LIST OF PUBLIC LAWS

Last List September 24, 1985.

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

H.J. Res. 128 / Pub. L. 99–95

Designating the month of October 1985 as "National High-Tech Month". (Sept. 23, 1985; 99 Stat. 459) Price: $1.00