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Federal Register

Friday
December 27, 1985

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

Selected Subjects

Administrative Practice and Procedure
Administrative Conference of United States
Equal Employment Opportunity Commission
Merit Systems Protection Board

Air Carriers
Labor-Management Relations and Cooperative Programs Bureau

Air Pollution Control
Environmental Protection Agency

Armed Forces
Selective Service System

Aviation Safety
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Claims
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Communications Common Carriers
Federal Communications Commission

Cultural Exchange Programs
United States Information Agency

Exports
International Trade Administration

Food Labeling
Food and Drug Administration

Freedom of Information
Federal Mediation and Conciliation Service

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Selected Subjects

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

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Personnel Management Office

Government Procurement
Defense Department
General Services Administration
National Aeronautics and Space Administration

Motor Carriers
Federal Highway Administration

Natural Gas
Federal Energy Regulatory Commission

Parachutes
Federal Aviation Administration

Pesticides and Pests
Environmental Protection Agency

Quarantine
Animal and Plant Health Inspection Service

Railroads
Interstate Commerce Commission

Supplemental Security Income
Social Security Administration

Television Broadcasting
Federal Communications Commission

Vessels
Panama Canal Commission

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

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

WHO: The Office of the Federal Register.

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

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

WASHINGTON, DC

WHEN: January 17; at 9 am.

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

RESERVATIONS: Howard Landon 202-523-5227 (Voice)
Melanie Williams 202-523-5229 (TDD)

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington and on an annual basis in Federal regional cities. Dates and locations will be announced later.

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Presidential Documents

Title 3—

The President

Proclamation 5424 of December 23, 1985

Made in America Month, 1985

By the President of the United States of America

A Proclamation

America's current trade problems have caused some to wonder whether this country may not be in danger of losing its reputation as a supplier of high quality products at competitive prices. As America's strong economic growth has led to increased demand for goods and services, imports have become more attractive because of the relative strength of the dollar. U.S. exports have become less attractive to foreign buyers for the same reason. Recently, however, increased growth in the economies of our trading partners and movement of the dollar toward a more sustainable equilibrium give us reason to expect that our trade deficit should ease in the near future. Tough foreign competition, in the last few years, has presented our manufacturers and our work force with a stiff challenge.

But America's producers are responding to that challenge, and it is time for consumers both here and abroad to take a fresh look at what America has to offer. Those who do will find the traditional variety, high quality, and dependability that "Made in the U.S.A." has come to symbolize. They also will find this quality at more competitive prices.

Made in America Month also provides an opportunity for American firms and workers to resolve to take greater advantage of new competitive opportunities both here at home and in overseas markets. We Americans do not shrink from competition; we believe in competition—*fair* competition. Historically, competition constantly creates pressure for innovation, product improvement, and customer satisfaction. The open marketplace makes the consumer the king, and we are all consumers.

In an increasingly competitive world, we Americans must redouble our efforts to make products of the highest quality in the most efficient way and market them aggressively. As we do I have no doubt that more and more Americans and foreigners will be drawn to the products with the proud label: "Made in America."

The Congress of the United States, by Senate Joint Resolution 206, has authorized and requested the President to proclaim December 1985 as "Made in America Month" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim December 1985 as Made in America Month. I invite the people of the United States to observe this month with appropriate programs and activities to recognize and celebrate the excellence of American products.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of December, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 85-30737
Filed 12-24-85; 10:40 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Parts 305 and 310

Recommendations and Statements of the Administrative Conference Regarding Administrative Practice and Procedure

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations and Statement.

SUMMARY: The Administrative Conference of the United States, at its Thirty-first Plenary Session, adopted two recommendations and a statement. A proposed recommendation regarding procedural requirements in pending immigration legislation for the imposition of employer sanctions was recommitted to the Conference's Committee on Rulemaking.

Recommendation 85-4, Administrative Review in Immigration Proceedings, deals with administrative appeals from initial decisions in certain immigration proceedings. Recommendation 85-5, Procedures for Negotiating Proposed Regulations, supplements and refines an earlier Conference recommendation respecting the desirable procedures to be used. In its Statement on Hearing Procedures for the Resolution of Scientific Issues the Conference urges continued experimentation with alternative types of hearing procedures for the resolution of scientific issues.

Recommendations of the Administrative Conference are published in full text in the Federal Register upon adoption. Complete lists of recommendations and statements, together with the texts of those deemed to be of continuing general interest, are published in the Code of Federal Regulations (1 CFR Parts 305 and 310).

DATES: These recommendations were adopted December 12–13, 1985 and issued December 23, 1985.

FOR FURTHER INFORMATION CONTACT: Richard K. Berg, General Counsel (202–254–7065).

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571–576. The Conference studies the efficiency, adequacy and fairness of the administrative procedures used by federal agencies in carrying out administrative programs, and makes recommendations for improvements to the agencies, collectively or individually, and to the President, Congress, and the Judicial Conference of the United States. (5 U.S.C. 574(1).)

At its Thirty-first Plenary Session, held December 12–13, 1985, the Assembly of the Administrative Conference of the United States adopted two recommendations and one statement.

Recommendations 85–4, Administrative Review in Immigration Proceedings, deals with administrative appeals from initial Justice Department decisions in deportation, exclusion, and other imigration proceedings. These appeals are decided by one of two very different bodies: the formal, relatively independent Board of Immigration Appeals or the smaller, less independent Administrative Appeals Unit. The recommendation urges the Justice Department to review the assignment of cases to these two bodies in light of several factors, such as the importance of the type of case to the parties, the type of issues raised, and the number of cases of each particular type, and suggests specific assignments for some case types. It also recommends statutory recognition for the Board of Immigration Appeals and the adoption by it of a three-member panel system.

Recommendation 85–5 reaffirms the Conference's earlier advice to agencies that negotiated rulemaking can be a practical technique in certain circumstances. In negotiated rulemaking an agency faced with a regulatory problem brings together representatives of potentially affected parties to negotiate a rule in face-to-face meetings. In 1982, the Conference outlined procedures for negotiation of rules, and advised agencies to experiment with the concept. Since that time, it has been used successfully by the Federal Aviation Administration and the Environmental Protection Agency. On the basis of a study of agency experience with negotiated rulemaking, the Conference now supplements and refines the procedures described in Recommendation 82–4.

In the Statement on Hearing Procedures for the Resolution of Scientific Issues, the Conference suggests that continued experimentation by agencies with alternative types of hearing procedures for the resolution of scientific issues is justified. The Conference takes note of the Food and Drug Administration's Public Board of Inquiry procedure, an innovative attempt to provide an informal hearing by a panel of scientists as an alternative to the formal adjudication by an administrative law judge, as a procedure to review certain decisions concerning food additives or new drugs. Based primarily on a study of the FDA experience, the Conference urges that agencies with regulatory programs that depend on scientific determinations consider experimental use of a process similar to the FDA's Board, as a voluntary alternative to a hearing that would otherwise be held to resolve issues of scientific uncertainty. The statement notes several steps that can be taken to improve the management of such proceedings to make them more efficient and more accurate.

The transcript of the Plenary Session will be available for public inspection at the Conference's offices at Suite 500, 2120 L Street, NW., Washington, DC.

Lists of Subjects in 1 CFR Part 305

Administrative practice and procedure, Immigration procedure, Negotiated rulemaking, Resolution of scientific issues.

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1. The authority citation for Part 305 continues to read as follows:

Authority: 5 U.S.C. 571–576.

2. The table of contents to Part 305 of Title 1 CFR is amended to add the following new sections:

Sec.
305.85–4 Administrative Review in Immigration Proceedings (Recommendation No. 85–4).
305.85–5 Procedures for Negotiating Proposed Regulations (Recommendation No. 85–5).

3. Section 305.85–4 is added to Part 305 as follows:

§ 305.85–4 Administrative Review in Immigration Proceedings (Recommendation No. 85–4).

The Immigration and Nationality Act of 1952, as amended, requires the Justice Department to make two major types of decisions affecting aliens—whether to exclude aliens seeking to enter the United States and whether to deport those already in the country. The Act and the accompanying regulations also require a host of collateral decisions concerning visa petitions, waivers of grounds for exclusion or deportation, adjustment of status from non-immigrant to permanent resident, and many other immigration-related matters. Responsibility for making these decisions resides in two very different types of officials. Immigration judges, who are part of the Justice Department's Executive Office for Immigration Review, conduct formal evidentiary hearings in deportation, exclusion, and certain other proceedings. District directors and their subordinates are part of the Immigration and Naturalization Service (I.N.S.). They decide numerous other matters in far less formal proceedings. While the immigration judges have only adjudicative responsibilities, the district directors are principally responsible for the administration and enforcement of the immigration laws within their local geographic districts.

Similarly, there are two channels of administrative appeal for the Justice Department's immigration decisions. The Board of Immigration Appeals (B.I.A.), like the immigration judge, is located within the Executive Office for Immigration Review. The Board reviews almost all immigration judges decisions and some district director decisions. It is composed of five attorney members, all of whom normally participate in every case. It reviews cases *de novo* on the basis of the administrative record and publishes precedential opinions binding on the immigration judges and on the I.N.S.

Twenty-five other categories of district director decisions are appealable to the Associate Commissioner for Examinations, an I.N.S. policymaking official whose appellate jurisdiction has been subdelegated to the Administrative Appeals Unit (A.A.U.) In that unit, cases are decided *de novo* by individual non-attorney staff members and reviewed by the unit chief. The A.A.U. does not ordinarily publish its decisions.

The Justice Department's current regulations specify with a high degree of clarity which immigration decisions are administratively appealable and to which appellate body. However, reasons for the various assignments are not always evident.

The factors that should influence the choices of forum for administrative review of agency adjudication can be developed through a three-part methodology: (1) identify those attributes of the possible review forums that affect the accuracy, the efficiency, the acceptability, or the consistency of the administrative process; (2) identify the attributes of cases that favor the selection of a review forum with particular forum attributes; (3) determine the extent to which those case attributes tend to be present in the particular class of cases under consideration.

In Recommendation 75–3, the Administrative Conference set forth criteria to guide Congress in selecting the appropriate forum for judicial review of administrative agency action. Using the methodology described above, the present recommendation suggests some additional criteria and describes ways in which that expanded list of factors, with only slight modification, can be employed also to select a forum for administrative review. Applying those criteria, the recommendation then suggests forums for administrative review of various classes of immigration decisions.

Recommendation

A. Forum For Administrative Review

1. The Justice Department should undertake a comprehensive review of its regulations governing the assignment of forums for administrative review of immigration orders. In examining the categories of Board of Immigration Appeals (B.I.A.) and Administrative Appeals Unit (A.A.U.) jurisdiction, the Justice Department should consider the following factors to the extent applicable.

a. Factors favoring selection of the B.I.A. for a particular class of cases include (i) high likelihood of a substantial impact on the litigants; (ii) the prevalence of issues of law or discretion, particularly when the public impact of a decision will be widespread; (iii) the desirability of providing for judicial review of the class of cases in the courts of appeals.

b. Factors favoring selection of the A.A.U. for a particular class of cases include (i) a high volume of cases; (ii) the prevalence of questions of descriptive fact, rather than issues of law or discretion; (iii) high likelihood that administrative review will require the taking of additional evidence.

c. Once one class of cases is committed to a particular review forum, there is benefit in assigning to that same forum (i) other classes of cases tending to raise similar issues and (ii) other cases which, if sent elsewhere, would frequently result in the bifurcation of proceedings affecting the same individual.

d. With all else equal, the status quo should be preserved.

2. In revising its regulations, the Justice Department should make the following specific case assignments:

a. Appeals from orders of deportation and exclusion should continue to be heard by the B.I.A.

b. Appeals from orders rescinding adjustment of status should continue to be heard by the B.I.A.

3. The Justice Department should also, subject to the development of new information in the review recommended in paragraph 1, make the following case assignments:

a. All appeals from district directors' denials of visa petitions should be heard by the B.I.A.; thus orphan, fiance(e), and occupational petitions should be transferred from the A.A.U. to the B.I.A.

b. If administrative appeals from district directors' denials of waivers of the grounds of exclusion under section 212(c) of the Immigration and Nationality Act (applicable to aliens who are returning to a lawful unrelinquished domicile in the United States of seven years) are preserved,* they should continue to be heard by the B.I.A.

c. Appeals from district directors' denials of waivers under sections 212(h) and 212(i) of the Act (applicable to certain close relatives of American citizens and permanent residents) should be transferred from the A.A.U. to the B.I.A.

d. Appeals from district directors' denials of applications to waive the two-year foreign residence requirement for exchange visitors should be transferred from the A.A.U. to the B.I.A.

e. Appeals from denials of waivers under section 212(d)(3) of the Act (applicable to nonimmigrants) should be transferred from the B.I.A. to the A.A.U.

f. Appeals from district directors' denials of applications for permission to reapply for admission after exclusion or deportation should continue to be heard by the A.A.U.

B. Structure and Independence of the Board of Immigration Appeals

1. The B.I.A. should adopt a system of randomly selected three-member panels to decide cases. En banc review should be afforded, upon a determination by a majority of the B.I.A., only in the following circumstances: (a) When invoked by any B.I.A. member; (b) at the request of the I.N.S. Commissioner or the Attorney General following decision; or (c) when the aggrieved party petitions for review of a split panel decision.

2. If necessary to accommodate the case transfers recommended in part A above, the B.I.A.'s membership should be slightly increased.

3. Congress should enact legislation to give the B.I.A. statutory recognition. Under the legislation, the B.I.A. should remain within the Department of Justice. The statute should confer jurisdiction over deportation, exclusion and rescission orders, and should authorize the Attorney General to adjust the Board's jurisdiction as to other matters.

4. The Attorney General should retain the power to review individual B.I.A. decisions. In accordance with current practice, this power should be exercised only in extraordinary circumstances.

4. Section 305.85–5 is added to Part 305 as follows:

*A pending Justice Department proposal would eliminate administrative appeals from these orders. The issue of whether these orders should be administratively appealable is beyond the scope of this recommendation.

§ 305.85-5 Procedures for Negotiating Proposed Regulations (Recommendation No. 85-5).

Negotiations among persons representing diverse interests have proven to be effective in some cases in developing proposals for agency rules. In 1982, the Administrative Conference of the United States adopted Recommendation 82-4, 1 CFR § 305.82-4, encouraging the use of negotiated rulemaking by federal agencies in appropriate situations.[1] The concept of negotiated rulemaking arose from dissatisfaction with the rulemaking process, which since the 1960's, in many agencies, had become increasingly adversarial and formalized—unlike the brief, expeditious notice and comment procedure envisioned in section 553 of the Administrative Procedure Act. Experience has now shown that negotiated rulemaking can be a practical technique in appropriate instances.

Since Recommendation 82-4 was adopted, its recommended procedures have been followed four times by federal agencies. The Federal Aviation Administration used negotiated rulemaking to develop a new flight and duty time regulation for pilots. The Environmental Protection Agency used negotiated rulemaking to develop proposed rules on nonconformance penalties for vehicle emissions and on emergency exemptions from pesticide regulations. The Occupational Safety and Health Administration encouraged labor, public interest, and industry representatives to negotiate a standard for occupational exposure to benzene. The benzene negotiations did not result in agreement among the parties on a proposed rule, but the other three negotiations did lead to substantial agreement resulting in two final rules (which have thus far not been challenged) and one draft rule which, after public comment, is pending before the agency.

The experience of these four cases has shown that the original recommendation was basically sound, and has provided a basis for the Administrative Conference to use in supplementing Recommendation 82-4.

It is important to view Recommendation 82-4 and the present recommendation, taken together, as a guide to issues to be considered rather than a formula to be followed. Negotiation is intrinsically a fluid process that cannot be delineated in advance. Accordingly, what will "work" in a particular case depends on the substantive issues, the perception of the agency's position by interested parties, past and current relationships among the parties, the authority of party representatives in the negotiations, the negotiating style of the representatives, the number and divergence of views within each constituency represented, and the skill of the participants and mediators. These factors are mostly dynamic and their charcter is likely to change during the negotiating process. Proponents of negotiated rulemaking must recognize the unavailability of neat formal solutions to questions of who should participate, how the negotiations should be conducted, or even the definition of "successful" negotiations.

Agencies undertaking negotiated rulemaking must be prepared to deal with these real world uncertainties by pursuing a thoughtfully flexible approach. Elements of Recommendation 82-4 and the present recommendation provide a conceptual framework within which to plan and conduct negotiations in a particular proceeding, but should not be taken as a formal model. An agency cannot merely transplant a pattern followed successfully by another agency, or even by itself on another occasion. Nevertheless, agencies that are considering negotiated rulemaking for the first time should find it helpful to discuss their plans with other agencies and persons experienced with the process.

Some agencies have indicated a concern about the effect of the Federal Advisory Committee Act on negotiated rulemaking proceedings. The four agency experiences reviewed by the Administrative Conference have not shown that the Act, as interpreted by the sponsoring agencies and participants, impeded effective negotiations. Under current judicial and agency interpretations of the Act, it appears that caucuses and other working group meetings may be held in private, where this is necessary to promote an effective exchange of views.

Another concern expressed by some agencies has been the potential costs associated with negotiated rulemaking. While aspects of the recommended process may entail some short-term additional costs, the Conference believe that potential long-range savings will more than offset the costs. Moreover, agencies should be aware of opportunities for assistance from within the government, for example, training provided by the Legal Education Institute of the Department of Justice, and mediation assistance by the Federal Mediation and Conciliation Service and the Community Relations Service.

Recommendation

1. An agency sponsoring a negotiated rulemaking proceeding should take part in the negotiations. Agency participation can occur in various ways. The range of possibilities extends from full participation as a negotiator to acting as an observer and commenting on possible agency reactions and concerns. Agency representatives participating in negotiations should be sufficiently senior in rank to be able to express agency views with credibility.

2. Negotiations are unlikely to succeed unless all participants (including the agency) are motivated throughout the process by the view that a negotiated agreement will provide a better alternative than a rule developed under traditional processes. The agency, accordingly, should be sensitive to each participant's need to have a reasonably clear expectation of the consequences of not reaching a consensus. Agencies must be mindful, from the beginning to the end of negotiations, of the impact that agency conduct and statements have on party expectations. The agency, and others involved in the negotiations, may need to communicate with other participants—perhaps with the assistance of a mediator or facilitator—to ensure that each one has realistic expectations about the outcome of agency action in the absence of a negotiated agreement. Communications of this character always should consist of an honest expression of agency actions that are realistically possible.

3. The agency should recognize that negotiations can be useful at several stages of rulemaking proceedings. For example, negotiating the terms of a final rule could be a useful procedure even after publication of a proposed rule. Usually, however, negotiations should be used to help develop a notice of proposed rulemaking, with negotiations to be resumed after comments on the notice are received, as contemplated by paragraphs 13 and 14 of Recommendation 82-4.

4. The agency should consider providing the parties with an opportunity to participate in a training session in negotiation skills just prior to the beginning of the negotiations.

5. The agency should select a person skilled in techniques of dispute resolution to assist the negotiating group in reaching an agreement. In some cases, that person may need to have prior knowledge of the subject matter of the negotiations. The person chosen may be styled "mediator" or "facilitator," and may be, but need not be, the same person as the "convenor" identified in Recommendation 82-4. There may be specific proceedings, however, where party incentives to reach voluntary agreement are so strong that a mediator or facilitator is not necessary.

6. In some circumstances, federal agencies such as the Federal Mediation and Conciliation Service or the Community Relations Service of the Department of Justice may be appropriate sources of mediators or facilitators. These agencies should consider making available a small number of staff members with mediation experience to assist in the conduct of negotiated rulemaking proceedings.

7. The agency, the mediator or facilitator, and, where appropriate, other participants in negotiated rulemaking should be prepared to address internal disagreements within a particular constituency. In some cases, it may be helpful to retain a special mediator or facilitator to assist in mediating issues internal to a constituency. The agency should consider the potential for internal constituency disagreements in choosing representatives, in planning for successful negotiations, and in selecting persons as mediators or facilitators. The agency should also recognize the possibility that a group viewed as a single constituency at the outset of negotiations may later become so divided as to suggest modification of the membership of the negotiating group.

8. Where appropriate, the agency, the mediator or facilitator, or the negotiating group should consider appointing a neutral outside individual who could receive confidential data, evaluate it, and report to the negotiators. The parties would need to agree upon the protection to be given

[1] Recommendation 82-4 used the term "regulatory negotiation" to refer to this process. The present recommendation substitutes "negotiated rulemaking" to emphasize that it is addressing negotiation of rules, and not other uses of negotiations in the regulatory process.

confidential data. A similar procedure may also be desirable in order to permit neutral technical advice to be given in connection with complex data.

9. Use of a "resource pool" may be desirable, to support travel, training, or other appropriate costs, either incurred by participants or expended on behalf of the negotiating group. The feasibility of creating such a pool from contributions by private sources and the agency should be considered in the pre-negotiation stages.

PART 310—MISCELLANEOUS STATEMENTS

5. The table of contents of Part 310 of Title 1 CFR is amended to add the following new section:

Sec.
310.11 Statement on Hearing Procedures for the Resolution of Scientific Issues.

6. Section 310.11 is added to Part 310 to read as follows:

§ 310.11 Statement on hearing procedures for the resolution of scientific issues.

The development of effective decisionmaking techniques for the evaluation of scientific studies has been one of the most elusive problems for the administrative process. The implementation of health and safety laws often requires an evaluation of the scientific reliability of laboratory animal, clinical, or epidemiological test data, a determination of risks and benefits based upon those data and other factors, and a final "regulatory conclusion" in which the relevant law is applied in light of the previous conclusions. For example, health and safety agencies commonly are required to determine whether a particular chemical is carcinogenic or otherwise harmful as a prerequisite to reaching a regulatory conclusion.

The quality and legitimacy of these agency decisions can be improved by counseling with eminent scientific experts outside of the agency. Some scientists and others have supported the idea of a "science court" or an institution to which administrative agencies could refer scientific disputes for resolution by expert scientists. In response, agencies have developed several methods of obtaining scientific input, including the use of advisory committees. Science advisory committees are the most common method used to obtain such assistance before an agency reaches a decision. In addition, the Food and Drug Administration (FDA) has created and used twice,a unique procedure, the Public Board of Inquiry (PBOI), to obtain independent scientific review of particular regulatory decisions. The PBOI combines the elements of a "scientific hearing" with the more typical "adversarial hearing" approach for the evaluation of scientific evidence.

The PBOI is one of three alternative informal methods of proceeding that FDA offers applicants in lieu of the formal adjudication by an administrative law judge (ALJ) that would otherwise be held to review certain decisions concerning the approval of food additives and new drugs. The other two alternatives are a hearing before an advisory committee or an informal hearing before the Commissioner of FDA. The PBOI consists of a panel of three scientists appointed by the Commissioner. Two of the three scientists are selected from recommendations of the parties. The Board obtains scientific "testimony" within an informal quasi-adjudicative hearing framework, in which the advocacy role of lawyers is minimized in favor of a "scientific forum" approach—although the Board's decision is an "initial decision" and has the same legal status as an initial decision of an ALJ.

FDA's two PBOI hearings occurred in 1980 and 1983. In the first, a PBOI was convened to determine whether Aspartame, now a widely used artificial sweetener, should be approved as a food additive. In the 1983 proceeding, a PBOI was convened to determine whether Depo Provera, a drug approved in other countries as a contraceptive, should be approved for that use in the United States.

Some analysts contend that FDA's experiences confirm the validity of the "science court" idea for the evaluation of scientific evidence. They argue that techniques like the PBOI are more effective for obtaining scientific advice than traditional adversarial hearings because a PBOI provides the presiding scientists with the flexibility to operate according to procedures that are customary in scientific inquiry. Others suggest that the PBOI costs too much for the value of the opinions obtained from it. A study commissioned by the Conference, however, suggests that the costs or delays of the two PBOI proceedings were significantly enlarged by unanticipated management problems that can be remedied.

The Administrative Conference suggests that continued experimentation with alternative types of hearing procedures for the resolution of scientific issues is justified. Improvements are needed in management of such procedures to make them more efficient and more accurate. Examples include:

(1) Appointing the chairperson at the start of the hearing process;

(2) Providing additional administrative support for board members;

(3) Separating, to the extent possible, the matters of scientific inquiry from any policy issues that may be addressed concerning the ultimate legal or regulatory actions that the agency ought to take;

(4) Encouraging boards to utilize an experienced employee as a management adviser in the conduct of the process;

(5) Providing an improved opportunity for direct communication between the board and the agency head upon submisssion of the board's decision;

(6) urging boards to adhere to procedures intended to ensure that the administrative record is complete and usable for successive stages of the administrative and legal process; and

(7) Urging persons conducting agency scientific hearings in significant cases to identify the bases for their conclusions.

Other agencies with regulatory programs that depend on scientific determinations should consider experimental use of a process similar to the PBOI as a voluntary alternative to a hearing that would otherwise be held to resolve issues of scientific uncertainty. Examples of other agencies that may have similar needs and objectives include the Environmental Protection Agency, the Occupational Safety and Health Administration, the Consumer Product Safety Commission, and the National Highway Traffic Safety Administration.

Dated: December 23, 1985.

Richard K. Berg,

General Counsel.

[FR Doc. 85-30625 Filed 12-26-85; 8:45 am]

BILLING CODE 6110-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 540

Performance Management and Recognition System; Minimum Performance Award Funding

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is revising the minimum percentage for calculating funds to pay performance awards to Performance Management and Recognition System (PMRS) employees for Fiscal Year 1986. Establishing a new minimum percentage each year is required by title II of the Civil Service Retirement Spouse Equity Act of 1984, which established the PMRS.

EFFECTIVE DATE: October 1, 1985.

FOR FURTHER INFORMATION CONTACT: Jack Pokoyk, (202) 632-5653.

SUPPLEMENTARY INFORMATION: On September 16, 1985, at 50 FR 37537, OPM published a proposed regulation setting the minimum funding for performance awards to be paid to PMRS employees for fiscal year 1986, with a 15-day comment period.

During the comment period, which ended October 1, 1985, OPM received no written comments on the proposed regulation. However, a number of agencies called to inquire about section 540.109 of the proposed regulation specifying that fiscal year 1985 was to be used as the base year to estimate the aggregate amount of PMRS employees' basic pay for performance awards. This was a typographical error. The proposed regulation should have read fiscal year 1986. The final regulation has been amended to show the correct fiscal year.

Waiver of 30-Day Delay in Effective Date of Final Regulation

Pursuant to section 553(d)(3) of title 5 of the United States Code, the Director

finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective retroactively to meet the requirement in section 5406(c)(2)(A)(i)(II) of title 5, U.S. Code, that provides that the minimum percentage used by an agency to determine the aggregate amount for performance awards paid during any fiscal year shall, for each of the four fiscal years after FY 85 ". . . be adjusted incrementally (by equal increments or otherwise) over the percentage for the preceding fiscal year by the appropriate agency head in accordance with regulations which the office of Personnel Management shall prescribe." October 1, 1985, begins a new fiscal year (FY 86) and, therefore, OPM must adjust the minimum percentage of performance awards incrementally over the minimum percentage used in the previous fiscal year (FY 85) on that date.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulations will only affect Government employees and agencies.

List of Subjects in 5 CFR Part 540

Government employee, Wages.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM amends 5 CFR Part 540 as follows:

PART 540—PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

(1) The authority citation for Part 540 continues to read as follows:

Authority: 5 U.S.C. Chapters 43 and 54.

(2) Section 540.109(b)(1)(i) is revised to read as follows:

§ 540.109 Performance awards.

* * * * *

(b) * * *

(1) * * *

(i) Each agency is required to pay a minimum of .85 percent of the estimated aggregate amount of PMRS employees' basic pay for fiscal year 1986 for performance awards;

* * * * *

[FR Doc. 85-30676 Filed 12-26-85; 8:45 am]

BILLING CODE 6325-01-M

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Special Panel; Organization and Proceedings

AGENCIES: Merit Systems Protection Board and Equal Employment Opportunity Commission.

ACTION: Interim regulations.

SUMMARY: The Civil Service Reform Act of 1978 established an administrative tribunal, the Special Panel, to resolve conflicts between the Merit Systems Protection Board (MSPB) and the Equal Employment Opportunity Commission (EEOC). These regulations developed by the Special Panel, provide for the organization and proceedings of the Panel. These regulations will appear in the Board's section of the Code of Federal Regulations and in that of the EEOC.

DATES: *Effective date:* December 27, 1985.

Comment date: Comments must be received on or before March 31, 1986.

ADDRESS: Send written comments to Joseph J. Ellis, Acting Deputy Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419.

FOR FURTHER INFORMATION CONTACT: Joseph J. Ellis, Acting Deputy Clerk of the Board, Merit Systems Protection Board, (202) 653-7200.

SUPPLEMENTARY INFORMATION: The Civil Service Reform Act of 1978 established an administrative tribunal, the Special Panel, to resolve conflicts between the Merit Systems Protection Board (MSPB) and the Equal Employment Opportunity Commission (EEOC). The three (3) member Special Panel is composed of a Chairman, appointed by the President for a six (6) year term, one member of the EEOC designated on an ad hoc basis by the Chairman of the EEOC, and one member of the MSPB designated on an ad hoc basis by the Chairman of the MSPB.

The Special Panel has found that good cause exists for publication of these regulations for interim effect in view of the forty-five (45) day statutory time limit permitted for adjudication of appeals certified to the Special Panel. The Special Panel invites public comment on these regulations through March 31, 1986.

Regulatory Flexibility Act

The Chairman of the Special Panel certifies that the Panel is not required to prepare initial or final regulatory analysis of this interim rule, pursuant to sections 603 or 604 of the Regulatory Flexibility Act, because of her determination that this rule would not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

List of Subjects

5 CFR Part 1201

Government employees, Administrative practice and procedure.

29 CFR Part 1613

Administrative practice and procedure, Aged, Equal employment opportunity, Government employees, Handicapped, Sex discrimination.

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter II—Merit Systems Protection Board

1. In Title 5 of the Code of Federal Regulations, Part 1201, Subpart D is amended by revising §§ 1201.171 and 1201.172; by redesignating § 1201.173 as § 1201.175; and by adding new §§ 1201.173 and 1201.174. The table of contents for Subpart D is set forth below. The authority citation for Part 1201 continues to read as set forth at the end of the table of contents. The text of the regulation is set out at the end of this document.

PART 1201—PRACTICES AND PROCEDURES

* * * * *

Subpart D—Procedures for Cases Involving Allegations of Discrimination Special Panel

Sec.

1201.171 Referral of case to Special Panel.
1201.172 Organization of the Special Panel.
1201.173 Practices and procedures of the Special Panel
1201.174 Enforcement of Panel decision.
1201.175 Judicial review of cases decided under 5 U.S.C. 7702.

Authority: 5 U.S.C. 7702.

TITLE 29—LABOR

Chapter XIV—Equal Employment Opportunity Commission

2. In Title 29 of the Code of Federal Regulations, Part 1613, Subpart D is amended by redesignating § 1613.417 as § 1613.421, and §§ 1613.417 through 1613.420 are added. The table of contents for Subpart D is set forth

below. The authority citation for Part 1613 continues to read as set forth at the end of the document. The text of the regulation is set out at the end of this document.

PART 1613—EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

* * * * *

Subpart D—Processing Mixed Case Complaints

Sec.

1613.417 Referral of case to Special Panel.
1613.418 Organization of Special Panel.
1613.419 Practices and procedures of the Special Panel.
1613.420 Enforcement of Panel decision.
1613.421 Right to file a civil action.

Authority: 5 U.S.C. 1205, 7702.

§ ——— Referral of case to Special Panel.

If the Merit Systems Protection Board (Board) reaffirms its decision under 5 CFR 1201.162(a)(2) with or without modification, the matter shall be immediately certified to the Special Panel established pursuant to 5 U.S.C. 7702(d). Upon certification, the Board shall, within five days (excluding Saturdays, Sundays, and Federal holidays), transmit to the Chairman of the Special Panel and to the Equal Employment Opportunity Commission (EEOC) the administrative record in the proceeding including—

(a) The factual record compiled under this section which shall include a transcript of any hearing(s);

(b) The decisions issued by the Board and the Commission under 5 U.S.C. 7702; and

(c) A transcript of oral arguments made, or legal brief(s) filed, before the Board and/or the Commission.

§ ——— Organization of the Special Panel.

(a) The Special Panel is composed of—

(1) A Chairman appointed by the President with the advice and consent of the Senate, and whose term is six (6) years;

(2) One member of the MSPB, designated by the Chairman of the Board each time a panel is convened;

(3) One member of the EEOC designated by the Chairman of the Commission each time a panel is convened.

(b) *Designation of Special Panel member*—(1) Time of designation. Within five days of certification of the case to the Special Panel, the Chairman of the MSPB and the Chairman of the EEOC shall each designate one member from their respective agencies to serve on the Special Panel.

(2) *Manner of designation.* Letters of designation shall be served on the Chairman of the Special Panel and the parties to the appeal.

§ ——— Practices and procedures of the Special Panel.

(a) *Scope.* The rules in this subpart apply to proceedings before the Special Panel.

(b) *Suspension of rules.* In the interest of expediting a decision, or for good cause shown, the Chairman of the Special Panel may, except where the rule is required by statute, suspend these rules on application of a party, or on his or her own motion, and may order proceedings in accordance with his or her direction.

(c) *Time limit for proceedings.* Pursuant to 5 U.S.C. 7702(d)(2)(A), the Special Panel shall issue a decision within 45 days after a matter has been certified to it.

(d) *Administrative assistance to Special Panel.* (1) The MSPB and the EEOC shall provide the Panel with such reasonable and necessary administrative resources as determined by the Chairman of the Special Panel.

(2) Assistance shall include, but is not limited to, processing vouchers for pay and travel expenses.

(3) The Board and the EEOC shall be responsible for all administrative costs incurred by the Special Panel and, to the extent practicable, shall equally divide the costs of providing such administrative assistance. The Chairman of the Special Panel shall resolve the manner in which costs are divided in the event of a disagreement between the Board and the EEOC.

(e) *Maintenance of the official record.* The Board shall maintain the official record. The Board shall transmit two copies of each submission filed to each member of the Special Panel in an expeditious manner.

(f) *Filing and service of pleadings.* (1) The parties shall file the original and six copies of all submissions with the Clerk, Merit Systems Protection Board, 1120 Vermont Avenue , NW, Washington, DC 20419. One copy of each submission shall be served on the other parties.

(2) A certificate of service specifying how and when service was made must accompany all submissions of the parties.

(3) Service may be by mail or by personal delivery during normal business hours (8:30 a.m.—5:00 p.m.). Due to the short statutory time limit, parties are required to file their submissions by overnight Express Mail, provided by the U.S. Postal Service, should they file by mail.

(4) The date of filing shall be determined by the date of mailing as indicated by the order date for Express Mail. If the filing is by personal delivery, it shall be considered filed on the date it is received in the office of the Clerk, Merit Systems Protection Board.

(g) *Briefs and responsive pleadings.* If the parties wish to submit written argument, briefs shall be filed with the Special Panel within fifteen (15) days from the date of the Board's certification order. Due to the short statutory time limit responsive pleadings will not ordinarily be permitted.

(h) *Oral argument.* The parties have the right to oral argument if desired. Parties wishing to exercise this right shall so indicate at the time of filing their brief, or if no brief is filed, within fifteen (15) days from the date of the Board's certification order. Upon receipt of a request for argument the Chairman of the Special Panel shall determine the time and place for argument and the time to be allowed each side, and shall so notify the parties.

(i) *Postargument submissions.* Due to the short statutory time limit, no postargument submissions will be permitted, except by order of the Chairman of the Special Panel.

(j) *Procedural matters.* Any procedural matters not addressed in these regulations shall be resolved by written order of the Chairman of the Special Panel.

§——— Enforcement of Special Panel decision.

The Board shall, upon receipt of the decision of the Special Panel, order the agency concerned to take any action appropriate to carry out the decision of the Panel. The Board's regulations regarding enforcement of a final order of the Board shall apply. These regulations are set out at 5 CFR Part 1201, Subpart E.

Barbara J. Mahone,

Chairman of the Special Panel.

Herbert E. Ellingwood,

Chairman, Merit Systems Protection Board.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 85-30647 Filed 12-26-85 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ASW-26; Amdt. 39-5181]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires inspection of the cyclic control stick assembly on the Bell Helicopter Textron, Inc., (BHTI), Model 206A, 206B, 206L, 206L-1, and 206L-3 helicopters. The AD is prompted by three reports of excessive corrosion of the cyclic control stick in the area of its attachment to the cyclic pivot lever assembly. In one report, during a "hydraulics-off" flight control check, the cyclic control stick fractured resulting in complete separation of the cyclic control stick from the cyclic pivot lever assembly. If this were to occur in flight, it would result in loss of flight control and probable loss of the helicopter.

EFFECTIVE DATE: December 30, 1985.

The incorporation by reference of certain publications listed in this amendment is approved by the Director of the **Federal Register** as of December 30, 1985.

Compliance: As prescribed in body of AD.

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

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

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

SUPPLEMENTARY INFORMATION: There have been three reports of excessive corrosion of the cyclic control stick in the area of its attachment to the cyclic pivot lever assembly. In one report, during a "hydraulics-off" flight control check, the cyclic control stick fractured resulting in complete separation of the cyclic control stick from the cyclic pivot lever assembly. Since this condition is likely to exist or develop or other helicopters of the same type design, an airworthiness directive is being issued which requires a one-time inspection of the cyclic control stick assembly on the BHTI Model 206A, 206B, 206L, 206L-1, and 206L-3 helicopters.

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

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order Executive 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects 14 CFR Part 39

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

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. By adding the following new AD:

Bell Helicopter Textron, Inc: Applies to Model 206A, 206B, 206L, 206L-1, and 206L-3 helicopters, certified in any category.

Compliance is required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent failure of the cyclic control stick, accomplish the following:

(a) Perform the "Accomplishment Instructions" of BHTI Alert Service Bulletin (ASB) 206-85-29, dated June 21, 1985, for the Model 206A or 206B; or ASB 206L-85-36, dated June 21, 1985, for the Model 206L, 206L-1, or 206L-3, as appropriate.

(b) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, Helicopter Certification Branch, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

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

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Bell Helicopter Textron, Inc., P.O. Box 482, Forth Worth, Texas 76101. These documents may also be examined in Room 158, Building 3B, Office of Regional Counsel, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, between 8 a.m. and 4 p.m., weekdays, except Federal holidays.

This amendment becomes effective December 30, 1985.

Issued in Fort Worth, Texas, on December 2, 1985.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 85-30542 Filed 12-26-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ACE-10]

Alteration of Transition Area, Wellington, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Wellington, Kansas, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Wellington Municipal Airport, Wellington, Kansas, utilizing the Wichita VORTAC as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: March 13, 1986.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist,

Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Wellington Municipal Airport, Wellington, Kansas, is being established utilizing the Wichita VORTAC as a navigational aid. The establishment of this new instrument approach procedure based on this navigational aid entails alteration of a transition area at Wellington, Kansas, at and above 700 feet above the ground within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

Discussion of Comments

On page 40566 of the **Fedeal Register** and October 4, 1985, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Wellington, Kansas. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

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, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 71 of the FAR (14 CFR Part 71) 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.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Wellington, Kansas

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Wellington Municipal Airport (Latitude 37°19'28"N; Longitude 97°23'13"W) and 3 miles either side of the Wellington NDB (Latitude 37°19'26"N; Longitude 97°23'21"W) 017° bearing extending from the 5 mile radius area to 8.5 miles northeast of the NDB and 5 miles either side of the Wichita VORTAC 160° radial from 12 miles northwest of the Wellington Municipal Airport extending to the 5 mile radius area excluding that portion which overlaps the Wichita, Kansas transition area.

This amendment become effective at 0901 GMT March 13, 1986.

Issued in Kansas City, Missouri, on December 16, 1985.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 85-30548 Filed 12-26-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373, 374, 375, 379 and 399

[Docket No. 51215-5215]

Exports to the People's Republic of China; Amendments to the Export Administration Regulations

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Office of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. The "Advisory Notes" in various entries of the CCL list those commodities covered by a particular entry that are more likley than others to be approved for export.

This rule adds or revises Advisory Notes to certain CCL entries listing commodities likely to be approved for export to the People's Republic of China (PRC). These additions result from the review of the system of strategic export controls maintained by the United States and certain allied countries through the Coordinating Committee (COCOM). Exports of those commodities described in the Advisory Notes generally do not require multilateral review. The net effect of these changes will be a substantial decrease in overall license processing times. In addition, these commodities may be reexported to the PRC from COCOM countries under licenses issued by those countries.

This rule also raises the maximum value of parts that may be shipped to the PRC under the "Service Supply" procedure established by Export Administration. Those parts identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List may be exported to the PRC if the value of the parts does not exceed $50,000. Exporters are reminded that the parts must not upgrade the performance of the legally exported equipment being serviced, and all controlled parts replaced must be returned to a COCOM country for disposal.

This rule also adds a new section to Part 375 of the Export Administration Regulations, "Documentation Requirements," regarding the requirement for PRC End-User Certificate accompanying a license application to export or reexport commodities valued at more than $5,000.

The U.S. exporter is responsible for including the End-User Certificate with each license application to export or reexport commodities identified by the code letter "A" on the Commodity Control List to the People's Republic of China (PRC). The Chinese importer must provide the U.S. exporter with a copy of the PRC End-User Certificate.

EFFECTIVE DATE: December 15, 1985.

ADDRESS: End-User Certificates will be provided by: The Technology Import and Export Department, MOFERT, No. 2 Dong Chang An Street, Beijing, PRC, Telephone: 553031, Telex: 22478MFERTCN.

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Regulations Branch, Export Administration, Telephone: (202) 377-3856.

For questions of a technical nature regarding metal-working machinery, general industrial equipment, transportation equipment, or chemicals

and metalloids, call Bruce Webb, Capital Goods Technology Center, Export Administration, Telephone: (202) 377–3806.

For questions of a technical nature regarding computers, call Dan Hoydysh, Computer Systems Technology Center, Export Administration, Telephone: (202) 377–4516.

For questions of a technical nature regarding electronics and precision instruments, call Randy Williams, Electronic Components Technology Center, Export Administration, Telephone: (202) 377–3109.

SUPPLEMENTARY INFORMATION:

Grace Period

The requirement for submitting PRC End-User Certificates with export license applications will take effect on February 25, 1986. Before that date, applications will be accepted if supported by a Form ITA–629P. However, applications already pending and those submitted before February 25, 1986 will receive much more expeditious handling if a PRC End-User Certificate is available.

Rulemaking Requirements

1. This rule is exempted from the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, an opportunity for public participation, and a delay in effective date (5 U.S.C. 553) under section 13(a) of the Export Administration Act of 1979, as amended. This regulation also involves a foreign and military affairs function of the United States.

2. This rule contains collection of information requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Applicants for the validated export license required by this rule will use Form ITA–622P. The collection of this information has been approved by the Office of Management and Budget under control number 0625–0001. The End-User Certificate requirement set forth in the new § 375.6 supersedes the requirement for Form ITA–629P, Statement by Ultimate Consignee and Purchaser (approved by the Office of Management and Budget under control number 0625–0136), to accompany license applications for exports and reexports to the People's Republic of China (PRC). The PRC information collection requirement is pending approval by the Office of Management and Budget. Comments from the public on the collection of information contained in this rule should be addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20530, Attention: Desk Officer for the Department of Commerce/International Trade Administration.

3. Because a notice of proposed rulemaking is not required for this rule, it is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act, 5 U.S.C. 601(2) and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291 and, accordingly, is not subject to the requirements of that Order. Therefore, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

List of Subjects in 15 CFR Parts 373, 374, 375, 379 and 399

Exports, Science and technology.

Accordingly, Parts 373, 374, 375, 379 and 399 of the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

1. The authority citation for Parts 373, 379 and 399 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

2. The authority citation for Parts 374 and 375 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

PART 373—[AMENDED]

3. Section 373.7 is amended by revising (i)(4) to read as follows:

§ 373.7 Service Supply Procedure.

* * * * *

(i) * * *

(4) *Restriction on parts to be exported.* Parts identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List may not be exported or reexported under this procedure to Country Groups Q, W or Y, or to Afghanistan if the value of the parts included in a shipment is more than $8,000 or if the parts are listed in § 373.7(b). Parts identified by an "A" may not be exported or reexported to the People's Republic of China if the value of the parts included in a shipment is more than $50,000 or if the parts are listed in § 373.7(b).

* * * * *

PART 374—[AMENDED]

4. Section 374.2 is amended by adding a paragraph (j), reading as follows:

§ 374.2 Permissive Reexports.[2]

* * * * *

(j) Reexports from a COCOM country to the People's Republic of China that meet the requirements set forth in Advisory Notes for the People's Republic of China in the Commodity Control List (Supplement No. 1 to § 399.1) and are licensed for shipment by that country.

PART 375—[AMENDED]

5. The chart in § 375.1 is amended by redesignating the fifth entry as "6" and adding a new entry "5" to read as follows:

§ 375.1 Introduction.

* * * * *

If the commodity is	And the country of destination is	Required document is	For specific regulations see
*	*	*	*
5. Identified by the code letter A	People's Republic of China (PRC)	PRC End-User Certificate	§ 375.6
*	*	*	*

6. Section 375.2 is amended by revising paragraph (b)(1) to read as follows:

§ 375.2 Form ITA–629P, Statement by Ultimate Consignee and Purchaser.

* * * * *

(b) *Exemptions.* * * *

(1) An International Import Certificate (§ 375.3), a Swiss Blue Import Certificate (§ 375.4), a Yugoslav End-Use Certificate (§ 375.5), or a People's Republic of China End-User Certificate (§ 375.6) is required in support of the application.

* * * * *

7. The footnote to § 375.3(b) is revised to read as follows:

§ 375.3 International Import Certificate and Delivery Verification Certificate.

* * * * *

(b) * * *

[1] See § 375.4 for Swiss Blue Import Certificate requirements, § 375.5 for Yugoslav End-Use Certificate requirements, and § 375.6 for People's Republic of China End-User Certificate requirements.

8. The second sentence of § 375.3(i)(1)(i) is amended by adding the phrase "(and, in certain instances, to the People's Republic of China)" after the phrase "listed in paragraph (b) of this section".

§§ 375.6 and 375.7 [Redesignated as 375.7 and 375.8 respectively].

8A. Sections 375.6 and 375.7 are redesignated as §§ 375.7 and 375.8.

§ 372.6 [Amended].

9. The reference to "§ 375.5" in § 372.6(d) is revised to read "§ 375.7".

10. A new § 375.6 is added, reading as follows:

§ 375.6 People's Republic of China End-User Certificate.

(a) *Requirements.* A license application to export or reexport to the People's Republic of China (PRC) commodities identified by the code letter "A" on the Commodity Control List and valued at $5,000 or more must be accompanied by the original PRC End-User Certificate issued to the PRC importer by the Ministry of Foreign Economic Relations and Trade's (MOFERT) Technology Import and Export Department in Beijing. This agency certifies that all items identified by the code letter "A" exported to the PRC are for use in the PRC and will not be reexported to a third country. When the commodity is described in an Advisory Note for Country Groups QWY on the Commodity Control List, a Form ITA-629P may be substituted for the PRC End-User Certificate.

(b) *Information included on the End-User Certificate.* The following information shall be included on the PRC End-User Certificate:

(1) Title of contract and contract number;

(2) Names of importer and exporter;

(3) End-user and end-use;

(4) Commodity description, quantity and dollar value; and

(5) Signature of the importer and date. The completed End-User Certificate shall be signed by a deputy director of the Technology Import and Export Department of MOFERT and have MOFERT's seal affixed to it.

§ 375.7 [Amended]

11. References to "§ 375.7" are revised to read "§ 375.8" in § 375.1, the undesignated paragraph following § 375.3(e)(1)(iii), § 375.3(f)(3), the undesignated paragraph following § 375.4(c)(3), and § 375.5(c).

§ 375.8 [Amended]

12. The phrase "Swiss Blue Import Certificates, Yugoslav End-Use Certificates" in the introductory paragraph of the newly designated § 375.8 and in newly designated § 375.8(a) is revised to read "Swiss Blue Import Certificates, Yugoslav End-Use Certificates, People's Republic of China End-User Certificates".

13. The phrase "a Swiss Blue Import Certificate or a Yugoslav End-Use Certificate" in paragraph (b)(3) of the newly designated § 375.8 is revised to read "a Swiss Blue Import Certificate, a Yugoslav End-Use Certificate, or a People's Republic of China End-User Certificate"; and the title of § 375.8(b)(3) is revised to read "Swiss Blue Import Certificates, Yugoslav End-Use Certificates, or People's Republic of China End-User Certificates".

14. The phrase "Swiss Blue Import Certificate or Yugoslav End-Use Certificate" in paragraphs (c), (e), (f)(1), and (f)(2) of the newly designated § 375.8 is revised to read "Swiss Blue Import Certificate, Yugoslav End-Use Certificate, or People's Republic of China End-User Certificate".

15. The phrase "Swiss Blue Import Certificate, or Yugoslav End-Use Certificate" in the second certification under paragraph (f)(2) of the newly designated § 375.8 is revised to read "Swiss Blue Import Certificate, Yugoslav End-Use Certificate, or People's Republic of China End-User Certificate".

16. The phrase "Swiss Blue Import Certificate, or Yugoslav End-Use Certificate [2] " in paragraph (g)(1) of the newly designated § 375.8 is revised to read "Swiss Blue Import Certificate, Yugoslav End-Use Certificate, or People's Republic of China End-User Certificate [2] ".

17. Supplement No. 1 to Part 375 is amended by adding a new entry following "Belgium", reading as follows:

Supplement No. 1 to Part 375—Authorities Administering Import Certificate Delivery Verification System in Foreign Countries [1]

Country	IC/DV Authorities	System Administered [2]
.	. . . .	.
China, People's Republic of.	Technology Import and Export Department: MOFERT, No. 2 Dong Chang An Street, Beijing, PRC, Telephone: 553031, Telex: 22478MFERTCN.	PRC End-User Certificate.
.	. . . .	.

PART 379—[AMENDED]

18. Section 379.8 is amended by adding paragraph (b)(4), reading as follows:

§ 379.8 Reexports of technical data and exports of the product manufactured abroad by use of United States technical data.

* * * * *

(b) * * *

(4) *People's Republic of China.* Separate specific authorization by Export Administration is not required to reexport software from a COCOM country to the People's Republic of China if that software meets the requirements set forth in the Advisory Note for the People's Republic of China in Supplement No. 3 to Part 379 and if the license has been approved by a COCOM country.

* * * * *

19. In Supplement No. 3 to Part 379, "Computer Software", Advisory Note 13 is revised, to read as follows:

Supplement No. 3 to Part 379—Computer Software

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of "software" controlled for export in this Supplement No. 3 to Part 379, as follows:

(a) "Software" controlled only by sub-paragraph (a)(1) (of the "List of Software Subject to this Supplement to Part 379") for computers designed and produced within the People's Republic of China;

(b) "Software" controlled by sub-paragraph (a)(3)(ii) for equipment that is covered by an Advisory Note to ECCN 1565A in the Commodity Control List;

(c) "Software" not specially designed for computer-aided design, manufacture, inspection or testing of products controlled for export on the Commodity Control List;

(d) "Cross-hosted" compilers or "cross-hosted" assemblers controlled by sub-paragraph (b)(2)(i);

(e) "Software" controlled by sub-paragraphs (b)(2)(ii) or (b)(3) for microprocessor or microcomputer development systems that are covered by an Advisory Note on the Commodity Control List;

(f) "Operating systems" controlled by sub-paragraph (b)(4) for computers that are covered by an Advisory Note to ECCN 1565A on the Commodity Control List.

PART 399—[AMENDED]

20. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 0 (Metal-Working Machinery), ECCN 1091A is amended by revising the "Advisory Note for the People's Republic of China" to read as follows:

1091A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China, other than nuclear and aerospace end-users, of numerical control units, numerically controlled machine tools, dimensional inspection machines and specially designed software therefor, and specially designed sub-assemblies therefor, as follows:

(a) Numerical control units having all of the following characteristics:

Note.—Numerical control units exported separately from equipment must be for use with and specially configured for equipment permitted by paragraph (b) of this Advisory Note. Exporters must submit specifications of equipment to which the numerical control units will be interfaced.

(1) No more than four contouring interpolating (any mathematical function including linear and circular) axes can be simultaneously coordinated. Units may have:

(i) One or more additional axes in which the rate of movement is not coordinated, varied, or modulated with that of another axis; *or*

(ii) One additional set of four contouring axes provided that separate feedrate numbers, standard or optional, do not control more than any four contouring axes;

(2) Minimum programmable increment equal to or greater than 0.001 mm;

(3) Interfaces as follows:

(i) No more than one integral interface designed to meet ANSI/IEEE standard 488–1978, IEC publication 625–1, or any equivalent standard; *and*

(ii) An unlimited number of interfaces meeting EIA standard RS–232–C or any equivalent standard;

(4) On-line (real-time) modification of the tool path, feedrate and spindle data limited to the following:

(i) Cutter diameter compensation normal to the center line path;

(ii) Automatic acceleration and deceleration for starting, cornering and stopping;

(iii) Axis transducer compensation including lead screw pitch compensation (measurements on one axis may not compensate another axis);

(iv) Constant surface speed with or without limits;

(v) Spindle growth compensation;

(vi) Feedrate and spindle speed override;

(vii) Fixed and repetitive cycles, including automatic cut vector generation;

(viii) Tool and fixture offset;

(ix) Part program tape editing, including source program language and centerline location data (CLDATA);

(x) Tool length compensation;

(xi) Part program storage;

(xii) Variable pitch threading;

(xiii) Inch/metric conversion; *and*

(xiv) Feedrate override based on spark voltage for electrical discharge machines;

(5) Word size equal to or less than 32 bits (excluding parity bits);

(6) "Software" or "firmware", including "software" or "firmware" of any programmable unit or device furnished, not exceeding control unit functions as provided in paragraphs (a)(1) to (a)(5) of this Advisory Note, and restricted as follows:

(i) Application programs executable without further compilation, assembly, interpretation or processing, other than control unit parameter initialization, and memory storage loading, and each supplied as an entity rather than in modular form, as follows:

(a) An operating program to allow the unit to perform its normal functions;

(b) One or more diagnostic programs to verify control or machine performance and to permit localization of hardware malfunctions; *and*

(c) A translator program for programming the control-to-machine interface;

(ii) Documentation for application programs not containing the following:

(a) Listing of program instructions, *except* that necessary for diagnostics for routine hardware maintenance;

(b) Description of program organization or function beyond that required for program use and for maintenance of exported hardware and "software";

(c) Flow charts, logic diagrams or algorithms employed, *except* those necessary for use of diagnostics for routine hardware maintenance;

(d) Any reference to specify memory storage locations, *except* those necessary for diagnostics for routine hardware maintenance; *and*

(e) Any other information that would assist in the analysis or modification of all or of part of the software;

(b) Machine tools and dimensional inspection machines that, according to the manufacturers' technical specifications, can be equipped with numerical control units covered by paragraph (a) of this Advisory Note, as follows:

(1) Boring mills, milling machines and machining centers having all of the following characteristics:

(i) No more than four axes capable of simultaneously coordinated contouring motion, of which no more than three axes shall be linear and no more than one axis shall be rotary;

Note.—A secondary contouring axis, parallel with a primary axis, *e.g.*, W-axis on horizontal boring mills, is not counted in the total of four contouring axes. A secondary rotary table with the centerline parallel to the primary rotary table is also not counted in the total of four contouring axes. (Machines may have non-contouring parallel or non-contouring non-parallel rotary axes in addition to the four axes capable of simultaneously coordinated contouring motion.)

(ii) Maximum traverse (X-axis) travel equal to or less than 30,000 mm;

(iii) Maximum vertical (Y-axis) travel equal to or less than 8,000 mm;

(iv) Maximum horizontal (Z-axis) travel equal to or less than 5,000 mm;

(v) Unlimited spindle drive motor power;

(vi) No more than two simultaneously working spindles (the machine may have multiple tool heads or turrets; a spindle capable of driving a multiple drill head is considered as a single spindle);

(vii) Axial and radial axis motions measured at the spindle axis in one revolution of the spindle equal to or greater than $D \times 2 \times 10^{-5}$ mm TIR (peak-to-peak) where D is the spindle diameter in mm;

(viii) An incremental positioning accuracy equal to or greater (coarser) than ±0.002 mm in any 200 mm of travel;

(ix) An overall positioning accuracy in any axis equal to or greater (coarser) than:

(a) ±0.003 mm for machines with a total length of axis travel equal to or less than 300 mm;

(b) $\pm\{0.003 + \{0.001/300 \times (L-300)\}\}$ mm for machines with a total length of axis travel, L, greater than 300 mm and equal to or less than 3,300 mm;

(c) ±0.013 mm for machines with a total length of axis travel greater than 3,300 mm;

(2) Machine tools, other than boring mills, milling machines and machining centers described in sub-paragraph (b)(1) of this Advisory Note, and dimensional inspection machines, having all the following characteristics:

(i) No more than four axes capable of simultaneously coordinated contouring motion, of which no more than three axes shall be linear and no more than one axis shall be rotary;

Note.—Up to four secondary contouring axes parallel with the primary axis but not simultaneously coordinated with the four primary axes may be permitted.

(ii) No more than two simultaneously working spindles (the machine may have multiple tool heads or turrets);

(iii) Radial axis motion measured at the spindle axis equal to or greater than 0.0008 mm TIR (peak-to-peak) in one revolution of the spindle (for lathes, turning machines, contour grinding machines, etc.);

(iv) An incremental positioning accuracy equal to or greater (coarser) than ±0.002 mm in any 200 mm of travel;

(v) An overall positioning accuracy in any axis equal to or greater (coarser) than:

(a) ± 0.005 mm for machines with a total length of axis travel equal to or less than 300 mm;

(b) ± (0.005 + (0.002/300 × (L–300))) mm for machines with a total length of axis travel, L, greater than 300 mm and equal to or less than 3,300 mm;

(c) ± 0.025 mm for machines with a total length of axis travel greater than 3,300 mm.

21. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1312A is amended by adding at the end of that entry an "Advisory Note for the People's Republic of China", reading as follows:

1312A [Amended]

* * * * *

Advisory Note * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of presses having no controlled thermal environment within the closed cavity and that are used for the manufacture of industrial refractory and ceramic products.

22. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1353A is amended by adding at the end of that entry an "Advisory Note for the People's Republic of China", reading as follows:

1353A [Amended]

* * * * *

Advisory Note * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of equipment specially designed for the manufacture of silicon-based optical fiber or cable, provided that it is designed to produce non-militarized silicon-based optical fiber or cable that is optimized to operate at a wavelength of 1,350 nm or less and provided that the equipment has been commercially available before May 1, 1985.

23. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1354A is amended by adding an "Advisory Note for the People's Republic of China" after the Technical Note, reading as follows:

1354A [Amended]

* * * * *

Technical Note * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of equipment for the manufacture of printed circuit boards, as follows:

(a) Equipment specially designed for the removal of resists or printed circuit board materials by dry (*e.g.*, plasma) methods;

(b) "Digitally controlled" multi-spindle drills and routers with the following characteristics:

(1) Absolute positioning accuracy of ±5 micrometers or worse; *and*

(2) X and Y positioning speeds of 0.210 meter/second or slower for drilling or for routing.

24. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1355A is amended by revising the "Note for the People's Republic of China" to read as follows:

1355A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of silicon semi-conductor manufacturing equipment, as follows:

(a) Equipment for the production of polycrystalline silicon;

(b) Crystal pullers, *except* those that:

(1) Are rechargeable without replacing the crucible; or

(2) Operate at pressures above 1 atmosphere;

(c) Diffusion furnaces, *except* those that use computer feedback control operated from an "associated" computer;

Note.—"Associated" with equipment or systems means:

(a) Can feasibly be either:

(i) Removed from the equipment or systems; *or*

(ii) Used for other purposes; *and*

(b) Is not essential to the operation of such equipment or systems.

(d) Vacuum induction-heated zone refining equipment;

(e) Epitaxial reactors, *except* those that are:

(1) For molecular beam epitaxy; *or*

(2) Specially designed for organo-metallic deposition or liquid-phase epitaxy;

(f) Magnetically enhanced multiple-wafer sputtering equipment;

(g) Ion implantation, ion-enhanced or photo-enhanced diffusion equipment, *except* that having:

(1) Patterning capability;

(2) An accelerating voltage for more than 200 keV; *or*

(3) A current greater than 0.5 mA;

(h) "Batch" planar, "batch" reactive ion, barrel or barrel-planar dry etching equipment, *except* equipment incorporating end-point detection;

Note.—"Batch" refers to equipment capable of etching two or more wafers simultaneously;

(i) Low-pressure chemical vapor deposition equipment, *except* equipment capable of metal deposition;

(j) Wafer sawing equipment;

(k) Single-side lapping and polishing equipment for wafer surface finishing;

(l) Hard surface (*e.g.*, chromium, silicon, iron oxide) coated substrates (*e.g.*, glass, quartz, sapphire) for the preparation of masks having dimensions greater than 12.5 cm x 12.5 cm;

(m) Photo-optical mask fabrication equipment that was either commercially available before January 1, 1980, or has a performance no better than such equipment;

(n) Manually operated mask inspection equipment;

(o) Photo-optical mask alignment and exposure equipment, *except* equipment capable of producing patterns finer than 3 micrometers;

(p) Contact image transfer equipment;

(q) Wafer and chip inspection equipment that was either commercially available before January 1, 1981, or has a performance no better than such equipment;

(r) Equipment for concurrent etching and doping profile analysis employing capacitance-voltage or current-voltage analysis techniques;

(s) "Digitally controlled" wire or die bonders;

(t) "Digitally controlled" wafer probing equipment that does not include associated test equipment or drive circuitry other than those identified in paragraphs (u) or (v) of ECCN 1355A:

(u) Test equipment for:
(1) Television circuit testing;
(2) Operational amplifier testing;
(3) Voltage regulator testing;
(4) Analog-to-digital and digital-to-analog converter testing; *or*
(5) Discrete semi-conductor testing at frequencies of 18 GHz or less;
(v) "Digitally controlled" equipment for functional testing (truth table) at a pattern rate of 10 MHz or less for microcircuits or microcircuit assemblies.

Note.—Favorable consideration may be given to exports for satisfactory end-uses in the People's Republic of China of:
(a) Equipment controlled for export by sub-paragraphs (b)(1) or (2) of ECCN 1355A that can etch or produce patterns finer than 3 micrometers but not finer than 2 micrometers;
(b) Ion implantation equipment controlled for export by sub-paragraph (b)(1) of this Advisory Note operating at a current greater than 0.5 mA but less than 1.5 mA.

25. In Supplement No. 1 to §399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1358A is amended by adding an Advisory Note for the People's Republic of China at the end of the entry, reading as follows:

1358A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following equipment:
(a) "Automatic" and "semi-automatic" equipment for monitoring, grading, exercising or testing recording media controlled by paragraph (d) of ECCN 1572A or free from export control under paragraph (c)(4) of Exception 3 to ECCN 1572A having the following characteristics:
(1) For digital recording tape, a maximum recording density of less than 3,937 bits per cm; *or*
(2) For analog recording tape, a coating thickness greater than 2.54 micrometers;
(b) Diskette unit test equipment.

26. In Supplement No. 1 to §399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1359A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China", reading as follows:

1359A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of tooling and fixtures for the manufacture of fiber-optic connectors and couplers controlled for export by ECCN 1526(f), provided that the tooling and fixtures are not specially designed to manufacturer fiber-optic connectors and couplers for use with:
(a) Non-silicon-based fiber cable; *or*
(b) Fiber-optic bulkhead or hull penetrators in ships or vessels.

27. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1391A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China", reading as follows:

1391A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following equipment:
(a) "Robots" controlled for export by sub-paragraph (a) of this ECCN 1391A that are for civil use and not covered by sub-paragraph (a)(2) to (a)(8), (a)(10) or (a)(11);
(b) Electronic controllers covered by sub-paragraph (b) for the control of "robots" eligible for treatment under this Advisory Note;
(c) "End effectors" covered by sub-paragraph (c) for use with "robots" eligible for treatment under this Advisory Note;
(d) Vision systems, limited as follows:
(1) Capable of processing no more than 200,000 pixels using an industrial television camera or a solid-state camera;
(2) Not programmable by the user *except:*
(i) To input reference images through the system's camera;
(ii) To input values of fixed parameters, including teach-in parameters; *or*
(iii) To select pre-programmed sub-routines;
(3) Not capable of continuous reaction or continuously updating the "robot" position while the "robot" is moving;

Note.—This limitation precludes the use of vision systems for weld seam tracking during the welding operation but does not preclude straight-line or single-plane weld seam tracking using a single pass.

(4) Capable of no more than one scene analysis every 0.02 second;
(5) The "software" provided for the vision processor shall be in "object code" only and shall not be capable of full three-dimensional mathematical modeling or full three-dimesional scene analysis;

Note.—This scene analysis limitation does not preclude approximation of the third dimension by viewing at a given angle, nor limited gray scale interpretation for the perception of depth or texture for the approved tasks (2½D).

28. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment), ECCN 1460A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China", reading as follows:

1460A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of aircraft and helicopters considered to be of types that are in *bona fide* normal civil use, containing equipment controlled for export by ECCNs 1485A or 1501A, provided that:
(a) Any controlled components in such aircraft or helicopters are limited to those normally installed by the manufacturer;
(b) Repair and maintenance of controlled inertial navigation systems and complete overhaul of controlled engines will be performed in a non-proscribed country or by representatives of the Western suppliers; *and*
(c) Parts controlled for export will be replaced on a one-for-one basis.

29. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1510A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China", reading as follows:

1510 [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following equipment:
(a) Acoustic systems or equipment for positioning surface vessels or underwater vehicles, provided that:
(1) They are not capable of processing responses from more than 8 beacons in the calculation of a single point;
(2) They have neither devices nor "software" for correcting automatically velocity-of-propagation errors for point calculation;
(3) They have no coherent signal processing means; *and*
(4) Transducers, acoustic modules, beacons or hydrophones therefor are not designed to withstand pressure during

normal operation at depths greater than 1,000 meters;

(b) Side-scan sub-bottom profile systems, no portion of which is specially designed for operation at depths greater than 1,000 meters.

30. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1519A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China", reading as follows:

4519A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following equipment or components and accessories controlled by paragraphs (b) or (d) of this ECCN 1519A:

(a) General communication transmission equipment, provided that:

(1) The equipment is to be used in non-strategic applications;

(2) It is for other than underwater use;

(3) It is to be permanently installed in a circuit (radio, coaxial cable, or multimode optical fiber) operated by the civilian authorities of the importing country; *and*

(4) It is to be used for general commercial traffic with a total digital bit rate at the highest level multiplex point of 45 Mbits per second or less for optical fiber or 140 Mbits per second or less for radio or coaxial cable, as follows:

(i) With a total number of voice channels per each physical bearer of 672 or less for optical fiber or 1,920 or less for radio or coaxial cable; *or*

(ii) With one monochrome or color television channel with a maximum nominal bandwidth of 6 MHz and associated sound channels in the case of optical fiber or four of those television channels and associated sound channels in the case of radio or coaxial cable;

(b) Intra-city communication transmission equipment, provided that it is:

(1) Designed for operation at a total digital data signalling rate at the highest level multiplex point of 140 Mbits per second or less;

(2) Installed under the supervision of the seller in a permanent circuit (radio, coaxial cable, multimode optical fiber with, or single mode optical fiber without repeaters/regenerators) between communication switching equipment; *and*

(3) Intended for general commercial traffic in an intra-city civil communication system;

(c) The minimum set of spare parts;

(d) Test or measurement equipment necessary for the use (*i.e.*, installation, operation and maintenance) of equipment exported under the conditions of this Advisory Note:

Note.—If this equipment is specially designed for operation above 45 Mbits per second, it must remain under the supervision of the exporter.

Note 1.—For communication equipment using optical fiber as the communication medium, the transmmission wave length must not exceed 1,350 nm.

Note 2.—The license application must include the locations of the connection points, types of equipment being connected, and transmission rates.

31. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1520A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China", reading as follows:

1520A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following radio relay communication equipment:

(a) Microwave radio links for fixed civil installations operating at fixed frequencies not exceeding 19 GHz with a capacity of up to 1,920 voice channels of 4 kHz each or of a television channel of 6 MHz maximum nominal bandwidth and associated sound channels;

(b) Ground communication radio equipment for use with temporarily-fixed services operated by the civilian authorities and designed to be used at fixed frequencies not exceeding 19 GHz;

(c) Radio transmission media simulators/channel estimators designed for the testing of equipment covered by paragraphs (a) and (b) of this Advisory Note;

(d) Power amplifiers not exceeding 10 W and 6/4-GHz-transmitters/receivers for communication satellites.

32. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1522A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China", reading as follows:

1522A Lasers and laser systems, and equipment containing them.

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following:

(a) Tunable pulsed flowing-dye lasers having all of the following characteristics, and specially designed components therefor:

(1) An output wavelength shorter than 0.8 micrometer;

(2) A pulse duration not exceeding 100 ns; *and*

(3) A peak output power not exceeding 15 MW;

(b) CO_2, CO or CO/CO_2 lasers having an output wavelength in the range from 9 to 11 micrometers and a pulsed output not exceeding 2 joules per pulse and a maximum rated average single- or multi-mode output power not exceeding 5 kW or a continuous wave maximum rated single- or multi-mode output power not exceeding 10 kW;

(c) *Reserved;*

(d) Laser systems for trimming resistors or thick/thin film electronic circuits;

(e) Equipment incorporating CO_2 lasers with average or continuous wave output power not exceeding 5 kW, not exceeding the parameters of ECCN 1091A, and specially designed for welding, cutting, bonding or drilling metals for civil applications.

33. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1529A is amended by revising the "Advisory Note for the People's Republic of China", to read as follows:

1529A [Amended]

* * * * *

Advisory Note for the People's Republic of China—Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following equipment:

(a) Quartz or rubidium frequency standards not specially designed for military use;

(b) Swept frequency network analyzers for use at frequencies not exceeding 40 GHz and that cannot be controlled remotely;

(c) Swept frequency network analyzers for the automatic measurement of complex equivalent circuit parameters over a range of frequencies where the maximum frequency does not exceed 18 GHz;

(d) Instruments in which the functions can be controlled by the injection of digitally coded electrical signals from an external source where the maximum frequency does not exceed 18 GHz;

(e) Spectrum analyzers employing time compression of the input signal or Fast Fourier Transform techniques not capable of:

(1) Analyzing signals with a frequency greater than 100 kHz if the instrument uses time compression, *or*

(2) Calculating 512 complex lines in less than 50 ms;

(f) Instruments incorporating computing facilities with "user-accessible reprogramming capability" and an alterable program and data memory of a total of less than 32 Kbytes;

(g) Digital test instruments with "user-accessible reprogramming capability" controlled by sub-paragraph (b)(6)(i) of this ECCN 1529A, required for the use (installation, operation or maintenance) of microcircuits or computers exported to the People's Republic of China under the Advisory Notes to ECCNs 1564A or 1565A;

(h) Microprocessor and microcomputer development instruments for 8 bit microcircuits, *i.e.*, microcircuits having an operand (data) word length of less than or equal to 8 bit(s) and an arithmetic logic unit (ALU) of less than or equal to 16 bit;

(i) Digital counters with any of the following characteristics:

(1) Not capable of counting successive input signals with less than 1.8 ns time difference without prescaling (digital division) of the input signal;

(2) Employing prescaling of the input signal in which the prescaler is not capable of resolving successive input signals with less than 0.5 ns time difference; *or*

(3) Not capable of measuring burst frequencies exceeding 250 MHz for a burst duration of less than 2 ms;

(j) Time interval measuring equipment employing digital techniques, not capable of measuring time intervals of less than 1 ns on a single shot basis;

(k) Instruments controlled by sub-paragraph (f) of this ECCN 1529A, not capable of more than 1,000 independent measurements per second;

(l) Transient recorders, not capable of sampling single input signals at successive intervals of less than 20 ns.

34. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronic and Precision Instruments), ECCN 1513A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China" reading as follows:

1531A Frequency synthesizers.

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following, and specially designed components and accessories therefor:

(a) Frequency synthesizers controlled for export only by sub-paragraph (a) of this ECCN 1531A, *except* those incorporating cesium beam standards;

(b) Instrument frequency synthesizers and synthesized signal generators controlled only by sub-paragraph (b) (1) and (3) of this ECCN 1531A and having a maximum output frequency of 18 GHz, provided that it takes 2.0 ms or more (switching speed) to reach a frequency within 100 Hz of the final frequency, or provided that it takes 2.0 ms or more to reach an output level within 1.0 dB of the final output level;

(c) Instrument frequency synthesizers and synthesized signal generators not controlled by sub-paragraph (b)(4) of this ECCN 1531A and having a maximum output frequency of 2.6 GHz, provided that it takes 0.3 ms or more (switching speed) to reach a frequency within 100 Hz of the final frequency, or provided that it takes 0.3 ms or more to reach an output level within 1.0 dB of the final output level.

35. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1533A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China" reading as follows:

1533A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following equipment:

(a) Non-programmable spectrum analyzers incorporating a tracking signal generator, provided that the display bandwidth is 4.4 GHz or less;

(b) Programmable spectrum analyzers, including those with a scanning preselector or a tracking signal generator, having all the following characteristics:

(1) Operating at frequencies of 2 GHz or less;

(2) A display bandwith of 1.5 GHz or less; and

(3) An overall display dynamic range not exceeding 100 dB.

36. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1537A is amended by adding between the "Advisory Notes" and the "Note" referring to paragraph (g) an "Advisory Note for the People's Republic of China" reading as follows:

1537A [Amended]

* * * * *

Advisory Notes: * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of microwave equipment controlled for export by sub-paragraphs (a), (b) or (c) of this ECCN 1537A, when designed for use at frequencies not exceeding 40 GHz and when specially designed for use with conventional commercial instruments described in ECCNs 1529A, 1531A or 1533A, provided that the equipment does not in any way extend the frequency range of the basic instrument.

* * * * *

37. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1555A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China" reading as follows:

1555A Electron tubes and specially designed components therefor.

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of electron tubes, as follows:

(a) Image intensifier and image conversion tubes that incorporate fiber optic face-plates or microchannel-plates, *except* image tubes specially designed for cameras controlled for export by ECCN 1585A;

(b) Television and video camera tubes that incorporate:

(1) Fiber optic face-plates; *or*

(2) Microchannel-plate electron multipliers not controlled by ECCN 1556A.

Note.—This Advisory Note does not apply to electron tubes incorporating a gallium arsenide (or similar semi-conductor) photocathode.

38. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1564A is amended by revising the "Advisory Note for the People's Republic of China" to read as follows:

1564A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of electronic component assemblies, sub-assemblies, printed circuit boards and microcircuits not specially designed to military standards for radiation hardening and temperature, as follows:

(a) Substrates for printed circuits, *except* those exceeding the limits of sub-paragraphs (a)(i)(5) or (a)(ii) of this ECCN 1564A;

(b) Silicon-based devices exceeding the limits of:

(1) Sub-paragraphs (d)(ii)(1) or (2), *except* those with more than 28 terminals;

(2) Sub-paragraphs (d)(ii)(6) or (7);

(3) Sub-paragraphs (d)(ii)(9) to (21); *or*

(4) Sub-paragraphs (d)(ii)(23) or (24);

(c) Silicon-based 8-bit or less microcomputer microcircuits exceeding the limits of sub-paragraphs (d)(ii)(3)(a) to (h);

(d) Silicon-based microprocessor microcircuits with an operand length of 16 bit or less and an arithmetic logic unit (ALU) not wider than 32 bit and exceeding the limits of sub-paragraphs (d)(ii)(4)(a) to (g), *except:*

(1) Those with a total processing data rate exceeding 28 Mbits per second;

(2) Bit-slice microprocessors;

(e) Silicon-based memory devices, as follows:

(1) MOS DRAMs with no more than 64 Kbits;

(2) MOS SRAMs with no more than 16 Kbits;

(3) Mask programmed ROMs with no more than 64 Kbits;

(4) UV-EPROMs with no more than 64 Kbits;

(5) EAROMs with no more than 32 Kbits;

(6) EEROMs with no more than 64 Kbits.

Note.—1 Kbit = 1,024 bits.

(f) Operational amplifier microcircuits exceeding the limits of sub-paragraph (d)(ii)(8) that do not have a slew rate greater than 100 volts per microsecond;

(g) Analog-to-digital and digital-to-analog converter microcircuits exceeding the limits of sub-paragraph (d)(ii)(22), *except:*

(1) Analog-to-digital converter microcircuits with less than a 500 ns conversion time to a maximum resolution of 12 bit;

(2) Digital-to-analog converter microcircuits with less than 500 ns settling time for voltage output and a maximum resolution of 8 bit;

(3) Digital-to-analog converter microcircuits with less than 25 ns settling time for current output and a maximum resolution of 8 bit;

(h) Silicon-based 8-bit or less user-programmable single chip microcomputers controlled for export by sub-paragraph (d);

(i) Integrated optical microcircuits:

(1) Controlled for export by sub-paragraph (d);

(2) With no more than 2048 elements; *and*

(3) Not exceeding the limits of ECCN 1548A (a) and (b);

(j) Non-reprogrammable silicon-based microcircuits specially designed or programmed by the manufacturer for business or office use.

39. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1565A is amended by redesignating Advisory Note 17 as a "Note" and moving it to the end of the entry; by revising Advisory Note 18; and by adding new Advisory Notes 17, 19, 20 and 21, reading as follows:

1565A [Amended]

* * * * *

Advisory Note 17 (for the People's Republic of China): Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of "digital computers" or "related equipment" therefor controlled for export by sub-paragraph (h) of this ECCN 1565A, provided that:

(a) The "digital computers" or "related equipment" therefor:

(1) Will be operated by civil end-users for civil applications;

(2) Are exported as complete systems or enhancements to previously exported systems up to the limits of sub-paragraph (b) of this Advisory Note;

(3) Have been primarily designed and used for non-strategic applications; *and*

(4) Do not fall within the scope of both sub-paragraphs (h)(1)(ii) (a) and (b);

(b) The "digital computers" or "related equipment" therefor do not exceed *any* of the following limits:

(1) Central processing unit—"main storage" combinations, *either*

(i) "Total processing data rate"—155 Mbit per second and "total connected capacity" of "main storage"—72 Mbit; *or*

(ii) "Total processing data rate"—100 Mbits per second and "total connected capacity" of "main storage"—134.5 Mbit;

(2) Input/output control unit—drum or disk drive combinations:

(i) "Total bit transfer rate"—101 Mbit per second;

(ii) "Maximum bit transfer rate" of any drum or disk drive—34 Mbit per second;

(iii) Total connected "net capacity"—74,000 Mbit;

(3) Array transform processors:

(i) "Equivalent multiply rate"—800,000 operations per second;

(ii) Fast Fourier Transform of 1,024 complex points—40 ms;

(iii) Word length—38 bit;

(c) The "digital computers" or "related equipment" therefor do not have the following characteristics:

(1) Those identified in sub-paragraphs (h)(1)(i)(d) to (h) and (m);

(2) Those identified in sub-paragraph (h)(1)(i)(b) having an "equivalent multiply rate" of more than 2 million operations per second;

Note.—[Reserved]

Advisory Note 18 (for the People's Republic of China): Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of "digital computers" or "related equipment" therefor in accordance with Advisory Note 5 not exceeding 28 million bit per second under Advisory Note 5(c).

Advisory Note 19 (for the People's Republic of China): Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of peripheral equipment as follows:

(a) Cathode ray tube graphic displays that do not exceed any of the following parameters:

(i) 1,024 resolvable elements along one axis and 1,280 resolvable elements along the perpendicular axis;

(ii) 11.8 million bit of refresh storage; *or*

(iii) 256 shades of gray or color (8 bit per pixel);

(b) Plotting equipment and digitizing equipment that has an accuracy of 0.002% or worse and an active area of 254 cm x 254 cm or smaller.

Advisory Note 20 (for the People's Republic of China): Licenses are likely to be approved for bulk shipments to satisfactory end-users in the People's Republic of China of personal computers and small business computer systems controlled by sub-paragraph (h) of this ECCN 1565A that do not exceed any of the following parameters:

(a) "Total processing date rate"—15 million bit per second;

(b) "Virtual storage" capability—512 million Bytes (4,096 million bit); *or*

(c) The other technical parameters of the system—the limits contained in Advisory Note 9(b) without taking into account Advisory Note 9(b)(2)(v).

Advisory Note 21 (for the People's Republic of China): Licenses are likely to be approved for export of satisfactory end-users in the People's Republic of China of spare parts in accordance with Advisory Note 7 (a) and (b) to this ECCN 1565A.

40. Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1567A is amended by removing the phrase "and the People's Republic of China (PRC)" from Advisory Notes 2, 3, 4, 5, 6, and 7; and

by adding at the end of the entry Advisory Notes for the People's Republic of China, designated 9 through 14, reading as follows:

1567A [Amended]

* * * * *

Advisory Note 9 (for the People's Republic of China): Licenses are likely to be approved for export of satisfactory end-users in the People's Republic of China of "data (message) switching" equipment or systems, controlled for export by sub-paragraph (a) of this ECCN 1567A, provided that:

(a) The equipment or systems are designed to meet the requirements of either:

(1) CCITT Recommendations F.1 to 79 for store-and-forward systems (Volume II—Fascicle II.4, VIIth Plenary Assembly, November 10–21, 1980); *or*

(2) ICAO Recommendations for store-and-forward civil aviation communication networks (Annex 10 to the Convention on International Civil Aviation, including all amendments agreed upon, up to and including December 14, 1981);

(b) The equipment or systems:

(1) Are designed and used for fixed civil "data (message) switching" applications;

(2) Will be used primarily for the specified civil application; *and*

(3) Will be operated in the importing country by:

(i) The Post, Telegraph and Telephone Authority in order to provide public "data (message) switching" services for:

(a) Domestic civil use; *or*

(b) International civil use with Western countries;

(ii) A civil authority that is a member of an intergovernmental organization including Western countries (*e.g.*, ITU or ICAO) in order to provide an extension of international "data (message) switching" services in the importing country to fulfill a commitment to the intergovernmental organization; *or*

(iii) A civil public service organization in order to provide "data (message) switching" services in a densely populated, commercial area for:

(a) Private domestic civil use; *or*

(b) Private international civil use with Western countries;

(c) The number, type and characteristics of such equipment or systems are normal for the approved application;

(d) [Reserved];

(e) The equipment or systems do not contain "digital computers" or "related equipment" controlled by:

(1) ECCN 1565A(f);

(2) ECCN 1565A(h)(1)(i) (a) to (j), or (l) or (m); *or*

(3) ECCN 1565A(h)(1)(ii);

(f) The "software" supplied:

(1) Is limited to:

(i) The minimum "specially designed software" necessary for the use (*i.e.*, installation, operation and maintenance) of the equipment or systems; *and*

(ii) Machine-executable form; *and*

(2) Does not include "software":

(i) Controlled by ECCN 1527A or paragraph (a)(5) of Supplement No. 3 to Part 379 or Item 11 on the U.S. Department of State's Munitions List (Supplement No. 2 to Part 370); or

(ii) To permit user-modification of generic "software" or its associated documentation;

(g) If the equipment or systems are not designed for installation by the user without support from the supplier, then the "software" necessary for commissioning is:

(1) Exported on a temporary basis only; *and*

(2) Kept under the control of the supplier;

(h) [Reserved];

(i) [Reserved];

(j) A license application to export any commodities covered by this Advisory Note includes:

(1) A statement identifying:

(i) The equipment or system to be provided; *and*

(ii) The intended application and traffic load; *and*

(2) A complete identification of all end-users and their activities.

Advisory Note 10 (for the People's Republic of China): Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of "stored-program-controlled telephone circuit switching" equipment or systems controlled by sub-paragraph (b) of this ECCN 1567A, provided that:

(a) The equipment or systems are designed for fixed civil use as "space-division digital exchanges" or "time-division digital exchanges" that fullfill the definition of "private automatic branch exchanges" ("PABXs");

(b) The equipment or systems:

(1) Are designed and used for fixed civil "stored-program-controlled telephone circuit switching" applications; *and*

(2) Will be operated in the importing country by a civil end-user who has furnished to the supplier a signed statement certifying that the equipment or systems will be used for the specified end-use at a specified location only;

(c) The number, type and characteristics of such equipment or systems are normal for the approved application;

(d) The equipment or systems do not contain "digital computers" or "related equipment" controlled for export by:

(1) ECCN 1565A(f);

(2) ECCN 1565A(h)(1)(i) (a) to (k) or (m); *or*

(3) ECCN 1565A(h)(1)(ii);

(e) The "PABXs" do not have the following features:

(1) Multi-level call pre-emption, including overriding or seizing of busy subscriber lines, "trunk circuits" or switches;

Note.—This limitation does not preclude single level call pre-emption (*e.g.*, executive override).

(2) "Common channel signalling";

(3) Automatic tandem "trunk circuit" switching, including adaptive routing, or algorithms that would permit a search for "trunk circuit" connection paths within a network;

(4) [Reserved];

(5) [Reserved];

(6) Digital synchronization circuitry for networking two or more exchanges *except* that permitting slave exchanges to be synchronized by master exchanges;

(7) [Reserved];

(8) Centralized maintenance by means of transmission or reception of instructions for the purpose of:

(i) Controlling traffic;

(ii) Directionalizing paths;

(iii) Altering routing tables;

(iv) Connecting or disconnecting subscriber circuits or "trunk circuits"; *or*

(v) Managing the network;

(f) "Communication channels" or "terminal devices" used for administrative and control purposes:

(1) Are fully dedicated to these purposes; *and*

(2) Do not exceed a "total data signalling rate" of 19,200 bit per second;

(g) [Reserved];

(h) [Reserved];

(i) [Reserved];

(j) The "software" supplied:

(1) Is limited to:

(i) The minimum "specially designed software" necessary for the use (*i.e.*, installation, operation and maintenance) of the equipment or systems; *and*

(ii) Machine-executable form; *and*

(2) Does not include "software":

(i) Controlleld by ECCN 1527A or paragraph (a)(5) of Supplement No. 3 to Part 379 or Item 11 on the U.S. Department of State's Munitions List (Supplement No. 2 to Part 370); or

(ii) To permit user-modification of generic "software" or its associated documentation;

(k) If the equipment or systems are not designed for installation by the user

without support from the supplier, then the "software" necessary for commissioning is:

(1) Exported on a temporary basis only; *and*

(2) Kept under the control of the supplier;

(l) [Reserved];

(m) A license application to export any commodities covered by this Advisory Note includes:

(1) A statement identifying:

(i) The equipment or system to be provided; *and*

(ii) The intended application and traffic load; *and*

(2) A complete identification of all end-users and their activities.

Advisory Note 11 (for the People's Republic of China): Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of "stored-program-controlled circuit switching" equipment or systems controlled for export by sub-paragraph (b) of this ECCN 1567A, provided that:

(a) The equipment or systems are designed for fixed civil use of "stored-program-controlled telegraph circuit switching" for data;

(b) The equipment or systems:

(1) Are designed and used for fixed civil"stored-program-controlled telegraph circuit switching" applications; *and*

(2) Will be operated in the importing country by a civil end-user who has furnished to the supplier a signed statement certifying that the equipment or systems will be used for the specified end-use at a specified location only;

(c) The number, type and characteristics of such equipment or systems are normal for the approved application;

(d) The equipment or systems do not contain "digital computers" or "related equipment" controlled by:

(1) ECCN 1565A(f);

(2) ECCN 1565A (h)(1)(i)(a) to (k) or (m); *or*

(3) ECCN 1565A(h)(1)(ii);

(e) The equipment or systems do not have the following features:

(1) Multi-level call pre-emption including overriding or seizing of busy subscriber lines, "trunk circuits" or switches;

Note.—This limitation does not preclude single level call pre-emption (*e.g.*, executive override).

(2) "Common channel signalling";

(f) The maximum internal bit rate per channel does not exceed 19,200 bit per second;

(g) [Reserved];

(h) The "software" supplied:

(1) Is limited to:

(i) The minimum "specially designed software" necessary for the use (*i.e.*, installation, operation and maintenance) of the equipment or systems; *and*

(ii) Machine-executable form; *and*

(2) Does not include "software":

(i) Controlled by ECCN 1527A or paragraph (a)(5) of Supplement No. 3 to Part 379 or Item 11 on the U.S. Department of State's Munitions List (Supplement No. 2 to Part 370); or

(ii) To permit user-modification of generic "software" or its associated documentation;

(i) [Reserved];

(j) If the equipment or systems are not designed for installation by the user without support from the supplier, then the "software" necessary for commissioning is:

(1) Exported on a temporary basis only; *and*

(2) Kept under the control of the supplier;

(k) [Reserved];

(l) A license application to export any commodities covered by this Advisory Note includes:

(1) A statement identifying:

(i) The equipment or system to be provided; *and*

(ii) The intended application and traffic load; *and*

(2) A complete identification of all end-users and their activities.

Advisory Note 12 (for the People's Republic of China): Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of "stored-program-controlled circuit switching" equipment or systems, controlled for export by sub-paragraph (b) of this ECCN 1567A, provided that:

(a) The equipment or systems are designed for fixed civil use as "stored-program-controlled telephone circuit switching" exchanges that fulfill the definitions of either "terminal exchange" or "transit exchange";

(b) [Reserved];

(c) The equipment or systems:

(1) Are designed and used for fixed civil "stored-program-controlled telephone circuit switching" applications; *and*

(2) Will be operated in the importing country by a civil end-user who has furnished to the supplier a signed statement certifying that the equipment or systems will be used for the specified end-use at a specified location only;

(d) The number, type and characteristics of such equipment or systems are normal for the approved application;

(e) The equipment or systems cannot be adapted to mobile use or security use, as described in ECCN 1565A(f) (1) to (4), (g) or (h)(1)(ii) (a) and (b);

(f) [Reserved];

(g) The equipment or systems do not have the following features:

(1) Multi-level call pre-emption including overriding or seizing of busy subscriber lines, "trunk circuits" or switches;

Note.—This limitation does not preclude single level call pre-emption (*e.g.*, executive override).

(2) "Common channel signalling";

(3) Adaptive routing or algorithms that would permit a search for "trunk circuit" connection paths within a network;

(4) [Reserved];

(5) [Reserved];

(6) Digital synchronization circuitry for networking two or more exchanges *except* that permitting slave exchanges to be synchronized by master exchanges; *or*

(7) Centralized maintenance by means of transmission or reception of instructions for the purposes of:

(i) Controlling traffic;

(ii) Directionalizing paths;

(iii) Altering routing tables;

(iv) Connecting or disconnecting subscriber circuits or "trunk circuits"; *or*

(v) Managing the network;

(h) "Communication channels" or "terminal devices" used for administrative and control purposes:

(1) Are fully dedicated to these purposes; *and*

(2) Do not exceed a "total data signalling rate" of 19,200 bit per second;

(i) [Reserved];

(j) [Reserved];

(k) The "software" supplied:

(1) Is limited to:

(i) The minimum "specially designed software" necessary for the use (*i.e.*, installation, operation and maintenance) of the equipment or systems; *and*

(ii) Machine-executable form; *and*

(2) Does not include "software":

(i) Controlled by ECCN 1527A or paragraph (a)(5) of Supplement No. 3 to Part 379 or Item 11 on the U.S. Department of State's Munitions List (Supplement No. 2 to Part 370); or

(ii) To permit user-modification of generic "software" or its associated documentation;

(l) If the equipment or systems are not designed for installation by the user without support from the supplier, then the "software" necessary for commissioning is:

(1) Exported on a temporary basis only; *and*

(2) Kept under the control of the supplier; *and*

(m) A license application to export any commodities covered by this Advisory Note includes:

(1) A statement identifying:

(i) The equipment or system to be provided; *and*

(ii) The intended application and traffic load; *and*

(2) A complete identification of all end-users and their activities.

Advisory Note 13 (for the People's Republic of China): ECCN 1567A(b)(3)(v) does not apply for exports to the People's Republic of China.

Advisory Note 14 (for the People's Republic of China): Favorable consideration may be given for export to satisfactory end-users of circuit switching systems eligible for export to the People's Republic of China under Advisory Notes 10 and 12 but including, contrary to the provisions of those Notes, "common channel signalling", provided that:

(a) Only functions covered by Q 701 to Q 707 (CCITT Yellow Book) or Q 721 to Q 725 (CCITT Red Book) are included;

(b) No equipment or "software" to support data networks or integrated services applications, including any form of Integrated Services Digital Network or Information Network System, will be provided;

(c) Equipment or "software" for "common channel signalling" will be restricted to those necessary for the operation of circuit switching systems within a city;

(d) No facilities for "common channel signalling" between cities will be provided;

(e) No equipment or "software" that will allow "common channel signalling" to be connected to analog transmission links will be provided;

(f) The "common channel signalling" will be restricted to "associated mode of operation";

(g) No equipment or "software" will be provided to support "signal transfer point" functions;

(h) All the applicable equipment or "software" conditions in paragraphs (a) to (g) of this Advisory Note will be accomplished by omission or physical removal of equipment, physical removal of coding or by over-writing with non-functioning statements; *and*

(i) [Reserved].

Note— Definitions of "signal transfer point" and "associated mode of operation" according to CCITT Yellow Book, Volume X, fascicle X.1.

41. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1568A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China", reading as follows:

1568A Equipment as defined in the List below.

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of analog-to-digital or digital-to-analog converters, as follows:

(a) Analog-to-digital converters with more than a 200 ns conversion time to a maximum resolution of 12 bit;

(b) Digital-to-analog converters with more than 200 ns settling time for voltage output and a maximum resolution of 8 bit;

(c) Digital-to-analog converters with more than 25 ns settling time for current output and a maximum resolution of 8 bit.

42. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1572A is amended by revising the "Advisory Note for the People's Republic of China" to read as follows:

1572A Recording or reproducing equipment and specially designed components therefor.

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of recording and reproducing equipment, as follows:

(a) Graphic instruments capable of continuous direct recording of sinusoidal waves at frequencies exceeding 20 KHz *except* those containing a cathode ray tube with a fiber optic face plate;

(b) Analog magnetic tape recorders with all the following characteristics:

(1) Bandwidth of up to:

(i) 4 MHz per track and having up to 28 tracks; *or*

(ii) 2 MHz per track and having up to 42 tracks;

(2) Tape speed of 610 cm per second or less;

(3) Not designed for underwater use;

(4) Not ruggedized for military use; *and*

(5) Recording density not exceeding 6,532 magnetic flux sine waves per cm;

(c) Instrumentation digital recorders with all the following characteristics:

(1) "Packing density" of 12,992 bits per cm or less;

(2) Maximum of 28 tracks;

(3) Tape speed of 305 cm per second or less;

(4) Not designed for underwater use; *and*

(5) Not ruggedized for military use;

(d) Magnetic tape appropriate for use with magnetic tape recorders free from export control or approvable under this Advisory Note or under any other Advisory Note on the Commodity Control List for exports to the People's Republic of China, provided that the tape length, "packing density" or "recording density" do not exceed the performance limits of the magnetic tape recorders;

(e) Disks appropriate for use with disk drives free from control or approvable under this Advisory Note or under any other Advisory Note on the Commodity Control List for exports to the People's Republic of China, provided that the "packing density" and inner and outer diameters do not exceed the performance limits of the disk drives;

(f) Video magnetic tape recorders specially designed for television recording.

43. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1584A is amended by revising the "Advisory Note for the People's Republic of China" to read as follows:

1584A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of cathode-ray oscilloscopes *not* having any of the following characteristics:

(a) An amplifier bandwidth exceeding 350 MHz;

(b) A horizontal sweep speed faster than 1 ns per cm and an accuracy (linerity) better than 2%;

(c) Using sampling techniques for the analysis of recurring phenomena that increase the effective bandwidth of an oscilloscope or time-domain reflectometer to a frequency greater than 5 GHz;

(d) Digital oscilloscopes with sequential sampling of the input signal at intervals of less than 20 ns;

(e) Ruggedized to meet military specifications; *or*

(f) Rated for operation over a temperature range of below −25 °C to above +55 °C.

44. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1587A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China," reading as follows:

1587A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following:

(a) Temperature-compensated crystal oscillators (TCXOs) controlled for export only by sub-paragraph (c)(1) of this ECCN 1587A;

(b) Quartz crystals for use as oscillator elements specially designed for temperature-controlled crystal ovens or for TCXOs covered by sub-paragraph (c) and having an average aging rate of $\pm 1 \times 10^{-11}$ per day or better (less) *except* stress compensated (SC) cut crystals.

45. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1767A is amended by adding at the end of the entry an "Advisory Note for the People's Republic of China," reading as follows:

1767A [Amended]

* * * * *

Advisory Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of optical fiber preforms specially designed for the manufacture of silicon-based optical fibers, provided that they are designed to produce non-militarized silicon-based optical fibers that are optimized to operate at a wavelength of 1,350 nm or less.

Dated: December 20, 1985.

John K. Boidock,

Acting Director, Office of Technology and Policy Analysis.

[FR Doc. 85-30507 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DT-M

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15 CFR Part 391

[Docket No. 50222-5196]

Addition of "Foreign Availability Procedures and Criteria" to the Export Administration Regulations

AGENCY: Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: On March 15, 1985 (50 FR 10501), Export Administration solicited public comments on a proposed rule to add "Foreign Availability Procedures and Criteria" to the Export Administration Regulations. Export Administration has reviewed the public comments on the proposal and is now issuing a final rule establishing "Foreign Availability Procedures and Criteria."

The Department of Commerce (DOC) is required by the Export Administration Act of 1979, as amended, to initiate and review claims of foreign availability on items controlled for national security purposes. These regulations set out the procedures for initiating foreign availability claims and the criteria by which such claims shall be assessed and reviewed by the Department. The Department's program of foreign availability assessment is intended to lead to the elimination of those export controls that are ineffective in achieving their national security objectives.

The final rule clarifies certain key aspects of the proposed rule. In particular, the requirements for making foreign availability claims are treated in more depth. In addition, the period allowed for submitting foreign availability information for license approval has been extended to 90 days from the date of denial. Finally, more explicit procedures have been established for publication of foreign availability findings.

DATE: This is effective January 27, 1986.

FOR FURTHER INFORMATION CONTACT: Robert Rarog, Office of Foreign Availability, Department of Commerce, Washington, DC (Telephone: (202) 377-3564).

SUPPLEMENTARY INFORMATION:

Background

A foreign availability assessment capability was mandated as a function of the Department of Commerce by the Export Administration Act of 1979, as amended. Accordingly, Commerce has established an Office of Foreign Availability to implement this function. This Office is to provide timely, technically sound and objective assessments of foreign availability for the purpose of determining appropriate levels of export controls.

These regulations set out the procedures and criteria for establishing foreign availability for commodities and technical data controlled for national security purposes.

The final Foreign Availability Procedures and Criteria reflect careful consideration of the 22 comments received by the Department of Commerce from the public.

A number of important issues were raised in these public comments:

1. Burden of Proof

Many of the commentors maintained that the proposed regulations placed the burden of proof on the exporter. They contended that the detailed information required in the Foreign Availability Submission (FAS) placed the entire burden on the exporter. The Department recognizes that it has the primary responsibility in gathering and assessing information pertaining to foreign availability. The exporter, however, plays a critical role in the process by submitting factual data in support of a claim. All factual representations supported by reasonable evidence will be accepted by the Department, unless contradicted by reliable evidence. The Department, after assessing all information generated either internally or from exporters, will then make a determination based on the criteria provided in these final regulations.

2. Non-U.S. Origin

The comments also pointed out that while a FAS may be made citing availability from any source outside the U.S., the commodities or technical data must not be of U.S. origin. That is, technical data or commodities cited as evidence of foreign availability must not be subject to U.S. export controls.

This provision is said to exclude from consideration a significant range of items that may be finding their way to Q, W, and Y destinations contrary to U.S. law. It is of particular significance regarding foreign products incorporating U.S. subcomponents and technical data.

However, removal of the non-U.S. origin requirement from the regulations could create a situation where illegal activities, if engaged in consistently, would result in lifting of export controls through a formal administrative procedure. Such official recognition of illegal activity was considered unacceptable; the non-U.S. origin provisions were therefore retained.

3. West-West Trade

The proposed regulations stated that availability-in-fact must be established to Q, W, and Y destinations considered as an aggregate. No provision was made for establishing foreign availability to an individual Western country in order to decontrol or approve a validated license to that country.

Many of the commentors pointed out that validated licenses are required for exports to all destinations other than Canada. If availability-in-fact could be established to a particular Western country, it would be reasonable that a license be approved or the requirement for a license to that country be rescinded. It is availability to proscribed destinations, not availability to countries in the West, that can render controls ineffective in achieving the national security objectives. Thus, availability to the West is not "foreign availability" within the meaning of section 5(f) of the Export Administration Act of 1979, as amended, (EAA) and

should not be made the basis for licensing of decontrol under these regulations.

4. Quantity Issue

The proposed regulations required that non-U.S. origin commodities be available to proscribed destinations in such quantities that exports resulting from decontrol would make no significant contribution to the military potential of the proscribed countries. Industry comments noted that such information might not be available to the exporter. It was further contended that the term "significant contribution to military potential" is so broad as to preclude any positive findings.

The Department recognizes that exporters cannot be expected to provide estimates of Warsaw Pact military requirements. Thus, while this standard is required by the legislation, information supporting such estimates is not explicitly required of the exporter. The exporter must include in the FAS only the best available evidence pertinent to the foreign availability comparison standards. The Government has the responsibility for developing data on this aspect of the assessment.

5. Single Comparability Standards

Assessments currently require the same standards of comparability for individual license approval and total decontrol. Industry comments noted that this would place an undue burden on the individual license applicant.

This approach was taken from the perspective that mandatory license approval was the functional equivalent of decontrol. In principle, once a license is approved on foreign availability grounds, all subsequent licenses for the same item should be likewise approved. To require less stringent standards for individual license approval raises the possibility that as a result of repeated applications the item is in fact decontrolled, but under the less stringent standards applicable to license approval. To avoid this eventuality, the standards for license approval and decontrol have remained the same.

6. Deadline for FAS Submissions

Under the proposed regulations, the exporter could forward a FAS at any time up to 30 days after license denial. Most comments noted that this is an unreasonably short period in which to assemble a foreign availability case. The Department recognizes this problem, and has consequently lengthened the period to 90 days.

7. Processing Deadlines

With the exception of decontrol assessments resulting from certifications made by Department of Commerce Technical Advisory Committees, there are no mandatory processing deadlines found in the EAA for foreign availability assessments. The proposed regulations adopted a 90-day standard for both license approval and decontrol processing, but have not made it mandatory. This was done because foreign availability assessments require not only a very large input in terms of man-hours relative to license applications, but also need significant lead times in original data collection. This fact, coupled with the wide variation in analytical resources required for foreign availability cases, militates against a processing deadline.

8. Concurrent Processing of Foreign Availability Assessments and Licenses

Under the proposed regulations, a foreign availability assessment for license approval is undertaken only at the time a license is denied on national security grounds. Comments suggested that the assessment should commence at the time of the license application if accompanied by an appropriate FAS.I11While initiation of foreign availability assessments before license denial would accelerate the assessment process, it was not found to be administratively feasible. Less than 1% of the licenses processed by Export Administration are ultimately denied. To process foreign availability claims before denial would needlessly diffuse limited Export Administration resources on many licenses that would have been approved in any event. Further, information received by Export Administration in connection with all FASs will be retained for use in decontrol assessments.

9. Time Limits on Federal Register Notices

While notices of positive and negative assessments for decontrol, as well as the results of national security overrides, were to be published in the **Federal Register** under the proposed regulations, several comments called for a limit to be imposed on the time between the DOC actions and the actual publication of such notice.

In response to these comments, procedures for publication have been clarified in the final rule. To the extent consistent with national security and foreign policy interests of the United States and with the protection of proprietary information, the Department of Commerce will publish the result of all assessments within thirty days of their completion by Export Administration.

Rulemaking Requirements

In connection with various rulemaking requirements, Export Administration had determined that:

1. This rule is exempted from the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, an opportunity for public participation, and a delay in effective date (5 U.S.C. 553) pursuant to section 13(a) of the Export Administration Act of 1979, as amended. Nevertheless, to help ascertain the economic impact of the regulation upon the general public, the regulation was issued in proposed form and public comment was solicited. This regulation also involves a foreign and military affairs function of the United States.

2. This rule contains a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The collection of this information has been approved by the Office of Management and Budget (OMB) under control number 0625–0150.

3. Because a notice of proposed rulemaking was not required by law to be published for this rule, it is not a rule within the meaning of Section 601(2) of the Regulatory Flexibility Act and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. Because this rule concerns a military and foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order No. 12291 and, therefore, is not subject to the requirements of that Order. Accordingly, no preliminary of final Regulatory Impact Analysis has been or will be prepared.

List of Subjects in 15 CFR Part 391

Exports, Foreign availability, Science and technology, Technical advisory committees.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended by adding Part 391 to read as follows:

PART 391—FOREIGN AVAILABILITY PROCEDURES AND CRITERIA

Sec.

391.1 Definitions.
391.2 Foreign availability submission.
391.3 Criteria for determination.
391.4 Procedures.
391.5 Appeals.
391.6 Negotiations to end foreign availability.

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.* as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; and E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

§ 391.1 Definitions.

(a) *Available-in-fact.* As used in this part, "available-in-fact" means that a non-U.S. origin item may be obtained by one or more of the proscribed countries.

(b) *Proscribed countries.* As used in this part, "proscribed countries" means Country Groups Q, W, and Y and Afghanistan. These countries are: The USSR, Albania, Bulgaria, Afghanistan, Czechoslovakia, the German Democratic Republic (including East Berlin), Hungary, Laos, the Mongolian People's Republic, Poland and Romania. Country Group Z (North Korea, Vietnam, Kampuchea, and Cuba) is not included since these countries are subject to a virtual embargo notwithstanding any foreign availability.

(c) *Foreign availability.* "Foreign availability" for a national security-controlled item exists when the Secretary of Commerce determines that a non-U.S. origin item of comparable quality is available-in-fact to proscribed countries in quantities sufficient to satisfy their needs so that U.S. exports of such an item would not make a significant contribution to the military potential of such countries.

(d) *Foreign Availability Submission.* A "Foreign Availability Submission" (FAS) is a written claim submitted by an applicant requesting a foreign availability assessment for items controlled for national security purposes in accordance with the requirements contained in § 391.2 of this part.

(e) *Item.* An "item," as used in this part, may be a commodity or technical data.

(f) *Non-U.S. origin.* A commodity or technical data is of "non-U.S. origin" when it is not subject to U.S. export or re-export controls.

§ 391.2 Foreign Availability Submission.

(a) *General requirements.* Foreign Availability Submissions (FASs) must be in writing and refer to specific items controlled for national security purposes (reasons for control are noted in each Commodity Control List entry of Supplement No. 1 to § 399.1). A FAS must relate to either (1) a validated license or (2) decontrol.

(b) *Validated licenses.* A claim of foreign availability may be made in connection with an application for a validated license or a request for re-export authorization for exports to any destination (except Country Group Z). A foreign availability claim consists of a Foreign Availability Submission (FAS), which is part of the license application. An assessment of foreign availability, however, will be initiated only on items in applications that have been denied on national security grounds. A FAS may be submitted at the time an export license application or request for re-export authorization is filed, or at any time up to 90 days after the date of a denial.

(c) *Decontrol.* (1) A FAS may also be submitted for the purpose of removing commodities or technical data from national security controls. FASs involving similar items may be consolidated. The Office of Foreign Availability, in consultation with the Department of Defense and other appropriate Government agencies, has responsibility for reviewing and consolidating FASs for action to determine appropriate levels of control.

(2) Any person, including a trade association or a Department of Commerce Technical Advisory Committee, may submit a decontrol FAS. The Department may also begin foreign availability assessments on its own initiative to determine whether national security controls should be maintained on specific items.

(d) *Submission requirements.* (1) A FAS should contain at least the following elements:

(i) Names of sources outside the U.S. and their overseas business addresses;

(ii) Product names and model designations of both the U.S. commodities or technical data and their non-U.S. origin counterparts;

(iii) Available technical information, including known performance attributes and quality considerations needed for comparison of U.S. and non-U.S. origin commodities or technical data; and

(iv) Information on production and demand, including quantities of known trade in such commodities to proscribed countries.

(2) *Supporting evidence.* (i) A submission should be accompanied by the best available supporting evidence. The Department may request more information from the applicant if necessary or if it appears that the claim is lacking in substance.

(ii) Information on foreign availability provided in the FAS will be reviewed in conjunction with any other pertinent information available to the Department of Commerce. Such information may include data received from other sources, including the Department of Defense and other appropriate governmental agencies. A detailed description of foreign availability sources, including any supporting information available to the applicant, will greatly assist in a timely and complete assessment.

(iii) Supporting information may include such items as foreign manufacturers' catalogs, brochures, operation or maintenance manuals, articles from reputable trade publications, photographs, depositions based on eyewitness accounts, and other credible data. Foreign availability assessment criteria outlined in section 391.3 of this part should be considered when assembling data in support of a FAS.

(3) FASs that do not accompany a license application must be addressed to:

Office of Foreign Availability, Room 2606, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW, Washington, DC 20230

(Information collection requirements in paragraph (d)(3) have been aproved by the Office of Management and Budget (OMB) under control number 0625-0150)

§ 391.3 Criteria for determination.

(a) *Non-U.S. origin.* Only information pertaining to availability of non-U.S. origin commodities or technical data (as defined in § 391.1 of this part) will be considered in support of foreign availability claims. Notwithstanding the foregoing, the Department welcomes the submission at any time of specific information concerning the availability of U.S. origin commodities or technical data to proscribed destinations so that appropriate measures can be taken to make U.S. controls more effective.

(b) *Availability-in-fact. Only non-U.S. origin commodities or technical data that are available-in-fact to the proscribed countries will be considered in establishing foreign availability.*

(c) *Standards of comparison for commodities.* All of the following tests must be met in determining the comparability and quantitative sufficiency of U.S. and non-U.S. origin commodities:

(1) *Comparable quality.* U.S. and non-U.S. origin commodities must be substantially similar in: (i) Function; (ii) technological approach; (iii) performance thresholds; (iv) maintainability and service life or any other attributes relevant to the purposes

for which controls were placed on that commodity.

(2) *Sufficient quantity.* For all submissions, comparable non-U.S. origin commodities must be available-in-fact to the proscribed countries in quantities sufficient to satisfy their needs so that U.S. exports would not make a significant contribution to the military potential of such countries.

(d) *Standards of Comparison for Technical Data.* Non-U.S. origin technical data submitted as evidence of foreign availability must meet the following standards of comparison as to comparable quality:

(1) Non-U.S. origin technical data is or can be used or adapted for use in ways and with results similar to those of its U.S. counterparts; and

(2) End products of the use of non-U.S. origin technical data are substantially similar to end products resulting from the use of its U.S. counterparts.

(e) *Evidence.* The Department of Commerce may consider evidence from any source in determining foreign availability. A claim of foreign availability for an item supported by reasonable evidence shall be accepted unless contradicted by reliable evidence available to the Department. To the extent consistent with the national security and foreign policy interests of the United States and with the protection of proprietary information, the Department of Commerce will inform the claimant of information contradicting the representations and supporting information where such evidence is the basis for a negative determination of foreign availability. The Department of Commerce will normally rely upon its own and other governmental sources for evidence bearing on the needs of proscribed countries and will determine whether the denial of a license or continuation of controls would be ineffective in achieving the national security purposes of the controls.

§ 391.4 Procedures.

(a) *Claims Associated with License Applications.* (1) Assessments of foreign availability for items included in a validated license application (or request for reexport authorization) will be initiated only when all the following conditions are met:

(i) A license has been denied based only on national security grounds, and

(ii) An FAS is received no later than 90 days from the date of the license denial.

(2) If a complete FAS has been submitted prior to the license denial, the applicant will be notified that an assessment of foreign availability has been initiated at the time of license denial. The Department of Commerce will seek to complete its evaluation of the claim within 90 days of the date of denial.

(3) If an incomplete FAS was submitted, the applicant will be informed that a foreign availability assessment will be initiated upon the Department's receipt of a timely and complete FAS. The Department of Commerce will seek to complete its evaluation of the claim within 90 days of the submission of a completed FAS.

(4) Formal notice of both positive and negative determinations will be published in the **Federal Register** within thirty days of their completion, to the extent consistent with U.S. national security and foreign policy interests and with the protection of proprietary information. Such notice will include a description of the relevant item and the results (positive or negative) of the evaluation. Information permitting the identification of the claimant will not appear in the notice. Except as provided in paragraph (c)(5) of this section, if a positive determination is made, a validated license will be forwarded to the applicant; if a positive determination is not made, to the extent consistent with the U.S. national security and foreign policy interests, a negative foreign availability determination notice will inform the applicant of the reasons for denial.

(5) Despite a positive determination of foreign availability, the Secretary of Commerce, in consultation with the Secretary of Defense, may determine that approval of a validated license would be detrimental to national security. In such cases, no approval will occur, and the applicant will be so informed. The Department shall publish that determination in the **Federal Register** with a concise statement of its basis. Negotiations provided in § 391.6 will then be pursued.

(6) In cases where a positive determination of foreign availability has been made and a validated license issued, the Office of Foreign Availability will decide whether to initiate a foreign availability assessment to determine whether national security controls should be maintained on such items.

(b) *Review of Decontrol Submissions.* (1) The Office of Foreign Availability will collect and evaluate all foreign availability information for decontrol purposes and initiate appropriate assessments. Such assessments will refer to generic equipment categories or characteristics or will propose changes to the Commodity Control List. Standards outlined in § 391.3 of this part shall be use to make the assessments. When appropriate, preliminary findings will be forwarded to the Department of Defense, other relevant U.S. Government agencies, and/or the Department of Commerce's Technical Advisory Committee (TACs) for review and comment. Notice of both positive and negative foreign availability findings will be published in the **Federal Register** within thirty days of their completion to the extent consistent with U.S. national security and foreign policy interests and with the protection of proprietary information. Except as provided in paragraphs b(1) through (5) of this section, in cases where the Department of Commerce determines the existence of foreign availability, action ot decontrol the relevant commodities or technical data will be taken and notice of such action will be published in the **Federal Register.**

(2) Information used to arrive at final determinations may come from any source, Government or non-Government, deemed appropriate by the Department of Commerce.

(3) In cases where a decontrol submission consists of a TAC certification, the Department will seek to complete its evaluation within 90 days.

(4) Despite positive foreign availability determinations, the President may determine that decontrol would be detrimental to the national security. In such cases, no decontrol will occur.

(5) Where such a determination has been made, the Department will publish that determination in the **Federal Register** with a concise statement of its basis and the estimated economic impact of the decision. In addition, negotiations will be initiated to eliminate sources of foreign availability on such items pursuant to § 391.6 of this part.

(6) When the Department of Commerce determines that conditions under which a positive determination of foreign availability were made have changed so as to cast doubt on the continued existence of foreign availability, a review of the original decontrol action will be undertaken.

(7) If foreign availability is determined no longer to exist, controls may be re-imposed. Appropriate notice will be published in the **Federal Register.**

§ 391.5 Appeals.

Appeals of negative foreign availability determinations must be received by the Office of the Assistant Secretary for Trade Administration, International Trade Administration, 14th Street and Pennsylvania Ave. NW.,

Room 3898B, U.S. Department of Commerce, Washington, DC 20230 no later than 45 days after the date appearing on the negative foreign availability assessment notice. Appeals will be conducted according to standards and procedures outlined in 15 CFR Part 389. A decision to deny a license or continue controls notwithstanding a determination of foreign availability shall not be subject to appeal.

§ 391.6 Negotiations to end foreign availability.

In any case in which national security export controls are maintained notwithstanding foreign availability, negotiations will be actively pursued with the governments of the appropriate foreign countries for the purpose of eliminating such availability. If such negotiations have not resulted in the elimination of foreign availability within 6 months of the publication of the finding of foreign availability in the **Federal Register**, the item in question will be removed from the Commodity Control List. The President may extend this 6 month period for an additional 12 months if he certifies to the Congress that the negotiations are progressing and that the absence of the export control involved would be detrimental to the national security.

Dated: December 23, 1985.

James K. Pont,

Acting Director, Office of Foreign Availability.

[FR Doc. 85-30649 Filed 12-24-85; 8:57 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-60]

Staff Accounting Bulletin No. 60; Financial Guarantees; Accounting for and Disclosure

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: The interpretations in this Staff Accounting Bulletin express certain views of the staff regarding accounting for and disclosure of certain financial guarantees.

DATE: December 20, 1985.

FOR FURTHER INFORMATION CONTACT: Lawrence Salva or Jeremiah J. Harrington, Office of the Chief Accountant (202-272-2130), or Howard P. Hodges, Jr., Division of Corporation Finance (202-272-2553), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The statements in staff accounting bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal Securities Laws.

John Wheeler,

Secretary.

December 20, 1985.

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 60 to the table found in Subpart B.

Staff Accounting Bulletin No. 60

The staff hereby adds Section J to Topic 11 of the staff accounting bulletin series. Section J discusses the staff's views regarding disclosures by issuers of certain financial guarantees.

Topic 11: Miscellaneous Disclosure

* * * * *

J. Financial guarantees

Facts: Insurance companies and other financial institutions have been issuing guarantees of the debts of municipalities and other entities at an increasing rate during recent years. [1] Typically the issuer of debt pays a fee to obtain an enhancement of the credit rating attached to its debt [2] with a corresponding decrease in the interest rate it must offer. In return for the fee, guarantors promise to make payment of interest and principal, either as they become due under terms of the debt instrument or on an accelerated basis, if the issuer of the debt is unable to pay.

The fee is generally a negotiated portion of the interest savings attributed to the guarantee [3] and is not necessarily related to the risk undertaken. [4] Guarantors, of course, may attempt to underwrite only risks where potential loss is deemed to be remote. However, the confidence level in predictions of any entity's future financial condition decreases as the number of future years involved increases. Some issues of guaranteed debt have maturities that exceed thirty years.

In mid-1985 the Emerging Issues Task Force ("EITF") of the Financial Accounting Standards Board ("FASB") addressed the following two issues:

—When the guarantor should recognize the fees in income, and

—Whether the guarantor should recognize a liability for the obligation under guarantee.

On June 27, the members of the EITF reached a consensus that the guarantor should:

—Recognize fee income over the guarantee period.

—Disclose the guarantee by footnote if material.

—Perform an ongoing assessment of the probability of loss to determine if a liability and a loss should be recognized under FASB Statement No. 5 "Accounting for Contingencies", and

—Recognize direct costs associated with the guarantee in a manner relative to the fee income.

Registrants have raised questions about the applicability of the EITF consensus to insurance companies.

Question 1: Does the staff believe that the June 1985 consensus of the EITF regarding accounting for and disclosure about loan guarantees applies to all registrants?

Interpretive Response: The staff believes that the consensus of the EITF should be applied by all registrants where the aggregate amounts guaranteed are material to consolidated equity or where there is a material effect on results of operations before income taxes and realized gains or losses on investments.

Question 2: What kind of disclosure does the staff expect?

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[1] ". . . Outstanding guarantees [of all types] backed by banks and insurance companies have increased from $161 billion in 1980 to more than $437 billion in 1984 . . ." according to "Bests' Review-Property/Casualty Edition" in an October 1985 article entitled "Financial Guarantees: Too Hot to Handle".

[2] At times, the guarantees are purchased by persons attempting to resell large blocks of debt securities in the secondary market.

[3] "Usually, the insurer and issuer split the difference between the insured rate interest and the interest that would be paid without the insurance; the isurer's portion is its 'premium' ", according to the article from Bests' Review cited above.

[4] According to an article in the October 9, 1985 edition of Forbes entitled "Spores of disaster": "Since no acturial table can forecast the future course of economic events, it is impossible to predict with any reliability what the long-term soundness of any investment will be. Thus, there is no possible way to price accurately the risk of the guarantee itself. As a result, pricing is based not on risk to the guarantor (the normal arrangement for insurance underwriting) but on how much in interest charges the borrower saves by floating paper with a guarantee attached to it."

Interpretive Response: The staff believes that the disclosure should cover matters such as the following:

—A general description of the type of obligations guaranteed (e.g. corporate, municipal general obligation, industrial revenue, etc.), the relative amount and range of maturity dates of each, and the degree of risk involved.

—The amount of exposure with respect to the debts of others guaranteed at the date of each balance sheet presented including a discussion of how the participation by other parties and other factors that may reduce exposure are treated in determining the amount reported.

—The manner in which the registrant recognizes revenue with respect to the guarantees.

—The amount of unearned premiums as of the date of each balance sheet.

—Whether the registrant provides a reserve for losses by charges against income and, if so, the basis for the reserve and its amount at each balance sheet date.

—Any other information that may be necessary to adequately describe the nature and extent of the obligations guaranteed and the degree of risk related to the guarantees.

[FR Doc. 85-30701 Filed 12-26-85; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436 and 442

[Docket No. 85N-0301]

Antibiotic Drugs; Ceftazidime Pentahydrate for Injection

Correction

In FR Doc. 85-28039 beginning on page 48396 in the issue of Monday, November 25, 1985, make the following corrections:

1. On page 48399, in the middle column, in § 436.360(c)(3), in the second line under the formula, "X", should read "X".

2. On page 48402, in § 442.216(b)(6)(iv), in the formula at the bottom of the first column, "P_p", should read "P_s".

BILLING CODE 1505-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1401

Fee Schedule and Office Address Changes

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule.

SUMMARY: The Federal Mediation and Conciliation Service is revising the schedule of fees the Service charges for services provided to the public pursuant to the Freedom of Information Act (5 U.S.C. 552). FMCS in increasing its fees for the search and retrieval of public documents, and establishing a fee schedule for the use of computer and programming time. The purpose of these fees is to allow FMCS to recover administrative expenses caused by requests for information given current personnel and machine costs.The Service is also updating the names and addresses of the various offices within the agency responsible for Freedom of Information Act related activities. These charges are significant enough so that the entire Freedom of Information Act regulation is being republished, as amended.

EFFECTIVE DATE: February 7, 1986.

FOR FURTHER INFORMATION CONTACT: Daniel P. Dozier, Counsel, (202) 653-5305.

SUPPLEMENTARY INFORMATION: FMCS has not changed its fees or published office and address changes since 1979. The Agency must increase its fees to cover the costs incurred by Freedom of Information Act requests. This change reflects the actual costs associated with document retrieval reproduction given actual computer, clerical and administrative costs. These fees are established to meet the actual and overhead costs associated with their retrieval and production. Address and office changes are necessary due to such changes occurring within the Agency.

List of Subjects in 29 CFR Part 1401

Freedom of Information.

PART 1401—[AMENDED]

1. The authority citation for Part 1401 is revised to read as follows:

Authority: Sec. 202, 61 Stat. 153, as amended; 29 U.SC. 712; 5 U.S.C. 552.

2. Part 1401 is amended by revising Subpart B to read as follows:

* * * * *

Subpart B—Production or Disclosure of Information

Sec.

1401.20 Purpose and scope.
1401.21 Information policy.
1401.22 Partial disclosure of records.
1401.23 Preparation of new records.
1401.24 Notices of dispute are public.
1401.30 Applicability of procedure.
1401.31 Filing a request for records.
1401.32 Logging of written requests.
1401.33 Description of information requested.
1401.34 Time for processing requests.
1401.35 Appeals from denials of request.
1401.36 Fees—Duplication cost and search.
1401.37 Annual report.

Subpart B—Production or Disclosure of Information

§ 1401.20 Purpose and scope.

This subpart contains the regulations of the Federal Mediation and Conciliation Service providing for public access to information from records of the Service. These regulations implement the Freedom of Information Act, 5 U.S.C. 552, and the policy of the FMCS to disseminate information on matters of interest to the public and to disclose on request information contained in agency records insofar as is compatible with the discharge of its responsibilities and the principle of confidentiality and neutrality of dispute resolution by third party neutrals.

§ 1401.21 Information policy.

(a) Except for matters specifically excluded by subsection 552(b) of Title 5, United States Code, matters covered by the Privacy Act, or other applicable statutes, all documents and records maintained by this agency or in its custody shall be available to the public upon request filed in accordance with these regulations. To the extent permitted by other laws, the Service also will make available records which it is authorized to withhold under 5 U.S.C. 552(b) whenever it determines that such disclosure is in the public interest.

(b) Any document released for inspection under the provisions of this part may be manually copied by the requesting party. The Service shall provide facilities for copying such documents at reasonable times during normal working hours so long as it does not interfere with the efficient operation of the agency.

(c) The Service will also publish and maintain a current index, revised quarterly, providing identifying information for the public as to statements of policy and interpretation adopted by the agency and still in force but not published by the Federal

Register, and administrative staff manuals and instructions to staff that affect the public. The Service will also maintain on file all material published in the Service in the Federal Register and currently in effect.

(d) Records or documents prepared by the Service for routine public distribution, e.g., pamphlets, speeches, and educational or training materials, will be furnished upon request to the Office of Information, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, as long as the supply lasts. The provisions of § 1401.36 (fees) is not applicable to such requests except when the supply of such material is exhausted and it is necessary to reproduce individual copies upon specific request.

(e) All existing FMCS records are subject to routine destruction according to standard record retention schedules.

§ 1401.22 Partial disclosure of records.

If a record contains both disclosable and nondisclosable information, the nondisclosable information will be deleted and the remaining record will be disclosed unless the two are so inextricably intertwined that it is not feasible to separate them or release of the disclosable information would compromise or impinge upon the nondisclosable portion of the record.

§ 1401.23 Preparation of new records.

(a) Freedom of Information Act and the provisions of this part apply only to existing records that are reasonably described in a request filed with the Federal Mediation and Conciliation Service pursuant to the procedures established in §§ 1401.31—1401.36.

(b) The Director may, in his or her discretion, prepare new records in order to respond to a request for information when he or she concludes that it is in the public interest and promotes the objectives of the Labor-Management Relations Act, 1947, as amended.

§ 1401.24 Notice of dispute are public.

Written notices of disputes received by the Service pursuant to sections 8(d)(3), 8(d)(A), 8(g) and 9(c)(1) of the Labor-Management Relations Act, 1947, as amended, or pursuant to 29 Code of Federal Regulations 1425.2, are not exempt from disclosure. Parties at interest have the right to receive certified copies of any such notice of dispute upon written request. Requests for copies of notices should be submitted to FMCS, Notice Processing Unit, 2100 K Street, NW., Washington, DC 20427.

§ 1401.30 Applicability of procedures.

Requests for inspection or copying of information from records in the custody of the FMCS which are reasonably identifiable and available under the provisions of this part shall be made and acted upon as provided in the following sections of this subpart. The prescribed procedure shall be followed in all cases where access is sought to official records pursuant to the provisions of the Freedom of Information Act, except with respect to records for which a less formal disclosure procedure is provided specifically in this part.

§1401.31 Filing a request for records.

(a) Any person who desires to inspect or copy any record covered by this part shall submit a written request to that effect to the Legal Services Office, FMCS, 2100 K Street, NW., Washington, DC 20427. (202) 653–5305.

(b) The Legal Services Office will determine what office or division within FMCS is custodian of the records. The Office will then send the request to the appropriate FMCS office or division as provided in § 1401.32(b) below.

§1401.32 Logging of written requests.

(a) All requests for records should be clearly and prominently identified as a request for information under the Freedom of Information Act, and if submitted by mail or otherwise submitted in an envelope or other cover, should be clearly and prominently identified as such on the envelope or other cover.

(b) Upon receipt of a request for records from the FMCS Legal Services Office, the FMCS office or division responding to the request shall enter it in a public log. The log shall state the date and time received, the name and address of person making the request, the nature of the records requested, the action taken on the request, the date of the determination letter sent pursuant to § 1401.34 (b) and (d), the date(s) any records are subsequently furnished, the number of staff hours and grade levels of persons who spent time responding to the request, and the payment requested and received.

§1401.33 Description of information requested.

(a) Each request should reasonably describe the records being sought, in a way that they can be identified and located. A request should include all pertinent details that will help identify the records sought.

(b) If the description is insufficient, the officer processing the request will so notify the person making the request and indicate the additional information needed. Every reasonable effort shall be made to assist in the identification and location of the records sought.

§1401.34 Time for processing requests.

(a) All time limitations established pursuant to this section shall begin as of the time at which a request for records is logged in by the officer or employee processing the request pursuant to § 1401.32(b). An oral request for recordsd shall not begin any time requirement. A written request for records sent to an office or division of FMCS other than the one having authority to grant or deny access to the records shall be redirected to the appropriate office for processing, and the time shall begin upon its being logged in there in accordance with § 1401.32(b).

(b) The officer or employee passing upon the request for records shall, within ten (10) working days following receipt of the request, respond in writing to the requester, determining whether, or the extent to which, the Agency shall comply with the request.

(1) If all of the records requested have been located and a final determination has been made with respect to disclosure of all the records requested, the response shall so state.

(2) If all of the records have not been located or a final determination has not been made with respect to disclosure of all records requested, the response shall state the extent to which the records involved will be disclosed pursuant to the rules established in this part.

(3) If the request is expected to involve an assessed fee in excess of $50.00, the response shall specify or estimate the fee involved and shall require prepayment before the records are made available.

(4) Whenever possible, the response relating to a request for records that involves a fee of less than $50.00, shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Agency.

(c) In the following circumstances, the time for passing upon the request may be extended for up to an additional 10 working days by written notice to the person making the request, setting forth the reasons for such extension and the time within which a determination is expected to be made:

(1) The need to search for and collect the requested records from the field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect and appropriately examine a voluminous amount of records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the Agency having substantial subject matter interest therein.

(b) If any request for records is denied in whole or in part, the response required by paragraph (b) of this section shall notify the requester of the denial. Such denial shall specify the reason therefor and also advise that the denial may be appealed to the Office of Deputy Director of the Agency as specified in § 1401.35.

§ 1401.35 Appeals from denials of request.

(a) Whenever any request for records is denied, a written appeal may be filed with the Deputy Director, FMCS, 2100 K Street, NW., Washington, DC 20427, within 30 days after requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial. The appeal shall state the grounds for appeal, including any supporting statements or arguments.

(b) Final action on the appeal shall be taken within 20 working days from the time of receipt of the appeal. Where novel and complicated questions have been raised or unusual difficulties have been encountered, the Deputy Director may extend the time for final action up to an additional 10 days, depending upon whether there had been an extension pursuant to § 1401.34(c) at the initial stage. In such cases, the applicant shall be notified in writing of the reasons for the extension of time and the approximate date on which a final response will be forthcoming.

(c) If on appeal the denial of the request for records is upheld in whole or in part, the Deputy Director shall notify the applicant of the reasons therefor, and shall advise the requester of the provisions for judicial review under 5 U.S.C. 552(a) (4) and (6).

§ 1401.36 Fees—Duplication cost and search.

(a) Unless waived in accordance with paragraph (d) of this section, the following schedule of fees shall be imposed for the production and copying of any record pursuant to this part.

(1) *Copy of records.* Twenty ($0.20) cents per copy per page.

(2) *Clerical searches.* $2.25 for each one-quarter hour or fraction thereof spent in excess of the first quarter-hour in searching for or producing a requested record or otherwise processing the request, including time spent copying any record.

(3) *Nonclerical searches.* $7.00 for each one-quarter hour spent by professional or managerial personnel searching for or producing a requested record or otherwise processing the request, including time spent copying any record.

(4) *Computer time.* $3.00 per minute of computer time expended for search and production programming, searching, and production of any record. Computer time expressed in fractions of minutes will be rounded to the next whole minute.

(5) *Certification or authentication of records.* $2.00 per certification or authentication.

(6) *Forwarding material to destination.* Postage, insurance, and special fees will be charged on the basis of actual costs.

(b) *Rules of construction:* In providing the foregoing fee schedule pursuant to the provisions of 5 U.S.C. 552(4)(a), it is the intent of this section to apply 29 CFR Part 70 and the user charge statute, 31 U.S.C. 9701, to cover those situations where the Agency is performing for a requester services which are not required under the Freedom of Information Act.

(c) No fee shall be charged if a record requested is not found or for any record that is totally exempt from disclosure.

(d) The officer or employee processing the request for records may, in his or her discretion, waive, or reduce fees otherwise applicable under paragraph (a) of this section for services in producing and copying record information under the following circumstances:

(1) Where inability to pay is demonstrated and it is clear that a significant public interest would be served by providing the service free of charge.

(2) Where it is in the public interest because furnishing the information can be considered primarily as benefiting the general public.

(3) In making a determination of the broad public interest involved, the officer shall weigh the Agency resources involved against the likely benefit to the public.

(e) *Payment of fees:* Payment shall be made by check or money order payable to "Federal Mediation and Conciliation Service," and shall be sent to the Legal Services Offices, 2100 K Street, NW., Washington, DC 20427.

§ 1401.37 Annual report.

The Office of the Director shall annually, within 60 days following the close of each calendar year, prepare a report covering each of the categories or records to be maintained in accordance with 5 U.S.C. 552(d) for such calendar year and shall forthwith submit the same to the Speaker of the House of Representatives and the President of the Senate for referral to the appropriate committees of the Congress.

Dated: December 19, 1985.

Duane M. Buckmaster,

Deputy Director.

[FR Doc. 85-30498 Filed 12-26-85; 8:45 am]

BILLING CODE 6372-01-M

PANAMA CANAL COMMISSION

35 CFR Part 133

Tolls for Vessels in Ballast

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: The Panama Canal Commission is today approving changes to revise its regulation in Title 35, Code of Federal Regulations, § 133.34 which pertains to tolls for vessels in ballast. This amendment conforms the present regulations to the rules for measurement of vessels for the Panama Canal pursuant to § 135.390 of 35 Code of Federal Regulations.

EFFECTIVE DATE: January 27, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, telephone (202) 634-6441 or Mr. John L. Haines, Jr., General Counsel, telephone in Balboa Heights, Republic of Panama, 011-507-52-7511.

SUPPLEMENTARY INFORMATION: On September 6, 1985, a notice of proposed rulemaking was published in the **Federal Register** (50 FR 36444) setting forth changes to § 133.34. Interested parties were given the opportunity to submit comments by October 7, 1985. During the time period, the agency received one comment agreeing with the proposed wording of § 133.34; accordingly, the substantive changes hereby adopted by this document are as follows:

The amendment of § 133.34 is necessary to conform the provision to the "Rules of Measurement of Vessels" for the Panama Canal, 35 CFR Part 135, 41 FR 13583 of March 31, 1976. Prior to 1976, in order for a vessel to secure the reduced rate of toll for vessels in ballast without passengers or cargo, the amount of fuel a vessel could carry for its own consumption was 125 percent of the volume of its engine room as measured.

The 1976 amendments to Rules for Measurement of Vessels made it necessary to determine the actual volume of tanks or fixed compartments for the carriage of fuel which have been certified for the vessel's own use, as provided in § 135.390, "Spaces available for the carriage of fuel".

The Commission has determined that this rule does not constitute a major rule within the meaning of Executive Order 12291 dated February 17, 1981 (47 FR 13193). The bases for that determination are, first, that the rule, when implemented, would not have an annual effect on the economy of $100 million or more per year. Secondly, the rule would not result in a major increase in costs or prices for consumers, individual industries or local governmental agencies or geographic regions. Finally, the agency has determined that implementation of the rule would not have a significant adverse effect on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Further, the Commission has determined that this rule is not subject to the requirements of section 603 and 604 of Title 5, United States Code, in that its promulgation will not have a significant impact on a substantial number of small entities, and the Administrator of the Commission so certifies pursuant to 5 U.S.C. 605(b).

List of Subjects in 35 CFR Part 133

Panama Canal, Tolls, Vessels.

Accordingly, 35 CFR, Part 133 is amended as follows:

PART 133—TOLLS FOR USE OF CANAL

1. The authority citation for Part 133 is revised to read as follows:

Authority: Issued under authority of the President by 22 U.S.C. 3791; E.O. 12215, 45 FR 36043.

2. Section 133.34 is revised to read as follows:

§ 133.34 Tolls for vessels in ballast.

In order for a vessel to secure the reduced rate of toll for vessels in ballast, it may not be carrying any passengers or cargo nor any fuel for its own consumption in a quantity which exceeds either—

(a) 125 percent of the volume of its engine room as measured and as shown on its Panama Canal tonnage certificate; or

(b) The spaces on the vessel which are available for the carriage of fuel (i.e., the actual volume of tanks or fixed compartments, including settling tanks, used for the storage of lubricating oil or fuel, which spaces cannot be used to stow cargo or stores and which have been certified by official marking to be spaces for the vessel's own fuel).

Dated: November 22, 1985.

D. P. McAuliffe,

Administrator, Panama Canal Commission.

[FR Doc. 85-30540 Filed 12-26-85; 8:45 am]

BILLING CODE 3640-04-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[A-7-FRL-2944-1; EPA Action IA 1807]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of Iowa; Section 111(d) Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The State of Iowa has submitted its plan for the control of fluoride emissions from existing phosphate fertilizer plants, and for the control of sulfuric acid mist emissions from existing sulfuric acid production plants. This plan was submitted in response to Section 111(d) of the Clean Air Act, which requires states to establish emission controls for existing sources which would be subject to EPA's new source performance standards if these sources were new sources. This notice advises the public that EPA today takes final action to approve Iowa's 111(d) plan.

EFFECTIVE DATE: This action will be effective February 25, 1986, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments should be sent to Larry Hacker, Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101. The State submission is available for inspection during normal business hours at the above address; and at the Iowa Department of Water, Air and Waste Management, 900 East Grand, Des Moines, Iowa.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (913) 236-2893, (FTS) 757-2893.

SUPPLEMENTARY INFORMATION:

I. Plan Requirements

Section 111 of the Clean Air Act provides authority for EPA to establish standards of performance for new stationary sources of air pollution. Section 111(d) and 40 CFR Part 60, Subpart B, require that each State adopt and submit a plan for the control of designated pollutants from existing facilities. Designated pollutants do not include those for which air quality criteria have been established or which are already listed under section 108(a), relating to development of air quality criteria for certain pollutants, or section 112(b)(1)(A), Hazardous Air Pollutants. After promulgation of a standard of performance for a designated pollutant from an affected facility, EPA publishes an applicable emission control guideline document and then publishes a notice in the Federal Register as to its availability. The State must submit its Section 111(d) plan within nine months after the final guideline notice of availability. If there are no such designated facilities located within a State, the State is required to submit a letter of certification to that effect, i.e., a negative declaration.

The requirements for section 111(d) plans are contained in 40 CFR 60.23 through 60.26. The State is required to give proper notification and conduct at least one public hearing. The plan must contain emission standards and compliance schedules. The emission standards must be at least as stringent as those required by the federal standard with certain case-by-case exemptions. The plan must also include an inventory of all designated facilities, including emissions data for the designated pollutants. The State must demonstrate that it has adequate legal authority to carry out the plan unless previously approved under section 111(d) or Section 110 of the Act. For a complete description of the plan requirements, the reader is referred to the above-mentioned sections of the Code of Federal Regulations. Part 62 of the CFR provides the procedural framework for the submission of these plans.

II. Review of the State Submittal

On June 12, 1985, the State of Iowa submitted the final portion of its plan for the control of fluoride emissions from existing phosphate fertilizer plants, and for the control of sulfuric acid mist emissions from existing sulfuric acid production plants. In previous submittals (discussed hereinafter), the State had not fully addressed all of the requirements for a Section 111(d) plan. State plans for the control of fluoride emissions from existing phosphate fertilizer plants were due on December 1, 1977, and those for the control of sulfuric acid mist emissions from

existing sulfuric acid production plants were due on July 18, 1978. Iowa's June 12, 1985, submittal, in conjunction with its previous submittals, is intended to complete the requirements for the State's 111(d) plan.

On February 23, 1978, the State of Iowa submitted rule 4.3(3)d for the control of sulfuric acid production plants. The effective date of this rule was June 16, 1972, and was included in the State's original State Implementation Plan (SIP). Proper notice and public hearings were held prior to the State's adoption and submittal of its original SIP. The State's sulfuric acid mist emission limit in rule 4.3(3)d is 0.5 pounds of sulfuric acid mist per ton of acid produced. This is identical to the limit contained in EPA's "Final Guideline Document: Control of Sulfuric Acid Mist Emissions from Existing Sulfuric Acid Production Units" (EPA–450/2–77–019).

On October 19, 1979, the State submitted rule 4.4(10) for the control of fluoride emissions from existing phosphate fertilizer plants. This rule became effective on August 29, 1979, after proper notice and public hearing.

The Administrator has determined that fluorides may cause or contribute to endangerment of public welfare, but that adverse effects on public health have not been demonstrated. Emission limit guidance is contained in EPA's "Final Guideline Document: Control of Fluoride Emissions from Existing Phosphate Fertilizer Plants" (EPA–450/2–77–005).

The State's fluoride emission limits for phosphoric acid plants and diammonium phosphate plants are .04 lbs. per ton and .15 lbs. per ton, respectively. These limts are less stringent than those specified in the guideline; however, because fluoride has been determined to be a welfare-related pollutant, states have considerable latitude in setting emission limits and can balance the applicable emission guidelines against other factors of public concern (see 40 CFR 60.24(d)).

The guideline document mentions that a 30-day average ambient ground-level fluoride concentration of 0.5 micrograms per cubic meter has been reported to cause an accumulation of more than 40 parts per million fluoride in cattle forage. This concentration in their feed represents a damage threshold for cattle.

The State has provided a dispersion model analysis which demonstrates that its fluoride emission limit is sufficient to keep ambient fluoride concentrations below 0.5 micrograms per cubic meter (30-day average). Therefore, the potential for fluoride accumulation in cattle forage will be below the damage threshold.

On February 7, 1983, the State submitted public hearing documentation for the fluoride emission limits (rule 4.4(10)), as required by 40 CFR 60.23(f). The February 7 submittal also included a demonstration of the State's legal authority to implement and enforce the plan as required by 40 CFR 60.26.

All designated facilities in Iowa are in compliance with the applicable emission limits for the designated pollutants. Therefore, the State's plan does not include compliance schedules. However, the State has demonstrated that it has the legal authority to implement compliance schedules for designated facilities when necessary.

The State's plan includes an inventory of all designated facilities, including emission data for the designated pollutants. Additional inventory data is maintained on EPA's National Emissions Data System (NEDS), which is updated periodically. The State's Section 111(d) emission inventory meets the requirements of 40 CFR 60.25 and 40 CFR Part 60, Appendix D. Reporting and recordkeeping requirements are specified in the State's compliance rule, Chapter 21, which was previously approved under Section 110 of the Act after adequate notice and public hearing.

On May 13, 1985, the State submitted a letter (negative declaration) certifying that there are no existing primary aluminum reduction plants in the State. The negative declaration was submitted in lieu of a section 111(d) plan for the control of fluorides from primary aluminum reduction plants.

Iowa's regulations for controlling air pollution were recodified on July 1, 1983. The fluoride standard, submitted as 4.4(10), is now codified at 23.4(10). In addition, the sulfuric acid mist standard, submitted as 4.3(3)d, is now codified at 23.3(3)d. The recodification did not change any substantive requirements, but merely incorporated the new numbering system.

III. EPA Action

Today's notice takes final action to approve the State of Iowa's Section 111(d) plan for the control of sulfuric acid mist emissions from existing sulfuric acid production plants and for the control of fluoride emissions from existing phosphate fertilizer plants. EPA also takes final action to approve the State's negative declaration in lieu of a Section 111(d) plan for the control of fluoride emissions from existing primary aluminum reduction plants.

EPA believes these submissions are noncontroversial and is taking final action to approve them without prior proposal. The public should be advised that this action will be effective (insert date 60 days after publication). However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. 605(b), I hereby certify that this section 111(d) plan and negative declaration will not have a significant economic impact on a substantial number of small entities.

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

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

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, Phosphate, Aluminum, Fertilizers, Paper and paper products industry, Sulfuric oxides, Sulfuric acid plants.

Dated: December 16, 1985.

Lee M. Thomas,

Administrator.

PART 62—[AMENDED]

Part 62 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Part 62 is amended by adding the following centerheadings and sections to Subpart Q.

Subpart Q—Iowa

Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

* * * * *

Sec.

62.3850 Identification of plan.

Sulfuric Acid Mist From Existing Sulfuric Acid Production Plants

62.3851 Identification of sources.

Fluoride Emissions From Existing Phosphate Fertilizer Plants

62.3852 Identification of source.

Sec.

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

62.3853 Identification of plan—negative declaration.

Fluoride Emissions From Existing Primary Aluminum Reduction Plants

62.3854 Identification of plan—negative declaration.

62.3855—62.3869 [Reserved]

Subpart Q—Iowa

Plan for the Control of Designated Pollutants From Existing Facilities [Section 111(d) Plan]

§ 62.3850 Identification of plan.

(a) Identification of plan: Iowa Plan for Control of Designated Pollutants from Existing Facilities [Section 111(d) Plan].

(b) The plan was officially submitted as follows:

(1) Control of sulfuric acid mist from existing facilities at sulfuric acid production plants, effective on June 16, 1971, having been submitted by the State on February 23, 1978. Additional information was provided in letters of February 7, 1983; May 13, 1985; and June 12, 1985.

(2) Control of fluoride emissions from existing facilities at phosphate fertilizer plants, effective on August 29, 1979, having been submitted by the State on October 19, 1979. Additional information was provided in letters of February 7, 1983; May 13, 1985; and June 12, 1985.

(c) Designated facilities: The plan applies to existing facilities in the following categories of sources:

(1) Sulfuric acid production plants.

(2) Phosphate fertilizer plants.

Sulfuric Acid Mist From Existing Sulfuric Acid Production Plants

§ 62.3851 Identification of sources.

(a) The plan applies to existing facilities at the following sulfuric acid production plants:

(1) Agrico Chemical Company, Fort Madison, Iowa

(2) Koch Sulfur Products Company, Dubuque, Iowa

Fluoride Emissions From Existing Phosphate Fertilizer Plants

§ 62.3852 Identification of sources.

(a) The plan applies to existing facilities at the following phosphate fertilizer plants:

(1) Agrico Chemical Company, Fort Madison, Iowa.

(2) Chevron Chemical Company, Fort Madison, Iowa.

(3) Occidental Chemical Company, Buffalo, Iowa.

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

§ 62.3853 Identification of plan—negative declaration.

Letter from Executive Director of Iowa Department of Environmental Quality submitted on February 7, 1983, certifying that there are no kraft pulp mills in the State of Iowa subject to Part 60, Subpart B of this chapter.

Fluoride Emissions From Existing Primary Aluminum Reduction Plants

§ 62.3854 Identification of plan—negative declaration.

Letter from the Iowa Department of Water, Air and Waste Management submitted on May 13, 1985, certifying that there are no primary aluminum reduction plants in the State of Iowa subject to Part 60, Subpart B of this Chapter.

§§ 62.3855–62.3869 [Reserved]

[FR Doc. 85–30626 Filed 12–26–85; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[A–5–FRL–2944–2]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA approves the State of Indiana's modified request to change the Total Suspended Particulates (TSP) designation for a portion of Dearborn County (Lawrenceburg Township) from primary nonattainment to secondary nonattainment for TSP. The rest of the County will remain attainment. This revision is based on a request from the State of Indiana to redesignate this area and on the supporting data the State submitted.

EFFECTIVE DATE: This final rulemaking becomes effective on January 27, 1986.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

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

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

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

SUPPLEMENATARY INFORMATION: Under section 107(d) of the Act, the Administrator of USEPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of Indiana. See 40 CFR 81.315. These area designations may be revised whenever the data warrant.

The TSP designations for Dearborn County, Indiana, as codified at 40 CFR Part 81.315 (1984), are:

Dearborn County:

Lawrenceburg Township: Primary Nonattainment

Remainder of the County: Attainment

On April 14, 1983, the State of Indiana requested USEPA to revise the TSP designation of Dearborn County to full attainment. On September 2, 1983, USEPA notified the State of Indiana that it had not sufficiently supported its redesignation request, and, therefore, it was not approvable. On February 16, 1984, the State submitted a revised redesignation request and additional technical support. Additional technical support was submitted to USEPA on April 13, 1984; May 16, 1984; August 31, 1984; and September 20, 1984.

In its February 16, 1984, submittal, Indiana included ambient air quality data collected at one TSP monitor in Dearborn County during the period 1981–1984 and a dispersion modeling analysis.

In addition to the monitoring data provided by the State of Indiana, USEPA also considered TSP data from another site in the County. Although the most recent 2 years of data show no violations, this period coincides with the shift from daily to once in 6 day sampling. For example, at the Lawrenceburg monitor, there were nine exceedances in 1981 through the end of September when daily sampling was done, while there have been no exceedances since November 1981 when sampling was done only every 6th day.*

In its February 16, 1984, submittal, Indiana also included a revised Climatological Dispersion Modeling (CDM) analysis of Dearborn County. On August 31, 1984, the State submitted revised modeling reflecting all sources operating at State Implementation Plan allowable emissions.

The State's modeling indicates that the secondary 24-hour TSP standard is not being attained in Lawrenceburg Township. Although no monitored

* USEPA regulations at 40 CFR Part 58 require at least one 24-hour sample every 6 days.

violations have been measured during the last 2 years, no valid reasons could be cited for these recent lower TSP concentrations. This lead USEPA to question whether TSP levels less than the secondary NAAQS will continue to be measured and whether the apparent improvement in TSP levels at this monitor are due to the change is sampling frequency, rather than actual, enforceable control measures.

Therefore, on March 27, 1985 (50 FR 12044), USEPA proposed to disapprove the State of Indiana's request to redesignate the area to full attainment. However, it also proposed that, if the State requested during the public comment period that the area be redesignated as a secondary nonattainment area, USEPA would approve that request.

Only the State responded to this proposal. On May 8, 1985, it formally requested that Lawrenceburg Township (Dearborn County) be designated secondary nonattainment for TSP. As a result, based on the data submitted by the State, USEPA approves the redesignation of Lawrenceburg Township (Dearborn County) to secondary nonattainment for TSP. The rest of the County remains attainment. Further discussion may be found in the technical support document for this rulemaking action which is available at USEPA's Region V Office.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 25, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Intergovernmental relations, Air pollution control, National parks, Wilderness areas.

Dated: December 16, 1985.

Lee M. Thomas,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 81.315 is amended by revising the Dearborn County designation in the Indiana Table for Total Suspended Particulates (TSP) as follows:

§ 81.315 Indiana.

INDIANA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * *				
Dearborn County:				
Lawrenceburg Township		X		
Remainder of Dearborn County				X
* * * * *				

[FR Doc. 85-30627 Filed 12-26-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 716

[OPTS-84017A; FRL-2945-4]

Submission of Lists and Copies of Health and Safety Studies on Vinyl Acetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is adding vinyl acetate, Chemical Abstracts Service Registry number (CAS) 108-05-4, to the list of chemical substances and mixtures in the Health and Safety Data Reporting Rule, 40 CFR Part 716. Past, current, and prospective manufacturers, importers, and processors of vinyl acetate are required to provide EPA with lists and copies of unpublished health and safety studies on this substance. The information received by the Agency will be used to support a detailed assessment of the health and environmental risks of this substance.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern "standard" time on January 13, 1986. This rule shall become effective on February 10, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 8(d) of the Toxic Substances Control Act (TSCA, 15 U.S.C. 2607(d)), EPA promulgated a model Health and Safety Data Reporting Rule (40 CFR Part 716). The section 8(d) model rule requires manufacturers, importers, and processors of listed chemical substances and mixtures (henceforth referred to as substances) to submit to EPA copies and lists of unpublished health and safety studies on the listed substances that they manufacture, import, or process. These studies provide EPA with very useful information and have provided significant support for EPA's decisionmaking under TSCA sections 4, 5, 6, 8, and 9.

Detailed guidance for reporting unpublished health and safety data is provided in 40 CFR Part 716. Also found in Part 716 are the reporting exemptions. Listed below are the general reporting requirements of the section 8(d) model rule.

1. Persons who, in the 10 years preceding the date a substance is listed, either have proposed to manufacture, import, or process; or have manufactured, imported, or processed; the listed substance must submit to EPA:

A copy of each health and safety study which is in their possession at the time the substance is listed.

2. Persons who, at the time the substance is listed, propose to manufacture, import, or process; or are manufacturing, importing, or processing the listed substance must submit to EPA:

a. A copy each health and safety study which is in their possession at the time the substance is listed.

b. A list of health and safety studies known to them but not in their possession at the time the substance is listed.

c. A list of health and safety studies that are ongoing at the time the substance is listed and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the date the

substance is listed and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of completion date.

3. Persons who, after the time the substance is listed, propose to manufacture, import, or process the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time they propose to manufacture, import, or process the listed substance.

b. A list of health and safety studies known to them but not in their possession at the time they propose to manufacture, import, or process the listed substance.

c. A list of health and safety studies that are ongoing at the time they propose to manufacture, import, or process the listed substance, and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the time they propose to manufacture, import, or process the listed substance, and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of the completion date.

II. Summary of This Rule

EPA is adding vinyl acetate, CAS 108-05-4, to the list of substances in 40 CFR 716.17. By listing this substance in the section 8(d) model rule, EPA is triggering the model rule's reporting requirements for past, current, and prospective manufacturers, importers, and processors of this substance. The model rule requires manufacturers, importers, and processors of listed substances to submit data within 60 days of the effective date of any amendment to the model rule. Therefore, for this substance, respondents must submit copies and lists of unpublished health and safety data to EPA by April 9, 1986. The health and safety data must be sent to: U.S. Environmental Protection Agency, TSCA 8D-1, P.O. Box 2060, Rockville, MD 20852.

This amendment to the section 8(d) model rule was proposed for public comment in the **Federal Register** of August 8, 1985 (50 FR 32095). Since EPA received no comments, the final rule is published as proposed. The TSCA Assistance Office has received two telephone inquiries concerning the scope of this rule. The callers questioned whether this rule requires the reporting of health and safety studies of the polymers and co-polymers of vinyl acetate. EPA responded that this rule does not require the reporting of any health and safety studies on any polymers or co-polymers of vinyl acetate. This rule only covers unpublished health and safety studies of vinyl acetate, CAS No. 108-05-4.

III. Agency Objectives

Vinyl acetate is a major industrial chemical. It is prepared from petrochemicals and then polymerized and copolymerized with other monomers to produce a wide variety of plastics and resins. EPA currently estimates production of vinyl acetate at 1.9 billion pounds annually. Polymers containing vinyl acetate are used in a wide variety of consumer goods.

Exposure to vinyl acetate can occur during manufacture, importation and processing as well as from residual monomers in consumer goods. In 1978, the National Institute for Occupational Safety and Health estimated that 70,000 U.S. workers were potentially exposed to vinyl acetate. EPA has conducted a preliminary evaluation of the health and environmental risks posed by vinyl acetate as part of its ongoing chemical assessment activities, and has determined that more health and safety information on vinyl acetate is needed in order to adequately assess the degree of risk posed by this chemical. Therefore, EPA has concluded that this current lack of health and safety data and the potential for worker and consumer exposure to the unreacted vinyl acetate monomer is sufficient justification for this information-gathering rule. For additional information concerning the Agency's objectives see the proposed vinyl acetate rule (50 FR 32095).

IV. Economic Impact

EPA estimates that the section 8(d) reporting requirements for vinyl acetate will cost the chemical industry approximately $12,700. This cost estimate may be higher than the actual costs due to relatively conservative assumptions used in the economic analysis concerning the likely number of respondents to the rule. Although EPA has used the best available data to estimate the costs of this rule, much of this data is not current. In view of this, EPA's assumptions tend to overestimate rather than underestimate the reporting burden. The total industry cost is broken down as follows:

Initial corporate review	$7,752
Site identification	684
File search at site	1,323
Title listing	57
Photocopying	286
Managerial review	2,128
Ongoing reporting	456
Total	$12,668

EPA calculates the cost per company for an initial submission of health and safety data at $1,797.

V. Public Record

The following documents constitute the public record for this rule (docket control number OPTS-84017A). All of these documents are available to the public in the OTS Reading Room from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The OTS Reading Room is located at EPA Headquarters, Rm. E-107, 401 M St., SW., Washington, DC.

1. The proposed rule.

2. The chemical hazard information profile for vinyl acetate.

3. Criteria for a recommended standard for vinyl acetate (NIOSH, 1978).

4. Economic analysis.

VI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a regulatory impact analysis. The Agency has determined that this rule is not "major" because it does not have an effect of $100 million or more on the economy. EPA also anticipates that this rule will not have a significant effect on competition, costs, or prices.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities. In a study of submitters reporting under the section 8(d) model rule, EPA found that only 1 of 69 submitters had less than $100 million in sales. EPA does not expect these amendments to affect this distribution. Therefore, in accordance with the Regulatory Flexibility Act (Pub. L. 95-354), EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act of 1980, 44

U.S.C. 3501 *et seq.* and has assigned them OMB Control Number 2070–0004.

List of Subjects in 40 CFR Part 716

Chemicals, Health and safety, Environmental protection, Hazardous substances, Recordkeeping and reporting requirements.

Dated: December 20, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 716—[AMENDED]

Therefore, 40 CFR Part 716 is amended as follows:

1. The authority citation for Part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

2. By adding § 716.17(a)(15) to read as follows:

§ 716.17 Substances and listed mixtures to which this subpart applies.

(a) * * *

(15) As of February 10, 1986, the following chemical substance is added to this subpart.

Substance: Vinyl acetate
CAS Number: 108–05–4

* * * * *

(Approved by the Office of Management and Budget under control number 2070–0004.)

[FR Doc. 85–30719 Filed 12–26–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 171

[Docket No. HM–188B, Notice No. 85–5]

Transportation of Hazardous Materials Between the United States and Canada

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Request for comments on petition for reconsideration.

SUMMARY: The Research and Special Programs Administration (RSPA) recently published amendments to the Department of Transportation's Hazardous Materials Regulations (HMR) in order to permit transportation of hazardous materials between the United States and Canada, with certain conditions and limitations, in accordance with the recently published Canadian Transport of Dangerous Goods Regulations (TDG Regulations). This notice requests public comment regarding a petition for reconsideration filed in connection with these amendments.

DATE: Comments must be received on or before March 1, 1986.

ADDRESS: Address comments to: Dockets Branch, Office of Hazardous Materials Transportation (DHM–53), U.S. Department of Transportation, Washington, D.C. 20590. Comments should be submitted, when possible, in five copies. The Dockets Branch is located in room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, DC. Office hours are 8:30 A.M. to 5:00 P.M., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, International Standards Coordinator, Office of Hazardous Materials Transportation, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 426–0656.

SUPPLEMENTARY INFORMATION: On October 11, 1985, the RSPA published a final rule in the Federal Register under Docket No. HM–188B (50 FR 41516) which permitted, with certain conditions and limitations, the transport of hazardous materials between Canada and the United States in conformance with the TDG Regulations recently published by Transport Canada. The amendments to the HMR published in that final rule imposed no requirements on persons offering or transporting hazardous materials and were intended only to grant relief to such persons and to facilitate the transport of hazardous materials between Canada and the United States by allowing, under certain conditions, hazardous materials to be transported within the United States in conformance with the TDG Regulations.

On November 12, 1985, the RSPA received a petition for reconsideration of this final rule filed in accordance with the provisions of 49 CFR 106.35. The petitioner, Air Products and Chemicals, Inc. (APCI), contends that the RSPA's failure to fully recognize the TDG regulations for certain hazardous materials moving within the United States enroute to Canada constitutes an unnecessary burden on United States shippers and requested that the final rule be modified to grant "full reciprocity" to the TDG Regulations by permitting compliance with the TDG Regulations in lieu of the provisions of the HMR for the shipment to Canada of hazardous materials classed in Divisions 2.3 and 2.4 (i.e. poison and corrosive gases, respectively) of the TDG Regulations.

Although the RSPA questions how a rulemaking that imposes no requirements can be considered to create an unnecessary burden as stated by the petitioner, in accordance with the procedures regarding proceedings on petitions for reconsideration the RSPA has determined to act upon this petition by permitting the public the opportunity to submit comments on the merits of this petition. This course of action has been selected because the modifications sought by the petitioner would allow conformance to the TDG Regulations considerably in excess of that proposed in the notice of proposed rulemaking.

Although the RSPA is not in full agreement with certain of the factual statements in the petition, in order to afford potential commenters the opportunity to consider the merits of the APCI petition, the substantive paragraphs are quoted in the following:

Under the provisions of 49 CFR 106.35, Air Products and Chemicals, Inc. (APCI), wishes to petition for reconsideration of a final rule which appeared in the **Federal Register** of 11 October 1985 under the above referenced docket number. The final rule is very burdensome on U.S. shippers of poison gases (2.3) and corrosive gases (2.4) to Canada.

Paragraph 171.12a(a) allows shipments of hazardous materials (dangerous goods) which originate in Canada to be classed, packaged, marked, labeled, placarded, and described on a shipping paper in accordance with TDG Regulations with certain additional requirements. The TDG Regulations allow shipments to enter Canada if in accordance with 49 CFR for all hazard classes with the exception of hazard classes 2.3 (poison gases) and 2.4 (corrosive gases). Paragraph 171.12a(c) of the final rule allows U.S. shippers to use Canadian Poison Gas and Corrosive Gas labels and placards for shipments enroute to Canada. The final rule does not allow the U.S. shipper to use Canadian package markings and shipping paper descriptions for gases in 2.3 and 2.4 classifications. This failure to authorize Canadian markings and documentation creates an unnecessary burden on U.S. shippers to Canada and creates the possibility of conflicting information on package markings and shipping papers.

Two examples will illustrate this point:

1. Some compressed gas mixtures are most appropriately shipped to Canada under proper shipping name "Compressed gases, toxic, n.o.s." (UN 1955) which is listed in both the TDG regulations and IMD regulations (M1.102) (sic) but which is not listed in 172.101. In the U.S. the proper shipping name is "Compressed gas, n.o.s., nonflammable gas" (UN 1956). Under the final rule, the U.S. shipper must comply with both 49 CFR and TDG for marking and shipping papers. This requires dual marking on packages and dual descriptions on shipping papers. The markings do not agree and even worse, two different UN identification numbers are displayed on the package. Likewise, shipping papers will contain conflicting information.

2. A compressed gas such as Silane also illustrates this problem. Under 49 CFR, silane is shipped as "Compressed gas, n.o.s.,

flammable gas, UN 1954" because silane is not listed by name in Table 172.101. However, TDG lists Silane by name, classifies it as 2.3 (Poison Gas) and shows UN identification number 2203. Again, for shipments to Canada, package markings and shipping papers will show two proper shipping names and two conflicting identification numbers.

APCI believes that 171.12a(c), as currently written, is unnecessarily restrictive and, as illustrated above, creates confusion. We wish to petition for an amendment to this paragraph which would allow TDG classification, packaging, marking, and documentation for gases in the 2.3 and 2.4 classifications. We believe this amendment to be justified for the following reasons:

1. Shipments from Canada to the U.S.A. are given complete reciprocity. We see no reason why complete reciprocity cannot be given to shipments from the U.S.A. to Canada.

2. As has been mentioned on numerous occasions, the UN identification number is the key to the identification of hazardous materials and the key to the appropriate response in the event of an accident, spill or leak.

3. Conflicting shipping names on packages and documents will undoubtedly raise questions with regulatory authorities and cause delays while explanations are sought. In the event of an accident or incident, conflicting information may be a detriment to safety. Use of one shipping name with the appropriate identification number would solve these potential problems.

In view of the foregoing, APCI believes that paragraph 171.12a(c) must be amended to authorize use of TDG regulations for shipments of 2.3 and 2.4 gases from the United States to Canada.

Comments are invited regarding the desirability of amending § 171.12a(c) as requested by APCI. Information is also requested regarding the overall magnitude of the problems described by APCI and the seriousness of the "burdens" the present regulations impose.

(49, U.S.C. 1803, 1804, 1808; 49 CFR 1.53, unless otherwise noted)

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

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 85-30692 Filed 12-26-85; 8:45 am]

BILLING CODE 4910-60-M

49 CFR Part 173

[Docket No. HM-172B; Amdt. No. 173-194]

Cylinder Retester Identification Procedures; Delay of Effective Date

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Delay of effective date.

SUMMARY: RSPA published a final rule in the **Federal Register** on November 6, 1985, (50 FR 46054), under Docket HM-172B (FR Document 85-26499). The amendments concerned DOT's ability to provide safety oversight of cylinder retesting, and the implementation of procedures and requirements to identify persons who retest DOT cylinders. The final rule has an effective date of January 15, 1986. A petition has been received from the Cylinder Specification Committee of the Compressed Gas Association requesting that an additional 90 days be provided for the effective date of the rule so that special dies containing the individual retester's identification number may be obtained by the companies involved.

In consideration of foregoing, RSPA grants the petition and hereby extends the effective date of the final rule isued under Docket HM-172B, Amendment No. 173-194, to April 15, 1986.

EFFECTIVE DATE: April 15, 1986.

FOR FURTHER INFORMATION CONTACT: Marilyn Morris, Exemptions and Regulations Termination Branch, Standards Division, Office of Hazardous Materials Transportation, Washington, DC 20590 (202-426-2075).

Issued in Washington, DC, on December 20, 1985, under authority delegated in 49 CFR 1.53(b).

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 85-30691 Filed 12-26-85; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 387 (Sub-No. 958)]

Exemption From Regulation; Shipments Subsequently Made Subject to a Contract Rate

AGENCY: Interstate Commerce Commission.

ACTION: Final rule and exemption.

SUMMARY: The Commission is amending its regulations at 49 CFR Part 1039 by adding new section 1039.19, which exempts the waiver of undercharges or payment of reparations representing the difference between tariff charges and a subsequent contract rate when: (1) A railroad and shipper have agreed to a contract; (2) the shipment moved before the contract was filed with the Commission; and (3) the contract was subsequently filed with the Commission and approved under 49 U.S.C. 10713.

EFFECTIVE DATE: January 27, 1986.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: The text of the final rule follows as an appendix to this notice.

Additional information is contained in the Commission's full decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

This action will not have a significant economic impact on a substantial number of small entities, and will not significantly affect the quality of the human environment or energy conservation.

List of Subjects in 49 CFR Part 1039

Railroads, Contracts, Reparations, Undercharges, Exemptions.

Authority: 5 U.S.C. 553, 49 U.S.C. 10321, 10505, and 10713.

Decided: November 20, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Commissioner Strenio concurred with a separate expression. Commissioner Lamboley concurred in part and dissented in part with a separate expression. Chairman Taylor dissented in part with a separate expression. Commissioner Simmons dissented in part with a separate expression.

James H. Bayne,

Secretary.

Appendix A

PART 1039—[AMENDED]

Title 49 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 49 CFR 1039 continues to read as follows:

Authority: 49 U.S.C. 10321, 10505, 10713, 10762 and 11105; 5 U.S.C. 553.

2. Paragraph 1039.2(e) is amended by revising the first sentence to read as follows:

§ 1039.2 Contract implementation date.

* * * * *

(e) Except as provided in § 1039.19, transportation or service may not begin under a contract or an amendment to a contract before the filing date of either the contract or the amendment, respectively.

3. By adding new § 1039.19 to read as follows:

§ 1039.19 Transportation of shipments subsequently made subject to a contract rate.

Railroad transportation or service is exempt from the requirements of 49 U.S.C. 10761, 11902, 11903, and 11904 to the extent that a railroad may apply a contract or amended contract rate rather than an otherwise applicable tariff rate, and accordingly, pay reparations or waive undercharges, under the following conditions:

(a) A transportation contract under 49 U.S.C. 10713 has been filed with the Commission and has been approved by the Commission or by operation of law; and

(b) The shipment at issue falls within the terms of the contract; and

(c) The shipment was transported before the contract was approved but:

(1) After the contract was signed; or

(2) After the parties agreed on the rate to be charged and they either agreed to be bound by the contract or intended the movement to be covered by it.

Appendix B—Parties Submitting Comments

Railroads and Railroad Associations

Association of American Railroads, Union Pacific Railroad Company, Missouri Pacific Railroad Company, Chicago and North Western Transportation Company, Consolidated Rail Corporation, The Chessie System, and Seaboard System Railroad, Inc., Norfolk and Western Railway Company, Southern Railway Company, and The Pittsburgh and Lake Erie Railroad Company.

Ports

Houston Port Bureau, Inc.

Shippers and Shipper Associations

Northwestern Steel and Wire Company, Stupp Corporation, Phillips Petroleum Company, FMC Corporation, Union Carbide Corporation, International Minerals and Chemical Corporation, Farmland Industries, Inc., Dow Chemical Company, LTV Steel Company, Inc., Westvaco, Ralston Purina Company, Empire-Detroit Steel Division, American Bakers Association, American Furniture Manufacturers Association, United States Steel Corporation, Armco, Inc., Western Coal Traffic League, The Committee on Transportation and Distribution of the Society of the Plastics Industry, Inc., Bethlehem Steel Corporation, Weyerhaeuser Company, Tennessee Eastman Company, and CF Industries.

State Agencies

Nebraska Public Power District and Platte River Power Authority.

[FR Doc. 85-30619 Filed 12-26-85; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 50, No. 249
Friday, December 27, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 352

Reemployment Rights

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is updating its regulations to permit Federal agencies to grant reemployment rights to Senior Executive Service Employees who take other civilian employment under certain circumstances. The proposed regulations would make the reemployment of SES employees comparable to the existing rights of other civilian employees.

COMMENT DATE: February 25, 1986.

ADDRESS: Send or deliver written comments to Richard B. Post, Associate Director for Staffing, Office of Personnel Management, Room 6F08, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: John Schultz, 202-632-6817.

SUPPLEMENTARY INFORMATION: Title 5 of the Code of Federal Regulations, Part 352, permits a Federal agency to grant reemployment rights to nontemporary Federal employees in both the competitive and excepted service under terms and conditions specified by law when they accept special assignments or other hard to fill positions outside their agenices. These regulations predate the establishment of the SES in 1979 (see 5 U.S.C. 3131) and therefore have no reference to SES employees. This document updates these regulations to bring SES employees within the coverage of Part 352.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

List of Subjects in 5 CFR Part 352

Administrative practice and procedure, Government employees.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, the Office of Personnel Management is proposing to amend Part 352 of Title 5, Code of Federal Regulations, as follows:

PART 352—REEMPLOYMENT RIGHTS

1. The authority citation for Part 352 is revised to read as follows:

Authority: 5 U.S.C. 3101 note, 3131 *et seq.* 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.

2. Section 352.204 is amended by redesignating paragraph (a)(2) as (a)(3), adding a new paragraph (a)(2), and revising paragraph (b)(1) to read as follows:

§ 352.204 Basic eligibility for reemployment rights.

(a) * * *

(2) An employee serving under a career appointment in the Senior Executive Service (SES); or

* * * * *

(b) * * *

(1) An employee who is serving a probationary or trial period under an appointment to a position in the excepted or competitive service or the SES.

* * * * *

3. Section 352.205a is revised to read as follows:

§ 352.205a Authority to return employee to his or her former or successor agency.

The transfer of an employee with a grant of reemployment rights under this subpart authorizes the return of the employee to his or her former or successor agency without regard to Parts 351, 752, or 771 of this chapter when the employee is reemployed in his or her former or successor agency—

(a) Without a break in service of 1 workday or more in a position at the same or higher grade in the same occupational field and geographical area as the position he or she last held in the former or successor agency; and

(b) At not less than the rate of pay he or she would have been receiving in the position last held in the former or successor agency if he or she had not been transferred.

4. Section § 352.205b is added to read as follows:

352.205b Authority to return as SES employee to his or her former or successor agency.

The transfer of a career SES appointee with a grant of reemployment rights under this subpart authorizes the return of the employee to his or her former or successor agency when the employee is reemployed in his or her former or successor agency—

(a) Without a break in service of 1 workday or more in any position in the SES for which the employee is qualified; and

(b) At not less that the SES pay level at which the employee was being paid immediately before his or her transfer.

5. Section 352.208 is amended by revising paragraph (a); redesignating paragraphs (c) and (d) as (d) and (e), respectively; and adding a new paragraph (c) to read as follows:

§ 352.208 Agency's obligation to reemploy.

(a) *Employee's right to reemployment.* An employee is entitled to be reemployed by the reemploying agency as promptly as possible but not more than 30 calendar days after receipt of his application. Except as provided in paragraph (c), the employee is entitled to reemployment in the occupational field and at the same grade or level and in the same geographical area as the position which the employee last held in that agency. If the reemployment would cause the separation or demotion of another employee, the applicant shall then be considered an employee for the purpose of applying the reduction-in-force regulations (5 CFR Part 351) to determine to what, if any, position, he or she is entitled.

* * * * *

(c) *Reemployment in SES.* When the employee's right is to a position in the SES, reemployment or return may be to

any position in the SES for which the employee is qualified.

* * * * *

6. Section 352.305 is revised to read as follows:

§ 352.305 Eligibility for detail.

An employee, including a person serving under a career appointment in the Senior Executive Service (SES), is eligible to be detailed to an international organization with the rights provided for in, and in accordance with, section 3343 of title 5, United States Code, and this subpart.

7. Section 352.307 is amended by redesignating paragraphs (c), (d), and (e) as (d), (e), and (f), respectively, and adding a new paraghraph (c) to read as follows:

§ 352.307 Eligibility for transfer.

* * * * *

(c) A person serving under a noncareer, limited emergency, or limited term appointment in the SES.

* * * * *

8. Section 352.311 is revised to read as follows:

§ 352.311 Reemployment.

(a) A transferred employee is entitled to be reemployed in his or her former position or one of like seniority, status, and pay within 30 days of his or her application for reemployment if he or she meets the following conditions:

(1) He or she is separated, either voluntarily or involuntarily, within his or her term of employment with an international organization; and

(2) He or she applies for reemployment to his or her former agency or its successor no later than 90 days after his or her separation.

(b) When an employee's right is to a position in the SES, reemployment or return may be to any position in the SES for which the employee is qualified. The employee shall be returned at not less than the SES pay level at which the employee was being paid immediately before his or her transfer.

9. In § 352.405, paragraph (a) is revised to read as follows:

§ 352.405 Resumption of Federal services.

(a) *Pay increase.* Except for an employee whose right is to a position in the Senior Executive Service (SES), an officer who is reemployed in the Federal position which he or she left or one of like seniority, status, and pay within 90 days of his or her separation from the agency following a term of employment, is entitled to the rate of basic pay to which he/she would have been entitled had he or she remained in the Federal service. When the employee's right is to a position in the SES, this subpart authorizes reemployment to any position in the SES for which the employee is qualified at not less than the SES pay level at which the employee was being paid immediately before his or her transfer.

10. Section 352.502 is amended by redesignating paragraphs (b) and (c) as (c) and (d), respectively, and by adding a new paragraph (b) to read as follows:

§ 352.502 Coverage.

* * * * *

(b) A person serving under a career appointment in the Senior Executive Service (SES).

* * * * *

11. Section 352.504 is revised to read as follows:

§ 352.504 Basic entitlement.

Subject to the conditions specified in this subpart, an employee who is appointed to a position under authority of section 233(d) or section 625(b) of the Act is entitled, on termination of that appointment for any reason other than his or her own misconduct or delinquency, to be reinstated in his or her former position or in one of like seniority, status, and pay in the same agency. When the employee's right is to a position in the SES, reinstatement may be to any position in the SES for which the employee is qualified. The employee shall be returned at not less than the SES pay level at which the employee was being paid immediately before his or her transfer. If the functions with which the employee's former position was identified have been transferred to another agency, the employee's right to reinstatement is in the gaining agency.

12. Section 352.703 is amended by revising the introductory texts to paragraph (a) and adding paragraph (a)(3) to read as follows:

§ 352.703 Basic entitlement to reemployment rights on leaving Federal employment.

(a) *Employees entitled.* The following employees of the Bureau of Indian Affairs, Department of the Interior, and the Indian Health Service and the Public Health Service of the Department of Health and Human Services, are granted reemployment rights subject to the condition of this subpart, to the Bureau of Indian Affairs, the Indian Health Service, or the Public Health Service, as appropriate, if they leave their Federal Employment to be employed, with no break in service following separation from their agency, by an Indian tribal organization to work in a funcation of their respective agency contracted under the Indian Self-Determination Act to be performed by that tribal organization:

* * * * *

(3) An employee serving under a career appointment in the Senior Executive Service (SES) who is not serving a probationary period.

* * * * *

13. Section 352.706 is amended by redesignating paragraphs (d) and (e) and (f) respectively; and adding a new paragraph (d) to read as follows:

§ 352.706 Agency response to reemployment application.

* * * * *

(d) *Reemployment to an SES position.* When the employee's right is to a position in the SES, reemployment or return may be to any position in the SES for which the employee is qualified. The employee shall be returned at not less than the SES pay level at which the employee was being paid immediately before his or her transfer.

* * * * *

[FR Doc. 85-30677 Filed 12-26-85; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 85-386]

Africanized Honey Bee; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Domestic Quarantine Notices by removing the "Africanized Honey Bee" regulations. These regulations quarantine a portion of Kern County in California because of the Africanized honey bee, and restrict the insterstate movement of bees of the genus *Apis* (in any life stage) and certain other regulated articles from the quarantined portion of Kern County. It appears that bees in the quarantied area no longer a threat to other bees, and that the regulations are no longer necessary.

DATES: Written comments concerning this proposal must be received on or before January 27, 1986.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal

Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 85–386. Written comments received may be inspected at Room 728, of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

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

SUPPLEMENTARY INFORMATION: A document published in the **Federal Register** on August 20, 1985 (50 FR 35507–35512) set forth an interim rule amending the Domestic Quarantine Notice in 7 CFR Part 301 by adding "Africanized Honey Bee" regulations (7 CFR 301.94 *et seq.;* referred to below as the regulations). The regulations quarantine a portion of Kern County in California because of the Africanized honey been and restrict the interstate movement of the following articles from the quarantined portion of Kern County:

(a) Bees of the genus *Apis,* in any life stage;

(b) Fresh or frozen bee sperm;

(c) Equipment, and shipping and storage containers that have been used at an apiary;

(d) Unporcessed comb;

(e) Vehicles that have been used to carry regulated articles other than fresh or frozen bee sperm; and

(f) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraphs (a) through (e) of this section, when it is determined by an inspector that it present a risk of spread of the Africanized honey bee and the person in possession therof has actual notice that the product, article, or means of coveyance is subject to the restrictions of this subpart.

The following portion of Kern County is designated as a quarantined area:

That portion of the county beginning at a point where Graces Highway intersects Corcoran Road; then west along an imaginary line from said point to the northwest corner of sec. 14, T. 25 S., R. 19 E.; then south along an imaginary line from said corner to the southwest corner of sec. 35, T. 28 S., R. 19 E.; then east from said corner along an imaginary line to its intersection with Seventh Standard Road; then east along said road to the southwest corner of sec. 31, T. 28 S., R. 23 E.; the north from said corner alaong an imaginary line to its intersection with Graces Highway; then west along said highway to the point of beginning.

Africanized honey bees are very difficult to manage. Due to their nervousness, aggressiveness, and defensiveness, theya re a danger to humans and animals. They also have a much greater tendench to swarm then other bees and often abscond without leaving any bees in the colony. The difficulty in managing Africanized honey bees and their tendency to abscond result in severe decreases in pollination services. This can severely damage important agricultural commodities that depend upon pollination by bees for production. These agricultrual commodities include forage crops, fruits, vegetables, oil crops, and fiber crops.

It now appears that there is no longer a need to regulate the interstate movement of bees of the genue *Apis* or other articles because of the Africanized honey bee. Based on surveys conducted by the Department and the California Department of Food and Agriculture it has been determined that all honey bees in the quarantined area with a high probability of Africanization have been destroyed. The surveys also establish that the probability of finding honey bees with Africanized characteristics is continually decreasing. It further appears that any remaining honey bees in the quarantined area that could still cause a degree of Africanization have intermixed with other nonAfricanized honey bees and have sufficiently lost the characteristics of Africanized honey bees so as not to be a threat to other bees.

Under the circumstances referred to above, this document proposes to remove the regulations.

The document of August 20 which established the regulations, indicated that comments would be accepted for a 60-day period, which ended October 21, 1985.

Two comments were received. One commenter expressed support for the regulations. The other commenter asserted that the interstate movement of regulated articles should be restricted from all of Kern County, and further asserted that bees moving interestate from California should be required to be accompanied by a document stating the county of origin of the bees. Since this document proposes to remove the regulations, no changes in the regulations have been considered based on the comments.

Executive Order 12291 and Regulatory Flexibility Act

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

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

This proposed rule effects the enterstate movement of regulated articles from a portion of Kern County in California. The regulated articles that are affected by this proposed rule represent significantly less than 1 percent of such articles in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this proposed rule would 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).

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

Agricultural commodites, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Africanized Honey Bee.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, it is proposed to amend 7 CFR Part 301 by removing "Subpart—Africanized Honey Bee" (§§ 301.94–301.94–9)

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51 and 371.2(c).

Done at Washington, DC, this 20th day of December 1985.

William F. Helms,

Acting Depoty Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 85-30583 Filed 12-26-85; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-29-AD]

Airworthiness Directives; Mooney Models M20 and M20A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of NPRM comment period.

SUMMARY: This action extends the comment period of the subject NPRM which provides for inspections and proof load testing of the wooden primary structure Mooney Models M20 and M20A airplanes to preclude structural failure.

DATES: Extends comment period of Docket No. 85-CE-29-AD to February 14, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Garry D. Sills, Aerospace Engineer, Airplane Certification Branch, ASW-150, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101; Telephone (817) 877-2073.

SUPPLEMENTARY INFORMATION: The FAA issued an NPRM on August 26, 1985, applicable to Mooney Models M20A and M20 Airplanes was published in the **Federal Register** on September 4, 1985 (50 FR 35830). The comment period closed December 9, 1985. This Notice would require inspections and proof load testing of the wooden primary structure to preclude structural failure.

Subsequent to the closing date for comments on this NPRM, a request was received from the Aircraft Owners and Pilots Association to extend the comment period to allow additional time to comment on the proposed rule.

The FAA believes it is in the public interest to reopen and extend the comment period in order to allow any comments deemed necessary. This document involves only an extension of a comment period for a proposed regulation. Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A regulatory evaluation has not been prepared for this action as the anticipated impact is so minimal.

List of Subjects in 14 CFR 39

Air Transportation, Aviation safety, Aircraft, Safety.

Adoption of Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR by revising the effective date of the comment period for Docket No. 85-CE-29-AD as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new date for comment:

Dates: Comments must be received on or before February 14, 1986.

Issued in Kansas City, Missouri, on December 18, 1985.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 85-30547 Filed 12-26-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ASO-27]

Proposed Alteration of Control Zone, Anniston, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to reduce the size of the Anniston, Alabama, control zone arrival extension. The arrival extension, as presently described, was predicated upon an instrument approach procedure which was based on the Anniston radio beacon. The radio beacon was decommissioned several months ago due to on-airport construction and the associated instrument approach procedure was cancelled. While an arrival extension is still required for another existing instrument approach procedure, it requires much less airspace. Thus, the floor of controlled airspace in an area southwest of the airport may be raised from the surface to 700 feet above the surface. In addition, the present description of the control zone contains a provision which permits use of the FAA's Notice to Airmen (NOTAM) system to publicize the effective days and hours of the control zone. As the Anniston Flight Service Station, which is located on the airport, operates on a full-time basis, this NOTAM provision is no longer required and will be removed from the control zone description.

DATES: Comments must be received on or before: February 10, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-ASO-27." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available

for examination in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will greatly reduce the size of the arrival extension associated with the Anniston, Alabama, control zone. The geographical coordinates of the airport will be corrected in this action as those presently listed are slightly in error. In addition, the provision which permits changes in hours of operation of the control zone by NOTAM will be removed from the description. Section 71.171 of Part 71 of the Federal Aviation Regulations was published in FAA Order 7400.6A dated January 2, 1985.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the Federal Aviation Regulation (14 CFR Part 71) 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 11.65]; 49 CFR 1.47.

§ 71.171 [Amended]

2. By amending § 71.171 as follows:

Anniston, AL—[Revised]

Within a 5-mile radius of Anniston-Calhoun County Airport (lat. 33°35'17" N., long. 85°51'29" W.); within 2 miles each side of the Anniston southwest localizer course, extending from the 5-mile radius zone to the LOM.

Issued in East Point, Georgia, on December 17, 1985.

William H. Pollard,

Deputy Director, Southern Region.

[FR Doc. 85-30545 Filed 12-26-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ASO-28]

Proposed Alteration of Transition Area, Lawrenceburg, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Lawrenceburg, Tennessee, transition area by revising the coordinates of the airport and reducing the size of the associated transition area arrival extension. The coordinates of the airport are inaccurate and this action will correct the error. The Lawrenceburg radio beacon, which was previously located 1.4 miles north of the airport, has been relocated to a on-airport site. This relocation required a change in the instrument approach procedures which, in turn, permits a reduction in the size of the transition area arrival extension. Thus, the floor of controlled airspace north and northwest of the airport, may be raised from 700 to 1,200 feet above the surface.

DATES: Comments must be received on or before: February 10, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530 P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rule making by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-ASO-28." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division , P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the

notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) which will correct the geographical coordinates of Lawrenceburg Municipal Airport and raise the floor of controlled airspace north and northwest to the airport from 700 to 1,200 feet above the surface. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6A dated January 2, 1985.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 contnues 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 11.65]; 49 CFR 1.47.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Lawrenceburg, TN—[Revised]

That airspace extending upwards from 700 feet above the surface within a 7-mile radius of Lawrenceburg Municipal Airport (Lat. 35°14'07" N., Long. 87°15'30" W.); within 3 miles each side of the 005° bearing from Lawrenceburg RBN (Lat. 35°14'08" N., Long. 87°15'39" W.), extending from the 7-mile radius area to 8.5 miles north of the RBN.

Issued in East Point, Georgia, on December 17, 1985.

William H. Pollard,

Deputy Director, Southern Region.

[FR Doc. 85-30544 Filed 12-26-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 105

[Docket No. 24873; Notice No. 85-26]

Requirements for Parachute Jumps in Terminal Control Areas and Reporting Altitudes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to require ATC authorization for nonemergency parachute jumps in or into terminal control areas (TCA). Such authorization is currently required for other categories of controlled airspace and serves to prevent uncontrolled jumps in areas of heavy aircraft traffic. The proposed amendment would also require that aircraft operators and parachutists, as appropriate, provide notice of altitude information in terms of man sea level (MSL). Currently, altitudes are sometimes reported in levels above the ground, leading air traffic controllers and other pilots to misunderstand the altitude of the jump relative to other flight activity in the area. This proposal would make altitude reporting of jump activities consistent with other altitude terminology used by pilots and controllers.

DATES: Comments must be received on or before February 25, 1986.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24873, 800 Independence Avenue S.W., Washington, DC 20591; or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue SW., Washington, DC. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Gene Falsetti, Airspace and Air Traffic Rules Branch, 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:

Comments Invited

Interested persons are invited to participate in the proposal by submitting such written data, views, or arguments as thay may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned decisions on the proposals. Comments are specifically invited on the overall economic, environmental, and energy aspects of the proposals. Communications should identify the notice number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24873." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered by the administrator before taking any further action on the proposal. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this proposal will be filed in the docket.

Availability of MPRM

Any person may obtain a copy of this MPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention, Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further notices should also request a copy of Advisory Circular No. 11-2, "Notice of Proposed Rulemaking Distribution System," which describes the application procedures.

Background

Parachute Jumping in TCAs

The TCA program was established in 1970 to help prevent midair collisions in terminal areas which contained a high volume of traffic. Aircraft may not enter

TCA airspace without specific air traffic control (ATC) authorization, and they must be equipped with specific radio and navigation equipment to allow ATC to separate them from other aircraft. The TCA program does not currently address the problem of separating TCA aircraft traffic from parachute jumpers who, because of the lack of a requirement in Part 105, may jump in or into TCA airspace without prior ATC authorization.

Currently, §§ 105.19, 105.20, and 105.21 of Federal Aviation Regulations (FAR) Part 105, require that ATC authorization be obtained before parachute jumps may be conducted in or into control zones, airport radar service areas (ARSA), and positive control areas. This proposal would impose a similar requirement for jumps in or into TCAs, thereby providing ATC with added flexibility to ensure separation of air traffic and parachute operations in TCA airspace. The ATC authorization would be granted or denied on the basis of the details contained in the notice and in conjunction with the air traffic situation confronting ATC at the time of the planned jump. The authorization could be issued in writing, by telephone, or as is more likely, by radio to the jump aircraft.

Unauthorized, uncontrolled parachute jumping activity is operationally incompatible with the nature of TCA airspace. Except for certain helicopter operations, ATC separation services are meant to be provided to all airspace users within a TCA to reduce the probability of midair collisions. Under current regulations, the pilot of a jump aircraft need only obtain ATC authorization to enter a TCA. Even this authorization is not required if the jump aircraft is operating above the TCA ceiling. In the absence of specific ATC authorization requirements, jumping in or into a TCA may begin at pilot or jumper prerogative, without permission from ATC.

Experience indicates that the vertical trajectory, near invisibility, and lack of maneuverability of free-falling jumpers make it extremely difficult for pilots to see and avoid them. For example, on August 23, 1980, a free-falling parachutist was killed when he collided with a Lockheed 382 cargo airplane. That accident occurred in clear Visual Flight Rules weather in airspace beneath the floor of the San Diego TCA. Although the accident did not occur within TCA airspace, it demonstrated the accident potential of an unknown, uncontrolled jump within TCA airspace even under good weather conditions. Under marginal weather conditions or at night, visual separation between aircraft and parachute jumpers is even more difficult.

This proposal would make parachute jumping in or into the TCA subject to ATC authorization just as now required in control zones, ARSAs and positive control areas. It would thus make the rule regarding parachute jumping consistent with the safety-related concept and purpose of a TCA.

Altitude Notice Information

Currently, ATC authorization is required before jumping in or into control zones, ARSAs and positive control areas. In addition to authorization, notice is required for jumps in all airspace. In all cases, certain specific information is required to be submitted with the notice. One item to be included in jump information is the altitude in terms of above ground level (AGL) at which jumping will take place.

The requirement to submit altitude information in terms of AGL can create the potential for confusion. Some pilots of jump aircraft have reported actual operating altitude to ATC while in flight in terms of AGL rather than MSL. It is possible this has occurred because of the notice requirement which states that altitude information must be given in terms of AGL. The confusion factor could be hazardous. In the flight environment, flight altitudes are expressed in terms of MSL. Therefore, controllers may naturally expect that altitudes reported by jump aircraft are also in terms of MSL. The provision of altitude information in terms of AGL can create the serious potential for a midair collision between parachutists, the aircraft carrying parachutists, and other aircraft operating in the vicinity. That danger was initially documented in a 1978 National Aeronautics and Space Administration Alert Bulletin (AB–78–54).

Subsequent to the alert bulletin, the FAA took action to alert pilots and controllers to the problem through nonregulatory means. FAA Advisory Circular 105–2A, SPORT PARACHUTE JUMPING now advises pilots to report all altitudes to ATC in feet above mean seal level. Advisory information was published on the AGL/MSL problem in the publication GENERAL AVIATION NEWS and also in the AIRMAN'S INFORMATION MANUAL. In addition, the United States Parachute Association published an advisory note concerning the problem in its PARACHUTIST magazine.

The nonregulatory actions were effective but they are not considered a long range solution or means of eliminating the potential for pilots to misinterpret the pertinent FARs. Accordingly, there is a need to ensure a uniform, universal, and unmistakable MSL altitude reporting standard in the Part 105 notice requirement. This proposal would accomplish that objective by substituting the MSL reference for the AGL reference.

If implemented, this proposal would entail a substitution of terms in an existing notice requirement and application of an ATC authorization requirement to make a nonemergency jump in a TCA. Little or no impact is seen regarding the change in notice terms since no new requirement is imposed and since the substitution of terms is seen as making no greater economic, energy, cost or reporting demand on parachutists. The ATC authorization requirement is also seen as having minimal impact. This provision would apply to a limited amount of nonemergency sport parachutist operations. There are presently 23 TCAs in the country with no current plans for increasing their number. Within the TCAs, there are relatively few published parachute jumping areas, usually two or less in each TCA. The areas that are published are generally located away from the primary airport and from primary arrival and departure routes. In addition, the proposed rule would make no change to the requirement that ATC authorization be obtained before entry into a TCA. It would only require that an ATC authorization be obtained before jumping begins. The proposed rule would help maintain the integrity of the TCA by ensuring that parachute operations are conducted free of traffic conflicts and are safely integrated into a positive separation environment that includes all other airspace activity. A draft regulatory evaluation of this proposal has been placed in the docket.

For the reasons set forth in the preamble to this proposal, the FAA has determined that this document involves a proposed regulation which is—(1) not major under Executive Order 12291, and (2) not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979); and I certify that under the criteria of the Regulatory Flexibility Act, this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entites. A copy of the regulatory evaluation prepared for this action may be obtained by contacting the person identified above under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 105

Parachuting, Air traffic control.

The Proposal

In consideration of the foregoing, it is proposed to amend Part 105 of the Federal Aviation Regulations as follows:

PART 105—[AMENDED]

1. The authority citation for Part 105 is revised to read as follows:

Authority: 49 U.S.C. 1348, 1354, and 1421; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. By revising the title of § 105.21 to read as follows:

§ 105.21 Jumps into or within positive control areas and terminal control areas.

3. In § 105.21, paragraph (a) is revised to read as follows:

§ 105.21 Jumps into or within positive control areas and terminal control areas.

(a) No person may make a parachute jump, and no pilot in command of an aircraft may allow a parachute jump to be made from that aircraft, in or into a positive control area or terminal control area without, or in violation of, an authorization issued under this section.

* * * * *

4. In § 105.25, paragraph(a)(4) is revised to read as follows:

§ 105.25 Information required, and notice of cancellation or postponement of jump.

(a) * * *

(4) The altitudes above mean sea level at which jumping will take place.

* * * * *

Issued in Washington, DC, on November 18, 1985.

John R. Ryan,

Director, Air Traffic Operations Service.

[FR Doc. 85-30541 Filed 12-26-1985; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM86-3-000]

Ceiling Prices; Old Gas Pricing Structure

Issued December 20, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of procedural schedule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is establishing the schedule for public comment on a Notice of Proposed Rulemaking issued by the Department of Energy under section 403 of the Department of Energy Organization Act, 42 U.S.C. 4273 (1982), for action by the Commission. 50 48540 (Nov. 25, 1985). Under the Secretary's proposed rule, the Commission would exercise its authority: (1) Under sections 104 and 106 of the Natural Gas Policy Act of 1978 (NGPA), to establish just and reasonable prices for "flowing" old gas, and (2) under section 107 of the NGPA, to establish incentive prices for certain categories of old gas. Under the proposal, the Commission would act to eliminate vintaging and replace the current myrid of old gas ceiling prices with a single ceiling price (the ceiling price for post-1974 gas). In addition, the Commission would establish incentive prices for certain categories of old gas, in order to increase significantly the production of old gas and to encourage long-term investment in natural gas exploration, development, and production.

DATES: Written comments must be received by the Commission by February 25, 1985. A public conference on the rule will be announced at a later date.

ADDRESSES: All filings should refer to Docket No. RM86-3-000, and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8400.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Protection Regulatory Commission (Commission) is establishing a procedural schedule for addressing the Notice of Proposed Rulemaking issued by the Secretary of Energy under section 403 of the Department of Energy (DOE) Organization Act, 42 U.S.C. 4273 (1982), for action by the Commission. 50 FR 48540 (Nov. 25, 1985). The Commission also requests specific comments on the interrelationship between this proposal and the Commission's ongoing proceeding in Docket No. RM85-1-000 (Part D) regarding billing of purchased gas costs. 50 FR 24130 (June 7, 1985) and 50 FR 42372 (Oct. 18, 1985).

II. Background

On May 30, 1985, the Commission issued a Notice of Proposed Rulemaking (NOPR) in Docket No. RM85-1-000 (Parts A-D). Final action was taken on Parts A-C in the Commission's Order No. 436, on October 9, 1985. 50 FR 42372 (Oct. 18, 1985), *reh'g*, issued December 12, 1985. In a separate document, the Commission requested supplemental comments on Part D of the proposal. Part D proposed a new requirement that gas supplies subject to the maximum lawful prices of sections 104, 106(a), and 109 of Natual Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3314, 3316(a), and 3319 (1982), be billed separately from all other gas supplies.

On November 18, 1985, the Secretary of Energy proposed, under section 403 of the DOE Organization Act, that the Commission exercise its authority:

1. Under sections 104 and 106 of the NGPA, to establish just and reasonable prices for "flowing" old gas; and

2. Under section 107 of the NGPA, to establish incentive prices for certain categories of old gas.

Under the Secretary's proposal, the Commission would also act to eliminate vintaging and replace the different old gas ceiling prices with a single ceiling price. According to the Secretary, adoption of its proposal would establish incentive prices for certain categories of old gas, in order to increase significantly the production of old gas and to encourage long-term investment in natural gas exploration, development, and production.

Persons interested in the Secretary's proposals are directed to the **Federal Register** of November 25, 1985. 50 FR 48540.

III. Request for Specific Comments

Although the Commission is interested in receiving comments generally on the Secretary's proposal, the Commission is particularly interested in obtaining information on the following:

A. Please comment on the Commission's legal authority to adopt the Secretary's proposal, including the legal authority to establish new just and reasonable rates for NGPA sections 104 and 106(a) gas and to eliminate vintaging. Assuming the Commission has the legal authority, what type of record support must the Commission have to adopt such a proposal.

(1) In determining just and reasonable rates for NGPA sections 104 and 106(a) gas and in eliminating vintaging, to what extent may the Commission rely on non-cost-based factors such as market factors.

(2)(a) the cost-based methodologies used in the past by the Commission to establish just and reasonable rates were

developed in the context of different market needs, different competitive conditions and a different regulatory framework than those which exist today. The Commission requests comments on the legal and practical effects of using prior methodologies for making contemporary determinations of just and reasonable rates for NGPA sections 104 and 106(a) gas.

(b) The Commission also requests suggestions for any other methodologies for determining just and reasonable rates not only for contemporary market needs and conditions but also future conditions.

(3) Can the Commission find that a new just and reasonable rate for NGPA sections 104 and 106(a) gas is not automatically triggered by existing indefintie price esacalator clauses in interstate gas contracts?

B. The Commission is particularly interested in obtaining information relating to the interrelationship as a matter of law, policy, and technical operation between the block billing proposal and the Secretary's proposal. For example, the following issues require complete examination:

(1) Are the proposals mutually-exclusive, or inconsistent as a matter of law, policy, economics or technical operation? That is, does adoption of one preclude or impair adoption of the other?

(2) Can the proposals be adopted concurrently, or merged, as a matter of law, policy, and technical operation?

C. Several of the comments filed on the block billing propsoal, including but not limited to those filed by the Antitrust Division of the U.S. Department of Justice, recommend that the Commission consider, as a alternative to block billing, proposals that raise the maximum lawful price for old gas. Consequently, the Commission also seeks (1) general comment on any such alterntive proposals, such as those included in the block billing comments; and (2) specific comment from a legal, policy, economic, or technical perspective on the merits of any such proposal as compared with the Secretary's proposal.

D. The Secretary bases his proposal, in part, on the "old gas supply response" and the "benefits of higher old gas ceiling prices." [1] The Commission seeks specific comment on the analysis in the Secretary's proposal on the old gas supply response, including (1) premature abandonment, (2) new infill wells and (3) production enhancement; and on the benefits of higher old gas ceiling prices, including (a) stable average prices, (b) immediate economic benefits, and (c) old gas production increases and reduced imports. Also, provide comments on the effect of the proposal on long-term supplies.

Please provide the Commission with information on the possible practical economic and market impacts of the Secretary's proposal in specific and of raising NGPA sections 104 and 106(a) gas prices in general. In particular, the Commission would like commenters to identify the effects of this type of action on each segment of the market, including producers, both independent and integrated, pipelines and gas consumers.

The comments should provide, wherever appropriate and possible, quantitative as well as qualitative analyses of the legal, policy, economic and technical issues raised in the Secretary's proposal.

IV. Regulatory Flexibility Act Statement

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612 (1982), requires certain statements, descriptions, and analyses of rules that will have a "significant economic impact on a substantial number of small entities." 5 U.S.C. 603(a). The Commission is not required to make an RFA analysis if it certifies that a rule will not have a "significant economic impact on a substantial number of small entities." 5 U.S.C. 605(b).

The RFA requires the Commission to analyze only the impacts on small entities that would be subject to this rule. There are approximately 10,000 natural gas producers in the United States, many of which would probably be classified as small entities under the appropriate RFA definition. This rule, if promulgated, may affect many of these entities by increasing the ability of these producers to sell their gas. If adopted, the rule also would raise the maximum lawful prices of gas under NGPA sections 104, 106(a), and 109; and would establish incentive prices for certain gas under NGPA section 107.

The Commission believes that the increased ability to sell gas and the increase in the maximum lawful prices will have a positive impact on these small producers. Since the impact on these small entities is expected to be beneficial, the Commission does not believe that the economic impact will be "significant" within the meaning of the RFA.

Pursuant to section 605(b), the Commission accordingly certified that this rule, if promulgated, will not have a "significant economic impact on a substantial number of small entities."

V. Paperwork Reduction Act

The information collection provisions in this notice of proposed rulemaking are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act [2] and OMB's regulations.[3] Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (Attention: Ellen Brown (202) 357–8272). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VI. Comment Procedures

The Commission invites interested persons to submit comments, data, views, and other information concerning the matter set out in this notice. The original and 14 copies of such comments must be received by the Commission before 5:00 p.m., February 25, 1985. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, and should refer to Docket No. RM86–3–000.

All written comments will be placed in the Commission's public files, and will be available for public inspection in the Commission's Division of Public Information, Room 1000, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washinton, DC 20426, during regular business hours.

The Commission will provide an opportunity for the oral presentation of data, views, and arguments on the Secretary's Notice. That public conference will be announced at a later date.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–30621 Filed 12–26–85; 8:45 am]

BILLING CODE 6717–01–M

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[1] *See* 50 FR 48543–48544 (Nov. 25, 1985).

[2] 44 U.S.C. 3501–3520 (1982).

[3] 5 CFR 1320.13 (1985).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 85P-0119]

Proposed Exemption of Required Label Statements on Food Containers With Separate Lids

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to broaden an exemption from the food labeling rule that requires information to appear on the same panel. The exemption permits certain dairy foods and frozen confections to bear required labeling on more than one panel of the container. To qualify for this exemption, the package must, among other things, have a separate lid that is used as a principal display panel. FDA believes that extending the exemption would benefit manufacturers and consumers by lowering labeling costs without decreasing the quantity or comprehensibility of the label information provided to consumers.

DATES: Comments by February 25, 1986. FDA proposes that any final rule based on this proposal become effective on the date of its publication in the **Federal Register.**

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

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0180.

SUPPLEMENTARY INFORMATION: In 21 CFR 101.2(d)(1), FDA has spelled out requirements for the placement of information in food labeling. In general, the regulation provides that all information that is required to appear in food labeling must be shown on a single labeling panel, called the principal display panel. Usually the principal display panel is affixed to the food containers, although some food containers with large enough lids have the principal display panel on the lids.

FDA has issued an exemption from the general requirement that all information appear on the same food labeling panel for certain dairy products and frozen confections that are packaged in food containers with separate lids that serve as the products' principal display panel and that bear nutrition labeling (21 CFR 101.2(d)(2)). FDA promulgated this exemption to accommodate manufacturers who found that when nutrition labeling is required, there is not always adequate room for other required information to appear on the principal display panel. For example, under the exemption, when nutrition labeling appears on the container (21 CFR 101.9), name and place of business information (21 CFR 101.5) may be placed on the lid of the container, and ingredient information (21 CFR 101.4) may be placed on either the lid or the container itself.

The National Association of Margarine Manufacturers (NAMM), in a petition dated March 7, 1985, has requested that the information placement exemption provided for in 21 CFR 101.2(d)(2) be revised to include in the list of foods permitted the exemption margarine and margarine-type spreads in containers with separate lids. The grounds stated in the petition are as follows: (1) The lid of a margarine tub is an appropriate place for the name and place of business of the manufacturer, packer, or distributor due to considerations of availability of label space and visibility; (2) tubs of margarine and spreads are displayed for retail sale in close proximity to dairy products that currently are exempted and should be similarly labeled; and (3) duplicating label information on the lid and body is costly.

FDA has determined that NAMM's petition to exempt margarine and margarine-type spreads from the requirement that all required labeling information be shown on the same labeling panel (21 CFR 101.2(d)(1)) has merit and should be granted. The agency also believes that it would be in the best interest of consumers to allow all foods that are in containers with separate lids and that bear nutrition labeling to be labeled as allowed in the exemption.

The lid is a highly visible display surface for labeling. Broadening the exemption will enhance the usefulness of the lid for purposes of labeling and, as discussed below, will reduce labeling costs. FDA notes that, in proposing to broaden the exemption, the agency is not proposing to amend any of the criteria and conditions necessary to qualify for an exemption under current 21 CFR 101.2(d)(2).

Economic Impact

In accordance with Executive Order 12291, the agency has reviewed the economic effects of this proposal and has determined that the proposed rule is not a major rule as defined by the Order. This proposal, if adopted, would provide an optional exemption for some foods from the requirement that all mandatory label information appear on the same food label panel unless there is insufficient space. Under this proposal, manufacturers would have greater flexibility in designing and stocking product labels without depriving consumers of any label information. No increase in manufacturers' labeling costs is therefore expected.

FDA, in accordance with the Regulatory Flexibility Act (Pub. L. 96-354), has considered the effect this proposal would have on small entities including small businesses. Because the effect of this proposal is to provide an optional exemption for some foods from certain labeling requirements, the agency has determined that no increase in manufacturers' labeling costs is expected. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

The agency has determined under 21 CFR 25.24(a)(11) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Comments

Interested persons may, on or before February 25, 1986, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 101

Food labeling, Misbranding, Nutrition labeling, Warning statements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, it is proposed that Part 101 be amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR Part 101 is revised to read as follows:

Authority: Secs. 4, 6, Pub. L. 89-755, 80 Stat. 1297, 1299, 1300 (15 U.S.C. 1453, 1455); secs. 403, 602, 701, Pub. L. 717, 52 Stat. 1047, 1054, 1055-1056 as amended (21 U.S.C. 343, 362,

371); 21 CFR 5.10, 5.11. § 101.2 is issued only under secs. 403 and 701(a), 52 Stat. 1047–1048 as amended, 1055 (21 U.S.C. 343 and 371(a)); 21 CFR 5.10.

2. In § 101.2 by revising the introductory text of paragraph (d)(2), to read as follows:

§ 101.2 Information panel of package form food.

* * * * *

(d) * * *

(2) Any food, not otherwise exempted in this section, if packaged in a container consisting of a separate lid and body and bearing nutrition labeling pursuant to § 101.9, and if the lid is designed and serves as a principal display panel, shall be exempt from the placement requirements of this section in the following respects:

* * * * *

Dated: November 22, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–30551, Filed 12–26–85; 8:45 am]

BILLING CODE 4160–01–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange-Visitor Program

AGENCY: United States Information Agency.

ACTION: Advance Notice of Proposed Rulemaking No. 1.

SUMMARY: The United States Information Agency announces that the regulations regarding Teenager Exchange Visitors which appear at 22 CFR 514.13(b), will be the subject of a proposed rulemaking. The rules first appeared in 1979 and were modified in 1983 and 1985. The rulemaking will completely re-examine all the rules in 22 CFR 514.13(b), including the possibility that the rules should be with drawn in their entirety. The Agency will be publishing an analysis of the regulations.

DATE: The public is invited to comment. An oral hearing will be held.

DATES: Parties wishing to participate should notify the Agency in writing no later than February 25, 1986.

ADDRESS: Send notice of desire to participate to: Merry Lynn, Attorney-Advisor, United States Information Agency, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Merry Lynn , Attorney-Advisor, United States Information Agency, 301 4th Street, SW., Washington, DC 20547 (202) 485–7976.

SUPPLEMENTARY INFORMATION: The United States Information Agency administers a program for the international exchange of teenage visitors to the United States under the Mutual Educational and Cultural Exchange Act of 1961, as amended. Pursuant to that Act regulations were published at 22 CFR Part 514 as early as 1979. Modifications were made at 48 FR 50707, November 3, 1983 and at 50 FR 31709, August 6, 1985.

Some teenage exchange organizations have questioned the underlying regulations as well as the recent modifications. Thus, the Agency believes it is necessary to re-examine the regulations and the underlying premises upon which they were based.

The Agency will consider further modifications of the regulations as well as the possibility of withdrawing the regulations in their entirety.

The Agency will outline the regulations with comments as to the reasons they were promulgated. The Agency will seek answers to questions relating to the need for the regulation. The Agency also will seek suggestions for alternate means of addressing the problems the regulations were designed to meet should it be determined that the perception of the problem in valid.

The Agency is notifying the public of its intent by publication in the **Federal Register**, by mailing copies of this notice to all teenage exchange sponsors, and to school administration organizations and to others known or thought to be interested in this proceeding. Those parties responding to this notice will receive copies of the Agency's outline of the regulations as described above.

List of Subjects in 22 CFR Part 514

Cultural exchange programs.

Authority: Sec. 4, 63 Stat. 111; secs. 102, 109(a)(b)(d), 75 Stat. 527, 534, 535; secs. 101(a)(15)(J), 104(a), 212(e), 66 Stat. 166, 174, 182, 184; sec. 2, 84 Stat. 116, 117 (22 U.S.C. 2658, 2452); (8 U.S.C. 1101(a)(15)(J), 1104(a), 1182(e), 1258); Reorganization Plan No. 2 of 1977; Executive Order 12048 of March 27, 1978; the United States Information Agency Authorization Act, Fiscal Years 1982 and 1983, Pub. L. 97–241, Title III, August 24, 1982; Pub. L. 97–116, 75 Stat. 1611, 1612, 1613 (8 U.S.C. 1182(a)(15)(J)). Pub. L. 97–241, 96 Stat. 291, Pub. L. 87–256, 75 Stat. 527, as amended; Delegation Order No. 85–5, June 27, 1985, 50 FR 27393.

Dated: December 9, 1985.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 85–30688 Filed 12–26–85; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. I

[FHWA Docket No. 86–1]

Review of Longer Combination Vehicle Operations in Western States; Opening of Docket, Request for Comments, and Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Request for comments and announcement of public meeting.

SUMMARY: The Committee Report accompanying the Senate Appropriations Bill for the Department of Transportation (DOT) directs the DOT to review longer combination vehicle (LCV) use in the West and to report findings to the Congress by March 1, 1986. The purpose of this Notice is to describe the scope of the review, to open a docket for receipt of any information and comments that should be considered in conducting this study, and to announce that a public meeting will be held to allow shippers, trucking company officials, State representatives and other interested parties to discuss issues concerning LCV operations in Western States.

DATES: Information and comments to the docket must be received on or before February 1, 1986. The public meeting will be held on Tuesday, January 21, 1986, from 9:00 a.m. to 4:00 p.m. Mountain Time, at the U.S. Geological Survey Auditorium, Building 25, Denver Federal Center, Denver, Colorado (Lakewood Section of Denver at Kipling and Alameda Streets). Requests to make statements at the meeting must be received by January 6, 1986.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket Number 86–1, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m. ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard. Address requests to speak at the meeting to: Federal Highway Administration, Transportation Studies Division, Room 3326, HPP–11, 400 Seventh Street, SW., Washington, DC. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur J. Balek, Chief, Industry and Economic Analysis Branch, (202) 426–0282; or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426–0825, 400

Seventh Street, SW., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m. ET., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Study Mandate

The Committee Report (S. Rep. No. 152) on the Senate Appropriations Bill for the DOT (H.R. 3244, 99th Cong., 1st Sess. (1985)) directs the DOT to conduct a comprehensive and balanced review of LCV use in the West, focusing on (1) how the current system of State permits might be modified for LCV use in the West; (2) the designation of a routing system for LCVs in Western States; (3) a listing of steps that might be taken to ensure a routing system that provides maximum safety to the public; and (4) an analysis for increases in trucking productivity that have resulted from provisions of the Surface Transportation Assistance Act (STAA) of 1982 (Pub. L. 97-424, 96 Stat. 2097). Findings of the review are to be reported to the Congress no later than March 1, 1986.

Background

On June 27, 1985, the DOT transmitted to Congress a report on the LCV Study called for in Sections 138 and 415 of the STAA of 1982.[1] That study examined many aspects of LCV operations, including safety, productivity, pavement and bridge damage, highway investment needs to operate LCVs, and current State regulations and permit requirements for LCVs. Potential productivity gains from LCVs were not quantified, but the report noted they would be substantial. The safety record of current LCV operations was examined and found to be generally good. Reviews of operational tests that have been conducted by several States, however, raised questions about the stability and maneuverability of specific LCV configurations. There is considerable uncertainty about whether the good safety record of LCVs could be maintained if operations were entended to highways with higher traffic volumes than are typical or roads currently used by LCVs, or if they were allowed to operate without tight controls on equipment, drivers and permits.

In addition to potential safety and operational problems, a number of other issues were identified in the Section 138 study that would have to be resolved before any LCV network could be designated. Among those issues were (1) how local access from the network could be provided; (2) how needed highway improvements would be financed in an equitable manner; (3) how the varying operational characteristics of turnpike doubles, triples, and Rocky Mountain doubles could be considered in designating an LCV network; and (4) how State highway agencies and the Federal Government could coordinate implementation of an LCV network. Because of these and other uncertainties and because many States already provide opportunities for controlled use of LCVs, the DOT concluded that "There is no compelling reason for designation of a federally mandated LCV network at this time."[2]

Eighteen States now permit one or more of the LCV types to operate; 12 allow them on State highways and 6 others permit LCVs on toll roads, but not on other highways. There is considerable diversity among the States in the sizes, weights and types of combinations allowed, and the mileage on which LCVs may operate varies among States, ranging from less than 30 miles in one State to the entire State highway system in others. Several States consider offtracking or other vehicle characteristics in designating highways for LCVs, and in some States there are different networks for different LCV configurations.

Differences in allowable sizes and weights and in network extent would have to be reconciled before a regional network could be established that would be any more uniform or productive than the current system of individual State networks. The Western Highway Institute (WHI), an organization sponsored by the trucking industry and others in the West, developed a set of model regulations for operating LCVs under special permits on designated highways as part of a 1980 study [3] conducted for the Transportation Research Education Development (TRED) Foundation. Special rules for LCVs cover (1) types of equipment that may be used; (2) maximum lengths of vehicles to be permitted (90 feet for Rocky Mountain doubles, 98 feet for triples, and 105 feet for turnpike doubles); (3) special driver qualifications; (4) maximum speeds; (5) the required stability of LCVs; (6) maximum axle and gross vehicle weights; (7) load sequencing of trailing units; (8) operating procedures; (9) accident reporting; and (10) minimum insurance requirements. Most States have regulations covering each item included in the WHI model regulations, but there are significant differences among States on specific requirements. Perhaps the biggest area where the States differ is in the sizes, weights, and types of LCVs that are allowed to operate. Of the 11 Western States that allow LCVs on State highways, all permit Rocky Mountain doubles, 7 permit triples, and 6 permit turnpike doubles. Allowable weights range from 80,000 pounds in Colorado to 129,000 pounds in Nevada, South Dakota, and Utah. Maximum lengths for Rocky Mountain doubles range from 75 feet in Oregon and Washington to 110 feet in North Dakota, but maximum lengths for other LCVs are uniformly 105 to 110 feet.

Study Scope

The purpose of this review is to examine the use of longer combination vehicles in Western States to determine what steps might be taken to increase the uniformity, productivity, and safety of LCV operations. Shippers, trucking companies, State officials, and other interested parties will be given the opportunity to comment on all issues relevant to this study. In conducting this review, the DOT will be particularly interested in views on ways that more uniform operating provisions for LCVs could be developed in light of the quite different operating characteristics of Rocky Mountain doubles, triples, and turnpike doubles.

The short time allowed for completing the review precludes conducting any new research on the safety, productivity, or operational impacts of LCV use. The primary bases of information for this study will be materials previously provided for the Section 138 study, comments submitted to the docket established by this notice, and information obtained in discussions with industry, State officials and other interested parties. It is hoped that specific and reasonable suggestions for improving LCV operations in the West will be provided so that this study can achieve its expected goals. The experience of the FHWA since passage of the STAA of 1982 in designating the national truck network for use by tractor-semitrailer-trailers (doubles) and larger tractor-semitrailers (48-foot minimum semitrailer) has revealed a deep-seated reluctance on the part of the States to yield such an important local concern to the Federal Government. This reluctance is founded primarily in the diversity of highway conditions and usage patterns among different States. For example, the Federal-aid primary system has

[1] U.S. Dept. of Transportation, Federal Highway Administration, *The Feasibility of a Nationwide Network for Longer Combination Vehicles*. Washington, D.C., 1985.

[2] Ibid., p. S-8.

[3] Western Highway Institute, *Motor Vehicle Size and Weight Standards, Western Regional Objectives*. A Study for the TRED Foundation, San Bruno, California, 1980.

highways with lane widths as narrow as 9 feet, topographical differences of overwhelming proportions, and an array of users ranging from urban manufacturing facilities generating thousands of trips each day to rural distribution centers and agricultural areas generating very few daily trips.

Because of the differences in highway characteristics and local conditions noted above, the extent of the national truck network differs in various States. FHWA has coordinated as closely as possible with the individual States to ensure that connectivity is maintained and that major areas are provided with service. Reasonable access has been left for the States to determine since they know best the condition of local roads and bridges and work closely with local elected officials.

The same factors that have affected the designation of the national truck network have also affected the designation of routes for LCVs. Another important factor that has affected where LCVS may operate and how much they may weigh is the maximum weight limit of 80,000 pounds on Interstate highways imposed by 23 U.S.C. 127. Several States issue special permits for LCVs to operate at higher weights under the "grandfather" provisions of section 127, but before network designation or uniform permit procedures could effectively increase productivity, this 80,000 pound weight limit would have to be reevaluated and perhaps modified.

Congress specifically directed the DOT to reexamine LCV usage and to focus on:

1. *The current permit system and how it might be modified or changed for LCV use in the West.*

We invite comments on the need to develop a uniform permit system; the adequacy of the current system; and whether the current system or some modified uniform system should be made a part of the Federal law. We are particularly interested in the comments of shippers, truckers, and industries regarding difficulties they have encountered or attractive features of the current system. We are also interested in the views of the States concerning the underlying factors considered in developing the current permit system; the need for a more uniform approach; alternatives to increased Federal involvement, and local conditions which must be considered in developing a permit system for LCVs.

2. *The designation of a routing system for LCVs in those Western States where operating experience exists.*

We invite comments on the adequacy of the network of highways open to LVCs in States currently allowing those vehicles. Comments are also requested concerning whether a federally designated network should be limited to highways in those States or should include highways in other States. We also invite comments on whether a routing system should be limited to Interstate highways, or whether other highways should also be included. We invite comments on provisions of reasonable access for LCVs.

3. *A listing of those steps the Department of Transportation and Western States might take to ensure a routing system that provides maximum safety to the public.*

We invite comments from all parties on steps that could be taken to enhance the safety of any federally designated routing system, including increased enforcement, additional Federal safety regulations, or other coordinated actions to improve safety and road improvements.

4. *An analysis of whether the trucking industry has received those productivity benefits by the STAA of 1982.*

We welcome comments from shippers, trucking industry representatives, and other interested parties on specific provisions of the STAA of 1982 that are not yielding their anticipated productivity gains, and how additional gains might be realized.

Comments are also requested on the following topics:

1. What factors have led several States recently to reject proposed legislation that would have allowed various longer combinations of highways under their jurisdiction?

2. How should highway improvements needed to safely accommodate longer combinations be financed?

3. How should greater use of LCVs in the West be promoted? Would raising the 80,000 pound weight limit on Interstate highways be sufficient, or is Federal involvement also required to designate LCV routes, promote greater uniformity in LCV permit systems/regulations, etc.?

Based on information gathered during the course of this review and information collected during the section 138 study, the DOT will evaluate LCV operations in Western States and analyze steps that might be taken to improve the safety and productivity of those operations. Persons need not submit the same information to the Docket opened by this Notice as was submitted to FHWA Docket Number 83-9 (48 FR 17673, April 25, 1983) that was established for the section 138 study of LCVs. Any new information or additional comments pertaining to the review of Western LCV operations are welcome.

Meeting Procedures

1. Request procedures. Any person who is a representative of a group which has an interest in the topics for this meeting and can present the results of experience or an analysis may make a written request to make an oral presentation. Requests must be received before January 6, 1986. The person making the request should describe the topics of concern, should indicate why he or she or the group represented has an interest in the topics, should summarize the proposed oral presentation, and should provide a telephone number where he or she may be contacted. Each person selected to make an oral presentation will be notified by FHWA by telephone by January 13, 1986.

2. Conduct of meeting. The FHWA reserves the right to select the persons to be heard, to schedule their respective presentations, and to establish procedures regarding the conduct of the meeting. Time allotted for each presentation is limited to 10 minutes. Each person making a presentation should be prepared to submit his or her statements and attachments for the record and to make a summary oral presentation.

The FHWA officials will preside at the meeting and will be the only ones allowed to ask questions during the meeting.

A transcript will be made of the meeting, the entire record of the meeting including that transcript will be retained by FHWA and will be available for inspection in Room 3326 of the FHWA Headquarters at 400 Seventh Street, SW., Washington, DC.

(23 U.S.C. 315, 49 CFR 1.48(b))

Issued on: December 19, 1985.

L.P. Lamm,

Deputy Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 85-30690 Filed 12-26-85; 8:45 am]

BILLING CODE 4910-22-M

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23 CFR Part 658

[FHWA Docket No. 86-5]

Truck Size and Weight; Specialized Equipment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Public comment is requested by the Federal Highway Administration in regard to a petition to designate a particular combination of vehicles as

specialized equipment under the provisions of section 411(d) of the Surface Transportation Assistance Act of 1982 (STAA).

DATE: Comments on this docket must be received on or before February 10, 1986.

ADDRESS: Submit written comments preferably in triplicate to FHWA Docket No. 86-5, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. J.B. Smith, Office of Motor Carrier Transportation (202-426-6282) or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426-0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: LHT Industries has filed a petition with FHWA seeking a determination that the "Maxi-Cube" should be classified as "specialized equipment" within the meaning of 411(d) of the STAA, 49 U.S.C. 2311(d). A Maxi-Cube is a combination of vehicles consisting a three axle short-cab truck so designed to accommodate a removable 24-foot 2-inch cargo box, and a 28-foot 5-inch or a 33-foot 5-inch tandem wheel semitrailer connected to the power unit frame by means of a drawbar and single pintle hook hitch device. The total length of the combination of vehicles is no more than 65 feet. (See Figure 1)

The cargo box is secured to the power unit frame at the front by hold-down clamps and near the center of the cargo box by a kingpin and fifth wheel plate. It is also secured at the rear of the truck frame by 2-inch pins. The cargo box can be raised by means of jacks at its four corners, enabling the power unit to drive out from under it. The fifth wheel connection does not function in a conventional manner. The cargo box does not swivel or turn at the fifth wheel; it is used as a clamp-on device only. The tandem wheel semi-trailer to be pulled by the power unit is so designed that when loaded a portion of the weight of the trailer and the load therein is borne by the power unit.

Several states have classified the Maxi-Cube power unit as a single unit truck, causing the combination to be subject to state length limitations for that type of vehicle combination, and resulting in severe use restrictions of the Maxi-Cube in many states. The petitioner, LHT Industries of Bala-Cynwyd, Pennsylvania, contends that the power unit of the Maxi-Cube, with the cargo box attached, constitutes a truck tractor-semitrailer. As such, the petitioner contends that the entire combination should be classified as a truck tractor-semitrailer-trailer under the STAA, and be subject to the preemptive effects of that statute.

FHWA has determined that the Maxi-Cube does not qualify as a truck tractor-semitrailer-trailer combination. This decision is based on the fact that the Maxi-Cube does not meet the statutory or regulatory definitions pertaining to truck tractor-semitrailer-trailer combinations. In particular, the STAA and FHWA's implementing regulations at 23 CFR 658.5(k) provide that a "truck tractor" is the noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit. The power unit of the Maxi-Cube carries cargo.

Also, 49 CFR 390.6 provides that the term "semitrailer" means any motor vehicle other than a "pole trailer," with or without motive power, designed to be drawn by another motor vehicle and so constructed that some part of its weight rests upon the towing vehicle. The front box on the Maxi-Cube is not designed to be drawn by another vehicle and is so designed that all of its weight, rather than part of it, rests upon the towing vehicle.

As a result of FHWA's determination that a Maxi-Cube is not a truck tractor-semitrailer-trailer combination LHT Industries has requested that the Maxi-Cube be designated as "specialized equipment" pursuant to section 411(d) of the STAA. LHT further requests that if the Maxi-Cube is designated as "specialized equipment," FHWA should also find that this combination is entitled to the preemptive effects of the STAA, i.e., be permitted to operate on the Interstate System and designated Federal-aid Primary highways subject to Federal law rather than state regulation.

Under the provisions of section 411(d) of the STAA, which provides that the Secretary is authorized to establish rules to implement the provisions of the section, and to make such determinations as are necessary to accommodate specialized equipment (including, but not limited to, automobile transporters) subject to subsections (a) and (b) of the section.

The petitioner has argued that the Maxi-Cube should be designated as "specialized equipment" because the combination offers greater cargo-carrying capacity, increased fuel efficiency, more maneuverable drive, and greater safety benefits than traditional combinations.

The FHWA is requesting public comments relative to this request by LHT Industries. FHWA is primarily seeking comments and information on the following issues relating to the Maxi-Cube: maneuvering characteristics, safety, control, offtracking, crosswind effects, and the need for overall length limits on such a configuration. FHWA would also appreciate comments on the petitioner's stated advantages to this vehicle. Finally, FHWA would appreciate comments regarding the need to preempt current state regulation of this vehicle. Any other comments and information are welcomed.

FHWA is also considering the adoption of a definition for the term "specialized equipment." Comments regarding the types of vehicles that should be considered as "specialized equipment" as well as proposals regarding an actual definition are being sought.

Those desiring to comment on this advance notice of proposed rulemaking are asked to submit their views in writing. Comments will be available for public inspection both before and after the closing date at the above address. All comments received to this advance notice will be considered before further rulemaking action is undertaken.

The FHWA has determined, at this time, that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. This determination will be reevaluated and a draft regulatory evaluation will be prepared if necessary, based upon the data received in response to this notice.

Based upon the information available to FHWA at this time, the action taken in this rulemaking will not have significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation and Federal programs and activities apply to this program.) (23 U.S.C. 315; 49 U.S.C. 2311(d); 49 CFR 1.48)

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highway and roads, Motor carriers—size and weight.

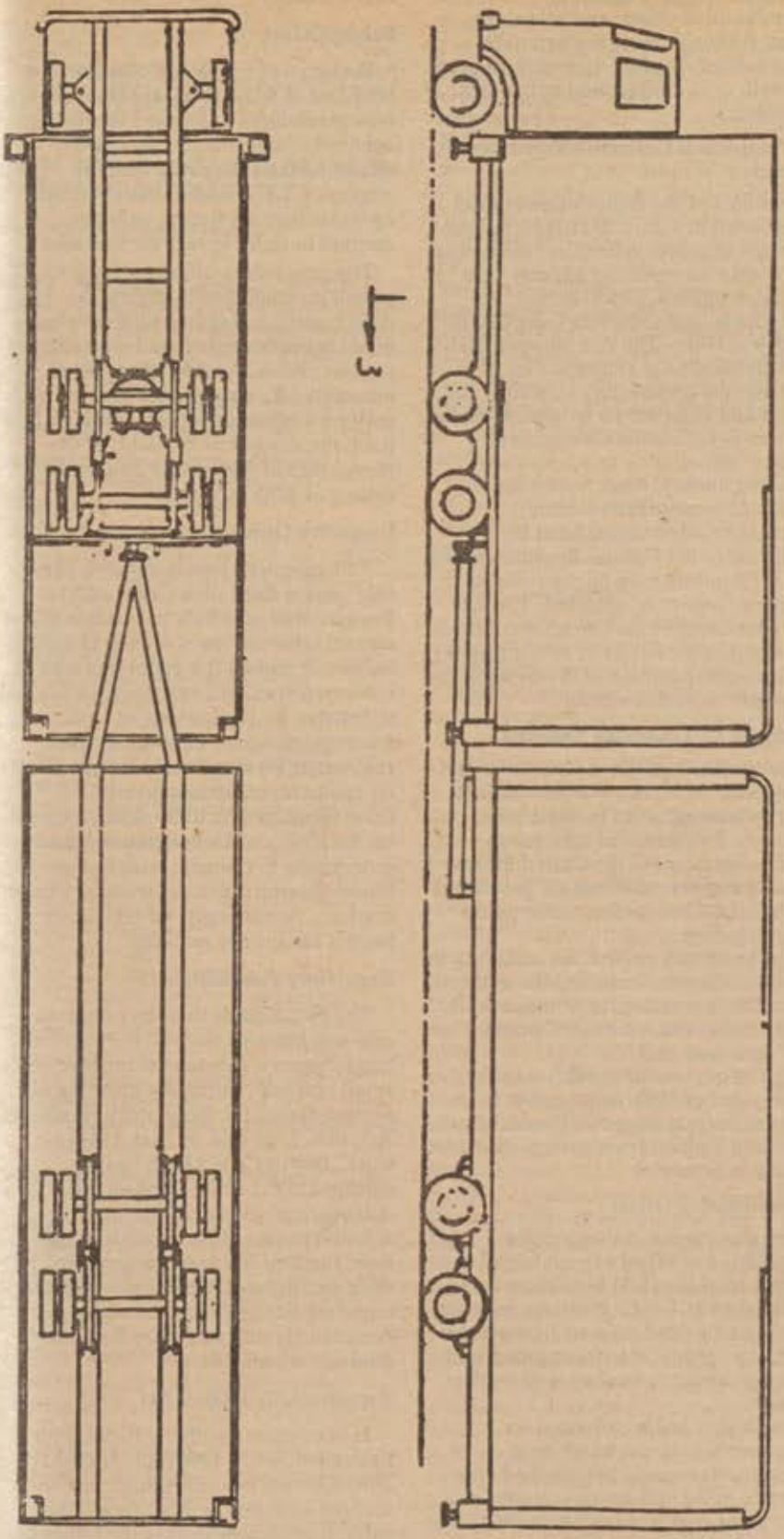
Issued on December 23, 1985.

L. P. Lamm,

Deputy Federal Highway Administrator, Federal Highway Administration.

BILLING CODE 4910-22-M

FIGURE 1



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[FR Doc. 85-30687 Filed 12-26-85; 8:45 am]
BILLING CODE 4910-22-C

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 20

Debt Collection Act of 1982; Salary Offset

Correction

In FR Doc. 85-29587, beginning on page 51354 in the issue of Monday, December 16, 1985, as Part V, make the following correction:

On page 51356, first column, in § 20.78(c), first line, "Credit" should have read "Creditor".

BILLING CODE 1505-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1450

Debt Collection

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Proposed rule.

SUMMARY: The Federal Mediation and Conciliation Service is proposing to amend its rules by adding a new Part 1450 establishing rules for the collection of debts owed to the United States. The proposed rules reflect changes to debt collection procedures authorized by the Federal Claims Collection Act (31 U.S.C. 3701-3719) as amended by the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749). These laws have been implemented by the Federal Claims Collection Standards issued jointly by the General Accounting Office and the Department of Justice (4 CFR Parts 101-105), regulations issued by Office of Personnel Management (5 CFR Part 550) and the procedures prescribed by the Office of Management and Budget in Circular A-129 of May 9, 1985.

DATES: Written comments must be received by February 7, 1986.

ADDRESS: Send comments to Ted Chaskelson, Legal Services Office, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427.

FOR FURTHER INFORMATION CONTACT: Ted Chaskelson, Legal Services Office, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427 (202 653-5305).

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (the Act) authorizes new procedures for the collection of debts owed to the United States, including (1) disclosure of information to consumer reporting agencies; (2) contracting for collection services to recover debts; (3) administrative offset; and (4) salary offset. Although these are separate procedures, any procedure may be used by itself, or in conjunction with other procedures.

Disclosure to a Consumer Reporting Agency

Section 3 of the Debt Collection Act (codified at 31 U.S.C. 3711(f) authorizes agencies to report delinquent debtors to to a consumer reporting agency. This provision applies, however, to individuals, and therefore is limited to natural persons. The Act requires that an individual be provided notice of a debt and the opportunity to review the record and enter into a written payment agreement before the Government releases information to a consumer reporting agency. Also, notice for the system of records from which information is disclosed must be published in the **Federal Register** stating that information may be provided to consumer reporting agencies. The Act also requires that the Government report any significant change in circumstances (for example payment of the debt) to the consumer reporting agency.

Contracts for Collection Services

Section 13 of the Debt Collection Act (codified at 31 U.S.C. 3718) authorizes Government agencies to enter into contracts for collection services to recover debts owed the United States. The Act requires that certain provisions be contained in any contract entered into, including:

(1) The agency retains the authority to resolve a dispute, including the authority to terminate a collection action or refer the matter to the Attorney General for civil remedies; and

(2) The contractor is subject to the Privacy Act of 1974, as it applies to private contractors, as well as subject to State and Federal laws governing debt collection practices.

Administrative Offset

The procedures authorized for administrative offset are contained in section 10 of the Debt Collection Act (codified at 31 U.S.C. 3716). As with the provision for disclosure to a consumer reporting agency, the Act requires that notice procedures be observed by the agency.

The debtor is also afforded an opportunity to inspect and copy Government records pertaining to the claim, to enter into an agreement for repayment, and to a review of the claim if requested. Agencies of the Government may cooperate with one another in order to effectuate recovery of the claim.

Salary Offset

Section 5 of the Debt Collection Act (codified at 5 U.S.C. 5514) establishes new procedures to be used when an agency collects money owed it by offsetting the salary of a Federal employee. Like administrative offset, agencies may cooperate with one another in order to recover the debt.

The new salary offset procedures permit an employee to review the determination of indebtedness before offset is implemented, and an employee against which an offset is sought is automatically entitled to a hearing on matters such as the determination of the debt, the amount of the debt, or the percentage of disposable pay to be deducted each pay period.

Executive Order 12291

This proposed rule is not a "major rule" under Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The FMCS finds that the proposed rule will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (5 U.S.C. 605(b)). The FMCS has so certified to the Chief Counsel for Advocacy of the Small Business Administration. This conclusion has been reached because the proposed rule does not, in itself, impose any additional requirements upon small entities. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), any reporting recordkeeping provisions that are included in this rule will be submitted for approval to the Office of Management and Budget (OMB).

List of Subjects in 29 CFR Part 20

Claims, Debts, Government Employees, Administrative practice and procedure.

Accordingly, 29 CFR is proposed to be amended by adding Part 1450 to read as follows:

PART 1450—COLLECTION OF CLAIMS OWED THE UNITED STATES

Subpart A—General Provisions

Sec.
1450.1 Definitions.
1450.2 Exceptions.
1450.3 Use of procedures.
1450.4 Conformance to law and regulations.
1450.5 Other procedures.
1450.6 Informal action.
1450.7 Return of property.
1450.8 Omissions not a defense.

Subpart B—Administrative Offset—Consumer Reporting Agencies—Contracting for Collection

1450.9 Demand for payment.
1450.10 Collection by administrative offset.
1450.11 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.
1450.12 Collection in installments.
1450.13 Exploration of compromise.
1450.14 Suspending or terminating collection action.
1450.15 Referrals to the Department of Justice or the General Accounting Office.
1450.16 Use of Consumer Reporting Agencies.
1450.17 Contracting for collection services.

Subpart C—Salary Offset

1450.18 Purpose.
1450.19 Scope.
1450.20 Definitions.
1450.21 Notification.
1450.22 Hearing.
1450.23 Deduction from pay.
1450.24 Liquidation from final check or recovery from other payment.
1450.25 Non-Waiver of rights by payments.
1450.26 Refunds.
1450.27 Interest, penalties and administrative costs.
1450.28 Recovery when paying agency is not creditor agency.

Subpart D—Interest, Penalties, and Administrative Costs

1450.29 Assessment.
1450.30 Exemptions.

Authority: 31 U.S.C. 3701; 31 U.S.C. 3711 et seq.; 5 U.S.C. 5514; 4 CFR Parts 101–105; 5 CFR Part 550.

§ 1450.1 Definitions.

(a) The term "agency" means the Federal Mediation and Conciliation Service.

(b) The term "agency head" means the Director of the Federal Mediation and Conciliation Service.

(c) The terms "appropriate agency official" or "designee" mean the Director of the Financial Management Staff of FMCS, or such other official as may be named in the future by the Director of FMCS.

(d) The terms "claim" and "debt" are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization, or entity, except another Federal agency.

(e) A debt is considered "delinquent" if it has not been paid by the date specified in the agency's written notification or applicable contractual agreement, unless other satisfactory payment arrangements have been made by that date, or if at any time thereafter the debtor fails to satisfy obligations under a payment agreement with the agency.

(f) The term "referral for litigation" means referral to the Department of Justice for appropriate legal proceedings.

§ 1450.2 Exceptions.

(a) Claims arising from the audit of transportation accounts pursuant to 31 U.S.C. 3726 shall be determined, collected, compromised, terminated or settled in accordance with regulations published under the authority of 31 U.S.C. 3726 (see 41 CFR parts 101–41).

(b) Claims arising out of acquisition contracts subject to the Federal Acquisition Regulations (FAR) shall be determined, collected, compromised, terminated, or settled in accordane with those regulations. (See 48 CFR Part 32). If not otherwise provided for in the FAR system, contract claims that have been the subject of a contracting officer's final decision in accordance with section 6(a) of the Contract Disputes Act of 1978 (41 U.S.C. 605)(a)), may be determined, collected, compromised, terminated or settled under the provisions of this regulation, except that no additional review of the debt shall be granted beyond that provided by the contracting officer in accordance with the provisions of section 6 of the Contract Disputes Act of 1978 (41 USC 605), and the amount of any interest, administrative charge, or penalty charge shall be subject to the limitations, if any, contained in the contract out of which the claim arose.

(c) Claims based in whole or in part on conduct in violation of the antitrust laws, or in regard to which there is an indication of fraud, presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, shall be referred to the Department of Justice (DOJ) as only the DOJ has authority to compromise, suspend, or terminate collection action on such claims.

(d) Tax claims are also excluded from the coverage of this regulation.

§ 1450.3 Use of Procedures.

Procedures authorized by this regulation (including, but not limited to, disclosure to a consumer reporting agency, contracting for collection services, administrative offset and salary offset) may be used singly or in combination, so long as the requirements of applicable law and regulation are satisfied.

§ 1450.4 Conformance to law and regulations.

The requirements of applicable law (31 U.S.C. 3701–3719 as amended by Pub. L. 97–365, 96 Stat. 1749) have been implemented in Governmentwide standards: (a) The Regulations of the Office of Personnel Management (5 CFR Part 550), (b) The Federal Claims Collection Standards issued jointly by the General Accounting Office and the Department of Justice (4 CFR Parts 101–105), and (c) the procedures prescribed by the Office of Management and Budget in Circular A–129 of May 9, 1985. Not every item in the above described standards has been incorporated or referenced in this regulation. To the extent, however, that circumstances arise which are not covered by the terms stated in this regulation, FMCS will proceed in any actions taken in accordance with applicable requirements found in the sources referred to in paragraphs (a) (b) and (c) of this section.

§ 1450.5 Other procedures

Nothing contained in this regulation is intended to require FMCS to duplicate administrative proceedings required by contract or other laws or regulations.

§ 1450.6 Informal action.

Nothing contained in this regulation in intended to preclude utilization of informal administrative actions or remedies which may be available.

§ 1450.7 Return of property.

Nothing contained in this regulation is intended to deter FMCS from demanding the return of specific property or from demanding, the return of the property or the payment of its value.

§ 1450.8 Omissions not a defense.

The failure of FMCS to comply with any provision in this regulation shall not serve as a defense to the debt.

Subpart B—Administrative Offset—Consumer Reporting Agencies—Contracting for Collection

§ 1450.9 Demand for payment.

Prior to making an administrative offset, demand for payment will be made as stated below:

(a) Written demands shall be made promptly upon a debtor in terms which inform the debtor of the consequences of failue to cooperate. A total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be fútile and the debtor's response does not require rebuttal. In determining the timing of demand letters, FMCS will give due regard to the neeed to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the agency's final determination of the fact and the amount of the debt. When necessary to protect the Government's interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions under this chapter, including immediate prefereral for litigation.

(b) The initial demand letter will inform the debtor of: (1) The basis for the indebtedness and the right of the debtor to request review within the agency; (2) the applicable standards for assessing interest, penalties, and administrative costs (Subpart D of this regulation) and (3) the date by which payment is to be made, which normally should be not more than 30 days from the date that the initial demand letter was mailed or hand-delivered. FMCS will exercise care to insure that demand letters are mailed or hand-delivered on the dame day that they are actually dated. Apart from this, there is no prescribed format for the demand letters.

(c) As appropriate to the circumstances, FMCS may include either in the initial demand letter or in subsequent letters, matters relating to alternative methods of payment, policies with respect to use of consumer reporting agencies and collection services, the agency's intentions with respect to referral of the debt to the Department of Justice for litigation, and, depending on applicable statutory authority, the debtor's entitlement to consideration of waiver.

(d) FMCS will respond promptly to communications from the debtor, within 30 days whenever feasible, and will advise debtors who dispute the debt that they must furnish available evidence to support their contentions.

(e) If, either prior to the initiatiion of, at any time during, or after completion of the demand cycle, FMCS determines to pursue administrative offset, then the procedures specified in §§ 1450.10 and 1450.11, as applicable, will be followed. The availability of funds for offset and the agency determination to purse it release the agency from the necessity of further compliance with paragraphs (a), (b), and (c) of this section. If the agency has not already sent the first demand letter, the agency's written notification of its intent to offset must give the debtor the opportunity to make voluntary payment, a requirement which will be satisfied by compliance with the notice requirements of §§ 1450.10 and 1450.11 as applicable.

§ 1450.10 Collection by administrative offset.

(a) Collection by administrative offset will be undertaken in accordance with these regulations on all claims which are liquidated or certain in amount, in every instance in which such collection is determined to be feasible and not otherwise prohibited.

(1) For purposes of this section, the term "administrative offset" has the meaning provided in 31 U.S.C. 3716(a)(1).

(2) Whether collection by administrative offset is feasible is a determination to be made by the agency on a case-by-case basis, in the exercise of sound discretion. FMCS will consider not only whether administrative offset can be accomplished practically, but also whether offset is best suited to further and protect all of the Government's interests. In appropriate circumstances, FMCS may give due consideration to the debtor's financial condition, and is not required to use offset in every instance in which there is an available source of funds. FMCS may also consider whether offset would tend to substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated. For example, under a grant program in which payments are made in advance of the grantee's performance, offset will normally be inappropriate. This concept generally does not apply, however, where payment is in the form of reimbursement.

(b) Before the offset is made, a debtor shall be provided with the following: written notice of the nature and amount of the debt, and the agency's intention to collect by offset; opportunity to inspect and copy agency records pertaining to the debt; opportunity to obtain review within the agency of the determination of indebtedness; and opportunity to enter into a written agreement with the agency to repay the debt. FMCS may also make requests for offset to other agencies holding funds payable to the debtor, and process requests for offset that are received from other agencies.

(1) FMCS will exercise sound judgment in determining whether to accept a repayment agreement in lieu of offset. The determination will weigh the Government's interest in collecting the debt against fairness to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, FMCS will normally accept a repayment agreement in lieu of offset only if the debtor is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

(2) In cases where the procedural requirements specified in paragraph (b) of this section have previously been provided to the debtor in connection with the same debt under some other statutory or regulatory authority, such as pursuant to a notice of audit allowance, the agency is not required to duplicate those requirements before taking administrative offset.

(3) FMCS may not initiate administrative offset to collect a debt under 31 U.S.C. 3716 more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known by the official or officials of the Government who were charged with the responsibility to discover and collect such debts. When the debt first accrued is to be determined according to existing law regarding the accrual of debts, such as under 28 U.S.C. 2415.

(4) FMCS is not authorized by 31 U.S.C. 3716 to use administrative offset with respect to: (i) Debts owed by any State or local Government; (ii) debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States; or (iii) any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute. However, unless otherwise provided by contract or law, debts or payments which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority.

(5) FMCS may effect administrative offset against a payment to be made to a debtor prior to completion of the

procedures required by paragraph (b) of this section if: (i) Failure to take the offset would substantially prejudice the Government's ability to collect the debt, and (ii) the time before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset must be promptly followed by the completion of those procedures. Amounts recovered by offset but later found not to be owed to the Government shall be promptly refunded.

(6) FMCS will obtain credit reports on delinquent accounts to identify opportunities for administrative offset of amounts due to a delinquent debtor when other collection techniques have been unsuccessful.

(c) Type of hearing or review: (1) For purposes of this section, whenever FMCS is required to provide a hearing or review within the agency, the agency shall provide the debtor with a reasonable opportunity for an oral hearing when: (i) An applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or (ii) the debtor requests reconsideration of the debt and the agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity. Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary-type hearing, although the FMCS will carefully document all significant matters discussed at the hearing.

(2) This section does not require an oral hearing with respect to debt collection systems in which determinations of indebtedness or waiver rarely involve issues of credibility or veracity and the agency has determined that review of the written record is ordinarily an adequate means to correct prior mistakes. In administering such a system, the agency is not required to sift through all of the requests received in order to accord oral hearings in those few cases which may involve issues of credibility or veracity.

(3) In those cases where an oral hearing is not required by this section, the agency will make its determination on the request for waiver or reconsideration based upon a "paper hearing" that is, a review of the written record.

(d) Appropriate use will be made of the cooperative efforts of other agencies in effecting collection by administrative offset. Generally, FMCS will not refuse to comply with requests from other agencies to initiate administrative offset to collect debts owed to the United States, unless the requesting agency has not complied with the applicable provisions of these standards or the offset would be otherwise contrary to law.

(e) Collection by offset against a judgment obtained by a debtor against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

(f) Whenever the creditor agency is not the agency which is responsible for making the payment against which administrative offset is sought, the latter agency shall not initiate the requested offset until it has been provided by the creditor agency with an appropriate written certification that the debtor owes a debt (including the amount) and that full compliance with the provisions of this section have taken place.

(g) When collecting multiple debts by administrative offset, FMCS will apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 1450.11 Administrative Offset Against Amounts Payable from Civil Service Retirement and Disability Fund.

(a) Unless otherwise prohibited by law, FMCS may request that moneys which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect in one full payment, or a minimal number of payments, debts owed to the United States by the debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of that Office.

(b) When making a request for administrative offset under paragraph (a) of this section, FMCS shall include written certification that:

(1) The debtor owes the United States a debt, including the amount of the debt;

(2) The FMCS has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) The FMCS has complied with the requirements of § 1450.10 of this part, including any required hearing or review.

(c) Once FMCS decides to request administrative offset under paragraph (a) of this section, it will make the request as soon as practical after completion of the applicable procedures in order that the Office of Personnel Management may identify and "flag" the debtor's account in anticipation of the time when the debtor requests or become eligible to receive payments from the Fund. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statute of limitations. At such time as the debtor makes a claim for payments from the Fund, if at least a year has elapsed since the offset request was originally made, the debtor should be permitted to offer a satisfactory payment plan in lieu of offset upon establishing that changed financial circumstances would render the offset unjust.

(d) If FMCS collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, FMCS shall act promptly to modify or terminate its request for offset under paragraph (a) of this section.

(e) This section does not require or authorize the Office of Personnel Management to review the merits of the FMCS determination with respect to the amount and validity of the debt, its determination as to waiver under an applicable statute, or its determination to provide or not provide an oral hearing.

§ 1450.12 Collection in installments.

(a) Whenever feasible, and except as otherwise provided by law, debts owed to the United States, together with interest, penalties, and administrative costs as required by this regulation should be collected in full in one lump sum. This is true whether the debt is being collected by administrative offset or by another method, including voluntary payment. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. FMCS will obtain financial statements from debtors who represent that they are unable to pay the debt in one lump sum. If FMCS agrees to accept payment in regular installments it will obtain a legally enforceable written agreement from the debt which specifies all of the terms of the arrangement and which contains a provision accelerating the debt in the event the debtor defaults. The size and frequency of installment payments should bear a reasonable relation to the size of the debtor and debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than $50 per month will be accepted only if justifiable on the grounds of financial hardship or for some other reasonable cause.

(b) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied as among those debts, that designation must be followed. If the debtor does not designate the application of the payment, FMCS will apply payments to various debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 1450.13 Exploration of Compromise.

FMCS may attempt to effect compromise, preferably during the course of personal interviews, in accordance with the standards set forth in Part 103 of the Federal Claims Collection Standards (4 CFR Part 103).

§ 1450.14 Suspending or Terminating Collection Action.

The suspension or termination of collection action shall be made in accordance with the standards set forth in Part 104 of the Federal Claims Collection Standards (4 CFR Part 104).

§ 1450.15 Referrals to the Department of Justice or the General Accounting Office.

Referrals to the Department of Justice or the General Accounting Office shall be made in accordance with the standards set forth in Part 105 of the Federal Claims Collection Standards (4 CFR Part 105).

§ 1450.16 Use of Consumer Reporting Agencies.

(a) The term "individual" means a natural person, and the term "consumer reporting agency" has the meaning provided in the Federal Claims Collection Act, as amended, at 31 U.S.C. 3701(a)(3).

(b) FMCS may disclose to a consumer reporting agency, from a system of records, information that an individual is responsible for a claim if—

(i) Notice required by section 5 U.S.C. 552(a)(e)(4) indicates that information in the system may be disclosed to a consumer reporting agency;

(ii) The claim has been reviewed and it is decided that the claim is valid and overdue;

(iii) FMCS has notified the individual in writing—

(A) That payment of the claim is overdue;

(B) That, within not less than 60 days after sending the notice, FMCS intends to disclose to a consumer reporting agency that the individual is responsible for that claim;

(C) Of the specific information to be disclosed to the consumer reporting agency; and

(D) Of the rights the individual has to a complete explanation of the claim, to dispute information in the records of the agency about the claim, and to administrative appeal or review of the claim; and

(iv) The individual has not—

(A) Repaid or agreed to repay the claim under written repayment plan that the individual has signed and the agency has agreed to; or

(B) Filed for review of the claim under paragraph (g) of this section;

(C) FMCS will also—

(i) Disclose promptly, to each consumer reporting agency to which the original disclosure was made, a substantial change in the condition or amount of the claim;

(ii) Verify or correct promptly information about the claim, on request of a consumer reporting agency for verification of information disclosed; and

(iii) Get satisfactory assurances from each consumer reporting agency that they are complying with all laws of the United States related to providing consumer credit information; and assure that

(d) The information disclosed to the consumer reporting is limited to—

(i) Information necessary to establish the identity of the individual, including name, address, and taxpayer identification number;

(ii) the amount, status, and history of the claim; and

(iii) The agency or program under which the claim arose.

(e) All accounts in excess of $100 that have been delinquent more than 31 days will normally be referred to a consumer reporting agency.

(f) Before disclosing information to a consumer reporting agency FMCS shall take reasonable action to locate an individual for whom the head of the agency does not have a current address to send the notice.

(g) Before disclosing information to a consumer reporting agency, the FMCS shall provide, on request of an individual alleged by the agency to be responsible for the claim, for a review of the obligation of the individual, including an opportunity for reconsideration of the initial decision on the claim.

(h) Under the same provisions as described above, FMCS may disclose to a credit reporting agency, information relating to a debtor other than a natural person. Such commercial debt accounts are not covered by the Privacy Act.

§ 1450.17 Contracting for Collection Services.

(a) FMCS has authority to contract for collection services to recover delinquent debts, provided that the following conditions are satisfied:

(1) The authority to resolve disputes, compromise claims, suspend or terminate collection action, and refer the matter for litigation is retained by the agency;

(2) The contractor shall be subject to the Privacy Act of 1974, as amended to the extent specified in 5 U.S.C. 552a(m), and to applicable Federal and State laws and regulations pertaining to debt collection practices, such as the Fair Debt Collection Practices Act, 15 U.S.C. 1692;

(3) The contractor must be required to account strictly for all amounts collected;

(4) The Contractor must agree that uncollectible accounts shall be returned with appropriate documentation to enable FMCS to determine whether to pursue collection through litigation or to terminate collection efforts, and

(5) The contractor must agree to provide any data contained in its files relating to paragraphs (a)(1), (2), and (3) of § 105.2 of the Federal Claims Collection Standards (4 CFR Part 105) upon returning an account to FMCS for subsequent referral to the Department of Justice for litigation.

(b) Funding of collection service contracts:

(1) FMCS may fund a collection service contract on a fixed-fee basis, that is, payment of a fixed fee determined without regard to the amount actually collected under the contract. Payment of the fee under this type of contract must be charged to available agency appropriations.

(2) FMCS may also fund a collection service contract on a contingent-fee basis, that is, by including a provision in the contract permitting the contractor to deduct its fee from amounts collected under the contract. The fee should be based on a percentage of the amount collected, consistent with prevailing commercial practice.

(3) FMCS may enter into a contract under paragraph (b)(1) of this section only if and to the extent provided in advance appropriation acts or other legislation, except that this requirement does not apply to the use of a revolving fund authorized by statute.

(4) Except as authorized under paragraph (b)(2) of this section, or unless the receipt qualifies as a refund to the appropriation, or unless otherwise specifically provided by law, FMCS must deposit all amounts recovered

under collection service contracts (or by agency employees on behalf of the agency) in the Treasury as miscellaneous receipts pursuant to 31 U.S.C. 3302.

(c) FMCS will consider the use of collection agencies at any time after the account is 61 days past due. In all cases accounts that are six months or more past due shall be turned over to a collection agency unless referred for litigation or unless arrangements have been made for a workout procedure, or the agency has exercised its authority to write off the debt pursuant to § 1450.14.

(d) FMCS will generally not use a collection agency to collect a delinquent debt owed by a currently employed or retired Federal employee, if collection by salary or annuity offset is available.

Subject C—Salary Offset

§ 1450.18 Purpose.

This subpart provides the standards to be followed by FMCS in implementing 5 U.S.C. 5514 to recover a debt from the pay account of an FMCS employee, and establishes procedural guidelines to recover debts when the employee's creditor and paying agencies are not the same.

§ 1450.19 Scope.

(a) *Coverage.* This subpart applies to Executive Agencies and employees as defined by § 1450.20.

(b) *Applicability.* This subpart and 5 U.S.C. 5514 apply in recovering certain debts by offset, except where the employee consents to the recovery, from the current pay account of that employee. Because it is an administrative offset, debt collection procedures for salary offset which are not specified in U.S.C. 5514 and these regulations should be consistent with the provisions of the Federal Claims Collection Standards (4 CFR Parts 101–105).

(1) Excluded debts or claims. The procedures contained in this subpart do not apply to debts or claims arising under the Internal Revenue Code of 1954 as amended (26 U.S.C. 1 et seq.), the Social Security Act (42 U.S.C. 301 et seq.) or the tariff laws of the United States, or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(2) Waiver requests and claims to the General Accounting Office. This subpart does not preclude an employee from requesting waiver of a salary overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or in any way questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office in accordance with procedures prescribed by the General Accounting Office. Similarly, in the case of other types of debts, it does not preclude an employee from requesting waiver, if waiver is available under any statutory provision pertaining to the particular debt being collected.

§ 1450.20 Definitions.

For purposes of this subpart—

"Agency" means the Federal Mediation and Conciliation Service (FMCS).

"Creditor agency" means the agency to which the debt is owed.

"Debt" means an amount owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interests, fines and forfeitures (except those arising under the Uniform Code Military Justice), and all other similar sources.

"Disposable pay" means that part of current basic pay, special pay, incentive pay retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. Agencies must exclude deductions described in 5 CFR 581.105 (b) through (f) to determine disposable pay subject to salary offset.

"Employee" means a current employee of FMCS or of another Executive Agency, including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves).

"Executive Agency" means an agency as defined by section 105 of title 5 of the U.S. Code, the U.S. Postal Service, the U.S. Postal Rate Commission, and a Military Department as defined by section 102 of 5 U.S. Code.

"FCCS" means the Federal Claims Collection Standards jointly published by the Justice Department and the General Accounting Office at 4 CFR Parts 101–105.

"Paying agency" means the agency employing the individual and authorizing the payment of his or her current pay.

"Salary offset" means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

"Waiver" means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 710, 5 U.S.C. 8346(b), or any other law.

§ 1450.21 Notification.

(a) Salary offset deductions shall not be made unless the Director of the Financial Management Staff of FMCS, or such other official as may be named in the future by the Director of FMCS, provides to the employee—at least 30 days before any deduction—a written notice stating at a minimum:

(1) The agency's determination that a debt is owed, including the origin, nature, and amount of the debt;

(2) The agency's intention to collect the debt by means of deduction from the employee's current disposable pay account;

(3) The amount, frequency, proposed beginning date, and duration of the intended deductions;

(4) An explanation of the agency's policy concerning interest, penalties, and administrative costs (Subpart D of this regulation), a statement that such assessments must be made unless excused in accordance with the FCCS;

(5) The employee's right to inspect and copy Government records relating to the debt or, if the employee or his or her representative cannot personally inspect the records, to request and receive a copy of such records;

(6) If not previously provided, the opportunity (under terms agreeable to the agency) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The agreement must be in writing, signed by both the employee and the Director of the Financial Management Staff of FMCS, and documented in agency files (4 CFR 102.2(e)).

(7) The employee's right to a hearing conducted by an official arranged by the agency (an administrative law judge, or alternatively, a hearing official not under the control of the head of the agency) if a petition is filed as prescribed by FMCS under this Subpart.

(8) The method and time period for petitioning for a hearing;

(9) That the timely filing petition for hearing will stay the commencement of collection proceedings;

(10) That a final decision on the hearing (if one if requested) will be issued at the earliest practical date, but not later than 60 days after the filing of the petiton requesting the hearing unless

the employee requests and the hearing official grants a delay in the proceedings;

(11) That any knowingly false, misleading, or frivolous statements, representations, or evidence may subject the employee to:

(A) Disciplinary procedures appropriate under chapter 75 of title 5, United States Code, Part 752 of title 5, Code of Federal Regulations, or any other applicable statutes or regulations;

(B) Penalties under the False Claims Act sections 3729–3731 of title 31, Untied States Code, or any other applicable statutory authority; or

(C) Criminal penalties under sections 286, 287, 1001, and 1002 of title 18, United State Code or any other applicable statutory authority.

(12) Any other right and remedies available to the employee under statutes or regulations governing the program for which the collection is being made; and

(13) Unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee.

(b) Notifications under this section shall be hand delivered with a record made of the date of delivery, or shall be mailed by certified mail return receipt requested.

(c) No notification hearing, written responses or final decisions under this regulation are required of FMCS for any adjustment to pay arising out of an employee's election of coverage under a Federal benefit program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

§ 1450.22 Hearing.

(a) Petition for Hearing.

(1) A hearing may be requested by filing a written petition with the Director Financial Management Staff of FMCS, or such other official as may be named in the future by the Director of FMCS, stating why the employee believes the determination of the agency concerning the existence or the amount of the debt is error.

(2) The employee's petition must be signed by the employee and fully identify and explain with reasonable specificity all the facts, evidence and witnesses, if any, which the employee believes support his or her position.

(3) The petition must be filed no later than fifteen (15) calendar days from the date that the notification was hand delivered or the date of delivery by certified mail, return receipt requested.

(4) If a petiton is received after the fifteen (15) calendar day deadline referred to above, FMCS will nevertheless accept the petition if the employee can show that the delay was because of circumstances beyond his or her control, or because of failure to receive notice of the time limit (unless otherwise aware of it).

(5) If a petition is not filed within the time limit specified in paragraph (3) above, and is not accepted pursuant to paragraph (4) above, the employee's right to hearing will be considered waived, and salary offset will be implemented by FMCS.

(b) Type of Hearing. (1) The form and content of the hearing will be determined by the hearing official who shall be a person outside the control or authority of FMCS. In determining the type of hearing, the hearing officer wil consider the nature and complexity of the transaction giving rise to the debt. The hearing may be conducted as an informal conference or interview, in which the agency and employee will be given a full opportunity to present their respective positions, or as a more formal proceeding involving the presentation of evidence, arguments and written submissions.

(2) The employee may represent himself or herself, or may be represented by an attorney.

(3) The hearing official shall maintain a summary record of the hearing.

(4) The decision of the hearing officer will be in writing, and will state:

(i) The facts purported to evidence the nature and origin of the alleged debt;

(ii) The hearing official's analysis, findings, and conclusions, in the light of the hearing, as to—

(A) The employee's and/or agency's grounds,

(B) The amount and validity of the alleged debt and,

(C) The repayment schedule, if applicable.

(5) The decision of the hearing official shall constitute the final administrative decision of the agency.

§ 1450.23 Deduction from pay.

(a) Deduction by salary offset, from an employee's current disposable pay, shall be subject to the following conditions:

(i) Ordinarily, debts to the United States should be collected in full, in one lump-sum. This will be done when funds are available. However, if funds are unavailable for payment in one lump sum, or if the amount of the debt exceeds 15 percent of disposable pay for an officially established pay interval, collection will normally be made in installments.

(ii) The installments shall not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount.

(iii) Deduction will generally commence with the next full pay interval (ordinarily the next biweekly pay period) following written consent by the employee to salary offset, waiver of hearing, or the decision issued by the hearing officer.

(iv) Installment deductions must be made over a period not greater than the anticipated period of employment except as provided in 1450.24.

§ 1450.24 Liquidation from final check or recovery from other payment.

(a) If the employee retires or resigns or if his or her employment or period of active duty ends before collection of the debt is completed, offset of the entire remaining balance on the debt may be made from a final payment of any nature, including but not limited to, final salary payment or lump-sum leave due to the employee as of the date of separation, to such extent as is necessary to liquidate the debt.

(b) If the debt cannot be liquidated by offset from a final payment, offset may be made from later payments of any kind due from the United States, including, but not limited to, the Civil Service Retirement and Disability Fund, pursuant to § 1450.11 of this regulation.

§ 1450.25 Non-waiver of rights by payments.

An employee's involuntary payment of all or any portion of a debt being collected under 5 U.S.C. 5514 shall not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless statutory or contractual provisions provide to the contrary.

§ 1450.26 Refunds.

(a) Refunds shall promptly be made when—

(1) A debt is waived or otherwise found not owing to the United States (unless expressly prohibited by statute or regulation); or

(2) The employee's paying agency is directed by an administrative or judicial order to refund amounts deducted from his or her current pay.

(b) Refunds do not bear interest unless required or permitted by law or contract.

§ 1450.27 Interest, penalties, and administrative costs.

The assessment of interest, penalties and administrative costs shall be in

accordance with Subpart D of this regulation.

§ 1450.28 Recovery when paying agency is not creditor agency.

(a) Format of the request for recovery.

(1) Upon completion of the procedures stablished by the creditor agency under 5 U.S.C. 5514, the creditor agency shall complete and certify the appropriate debt claim form as specified by OPM.

(2) The creditor agency shall certify in writing, that the employee owes the debt, the amout and basis of the debt, the date on which payment is due, the date the Government's right to collect the debt first accrued, and that the creditor agency's regulations implementing section 5514 have been approved by OPM.

(3) If the collection must be made in installments, the creditor agency shall also advise the paying agency of the number of installments to be collected, the amount of each installment, and the commencing date of the first installment, if a date other than the next officially established pay period is required. Ordinarily, hearings may consist of informal conferences before a hearing official in which the employee and creditor agency will be given full opportunity to present evidence, witnesses, and argument. The employee may represent him or herself or be represented by an individual of his or her choice. The creditor agency shall provide for maintaining a summary record of the hearings provided under this subpart.

(4) Unless the employee has consented to the salary offset in writing or signed a statement acknowledging receipt of the required procedures and the writing or statement is attached to the debt claim form, the creditor agency shall also indicate the action(s) taken under section 5514 and give the date(s) the action(s) were taken.

(b) *Submitting the Request for recovery*—(1) *Current employees.* The creditor agency shall submit the appropriate debt claim form, agreement, or other instruction on the payment schedule, to the employee's paying agency.

(2) *Employees who are separating or have separated.*—(i) *Employees who are in the process of separating.* If the employee is in the process of separating, the creditor agency shall submit its debt claim to the employee's paying agency for collection as provided in section 1450.24. The paying agency shall certify the total amount of its collection and notify the creditor agency and the employee as provided in paragraph (iii) of this section. If the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it should send a copy of the debt claim and certification to the agency responsible for making such payments as notice that a debt is outstanding. However, the creditor agency must submit a properly certified claim to the agency responsible for making such payments before collection can be made.

(ii) *Employees who have already separated.* If the employee is already separated and all payments due from his or her former paying agency have been paid, the creditor agency may request, unless otherwise prohibited, that monies which are due and payable to the employee from the Civil Service Retirement and Disability Fund (5 CFR 831.1801 et seq.) or other similar funds, be administratively offset in order to collect the debt (31 U.S.C. 3716 and the FCCS).

(iii) *Employees who transfer from one paying agency to another.* If, after the creditor agency has submitted the debt claim to the employee's paying agency, he or she transfers to a position served by a different paying agency before the debt is collected in full, the paying agency from which the employee separates shall certify the total amount of the collection made on the debt. One copy of the certification shall be furnished to the employee, another to the creditor agency along with notice of the employee's transfer. The original of the debt claim from shall be inserted in the employee's official personnel folder along with a copy of the certification of the amount which has been collected. Upon receiving the official personnel folder, the new paying agency shall resume collection from the employee's current pay account and notify the employee and the creditor agency of the resumption. It will not be necessary for the creditor agency to repeat the due process procedures described by 5 U.S.C. 5514 and this subpart in order to resume the collection. However, it will be the responsibility of the creditor agency to review the debt upon receiving the former pay agency's notice of the employee's transfer to make sure the collection is resumed by the new paying agency.

(c) Processing the debt claim upon receipt by the paying agency—

(1) *Incomplete claims.* If the paying agency receives an improperly completed debt claim from, it shall return the request with a notice that procedures under 5 U.S.C. 5514 and this subpart must be provided and a properly ccompleted debt claim form received before action will be taken to collect from the employee's current pay account.

(2) *Complete claim.* If the paying agency receives a properly completed debt claim form, deductions should be scheduled to begin prospectively at the next officially established pay interval. A copy of the debt claim form shall be given to the debtor, along with notice of the date deductions will commence if different from that stated on the debt claim form.

(3) The paying agency is not required or authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt as stated in the debt claim form.

Subpart D—Interest, Penalties, and Administrative Costs

§ 1450.29 Assessment.

(a) Except as provided in paragraph (h) of this section, or § 1450.30, FMCS shall assess interest, penalties and administrative costs on debts owed to the United States pursuant to 31 U.S.C. 3717. Before assessing these charges, FMCS will mail or hand-deliver a written notice to the debtor. This notice shall include a statement of the agency's requirements concerning these charges. (Sections 1450.9 and 1450.21).

(b) Interest shall accrue from the date on which notice of the debt and the interest requirements is first mailed or hand-delivered to the debtor, using the most current address that is available to the agency. If FMCS should use an "advance billing" procedure—that is, if it mails a bill before the debt is actually owed—it can include the required interest notification in the advance billing, but interest may not start to accrue before the debt is actually owed FMCS will exercise care to insure that the notices required by this section are dated and mailed or hand-delivered on the same day.

(c) The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (i.e., the Treasury Tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the **Federal Register** and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. 3717. FMCS may assess a higher rate of interest if it reasonably determines that a higher rate is necessary to protect the interests of the United States. The rate of interest, as initially assessed, shall remain fixed for the duration of the indebtedness except that where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement, FMCS may set a

new interest rate which reflects the current value of funds to the Treasury at the time the new agreement is executed. Interest will not be assessed on interest, penalties, or administrative costs required by this section. However, if the debtor defaults on a previous repayment agreement, charges which accrued but were not collected under the defaulted agreement shall be added to the principal to be paid under a new repayment agreement.

(d) FMCS shall assess against a debtor charges to cover administrative costs incurred as a result of a delinquent debt—that is, the additional costs incurred in processing and handling the debt because it became delinqent. Calculation of administrative costs shall be based upon actual costs incurred or upon cost analyses establishing an average of actual additional costs incurred by the agency in processing and handling claims against other debtors in similar stages of delinquency. Administrative costs may include costs incurred in obtaining a credit report or in using a private debt collector, to the extent they are attributable to delinquency.

(e) FMCS shall assess a penalty charge, not to exceed 6 percent a year, on any portion of a debt that is delinquent for more than 90 days. This charge need not be calculated until the 91st day of delinquency, but shall accrue from the date that the debt became delinquent.

(f) When a debt is paid in partial or installment payments, amounts received by the agency shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

(g) FMCS will waive the collection of interest on the debt or any portion of the debt which is paid within 30 days after the date on which interest began to accrue. FMCS may extend this 30-day period, on a case-by-case basis, if it reasonably determines that such action is appropriate. Also, FMCS may waive, in whole or in part, the collection of interest, penalties, and/or administrative costs assessed under this section under the criteria specified in Part 103 of the Federal Claims Collection Standards (4 CFR Part 103) relating to the compromise of claims (without regard to the amount of the debt), or if the agency determines that collection of these charges would be against equity and good conscience, or not in the best interests of the United States. Waiver under the first sentence of this paragraph (g) is mandatory. Under the second and third sentences, it may be exercised under the following circumstances:

(1) Waiver of interest pending consideration of a request for reconsideration, administrative review, or waiver of the underlying debt under a permissive statute, and

(2) Waiver of interest where FMCS has accepted an installment plan under § 1450.12, there is no indication of fault or lack of good faith on the part the of debtor, and the amount of interest is large enough in relation to the size of the installments that the debtor can reasonably afford to pay, that the debt will never be repaid.

(h) Where a mandatory waiver or review satute applies, interest and related charges may not be assessed for those periods during which collection action must be suspended under section 104.2(c)(1) of the Federal Claims Collection Standards (4 CFR Part 104).

§ 1450.30 Exemptions.

(a) The provisions of 31 U.S.C. 3717 do not apply: (i) To debts owed by any State or local government; (ii) to debts arising under contracts which were executed prior to, and were in effect on (i.e., were not completed as of), October 25, 1982; (iii) to debts where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits such charges or explicitly fixes the charges that apply to the debts arising under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States.

(b) However, FMCS is authorized to assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

Dated: December 19, 1985.

Duane M. Buckmaster,

Deputy Director.

[FR Doc. 85-30373 Filed 12-26-85; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-041]

Occupational Exposure to 1,3-Butadiene

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

ACTION: Request for comments.

SUMMARY: On October 10, 1985, the Environmental Protection Agency (EPA), acting under section 9(a) of the Toxic Substances Control Act (TSCA), referred 1,3-butadiene to OSHA for consideration and possible regulatory action (50 FR 41393). This notice summarizes information contained in EPA's report and invites interested parties to submit comments regarding EPA's report and actions required by OSHA, including OSHA's response to EPA, which must be made by April 8, 1986.

DATE: Comments in response to this Notice should be submitted by January 27, 1986.

ADDRESS: Comments should be submitted in quadruplicate to the Docket Officer, Occupational Safety and Health Administration, Docket No. H-041, Room N-3670, U.S. Department of Labor, 200 Constitution Avenue, NW.; Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

I. Background

The chemical 1,3-Butadiene (BD; Chemical Abstracts Service (CAS) Registry Number 106-99-0) is a colorless, noncorrosive, flammable gas at ordinary temperature and pressure with a mild aromatic odor. It is highly reactive, dimerizes to 4-vinylcyclohexene, and polymerizes easily. Because of its low odor threshold, flammability, and explosiveness, BD has been handled with extreme care in industry.

BD is a major commodity product of the petrochemical industry. Total U.S. consumption of BD in 1981 was 3.5 billion pounds. About 70% is used in the production of styrene-butadiene rubber and polybutadiene rubber for the tire industry. Other uses include copolymer latexes for carpet backing and paper coating, as well as resins and polymers for pipes and automobile and appliance parts. It is also used as an intermediate in the production of such chemicals as fungicides.

The present OSHA standard for BD requires employers to assure that employee exposure does not exceed 1,000 parts per million parts of air (ppm) determined as an 8-hour time-weighted average (TWA) (29 CFR 1910.1000, Table Z-1). This standard was adopted by OSHA in 1971 pursuant to section 6(a) of the OSH Act, 29 U.S.C. 655. The source of this standard was the threshold limit

value (TLV) for BD developed in 1968 by the American Conference of Governmental Industrial Hygienists (ACGIH).

New Health data suggest that the current OSHA standard may not adequately protect workers. Specifically, two animal studies on the effects of BD, completed in 1983, demonstrate that BD causes cancer in rodents (Exs. 2–32; 2–33). The six available epidemiological studies on workers in synthetic rubber plants do not establish a link between BD and human carcinogenicity, but neither do they show the absence of such a link. Based on the strength of the animal studies, ACGIH in 1983 classified BD as an animal carcinogen and, in 1984 it recommended a TLV of 10 ppm. Additionally, on the same basis, the National Institute for Occupational Safety and Health (NIOSH) published, on February 9, 1984, a Current Intelligence Bulletin recommending that BD be regarded as a potential occupational carcinogen, teratogen and reproductive hazard.

Both OSHA and EPA published notices on January 5, 1984, indicating they were joining together to request information on BD (49 FR 844, 49 FR 845). Comments were to be submitted by March 5, 1984.

Petitions for an Emergency Termporary Standard (ETS) of 1 ppm or less for workers' exposure to BD were submitted to OSHA on January 23, 1984, by the United Rubber, Cork, Linoleum and Plastic Workers of America (URW), the Oil, Chemical and Atomic Workers (OCAW), the International Chemical Workers Union (ICWU), and American Federation of Labor and Congress of Industrial Organizations (AFL–CIO). OSHA denied the petitions, on the ground that the Agency was still in the process of evaluating the health data on BD to determine whether regulatory action would be appropriate.

On April 4, 1984, OSHA extended the comment period until further notice. OSHA has received a total of 23 comments from interested parties including one labor union, seven trade associations, seven companies, and three federal agencies. The information primarily concerned the toxicological and epidemiological studies, occupational exposure populations and their exposure level, and control technologies. A number of commenters noted that the occupational exposure to BD should be regulated by OSHA under the authority of OSH Act. The docket is still open for receiving additional information.

On May 15, 1984, EPA announced an Advance Notice or Proposed Rulemaking (ANPR) for BD (49 FR 20524). EPA received information in response to the ANPR and developed risk assessments. Subsequently, EPA published, on October 10, 1985, a notice entitled 1,3-Butadiene; Decision to Report to OSHA (50 FR 41392). In it, EPA identified BD as a probable human carcinogen (Group B2). In addition, EPA made two findings. EPA found that current exposure during the manufacture of BD and its processing into polymers present an unreasonable risk fo injury to human health. Secondly, EPA further determined that the risks asssociated with exposure to BD may be reduced to a sufficient extent by action taken under the OSH Act. When these findings are made, EPA is required under Section 9(a) of TSCA, to give OSHA an opportunity to regulate. Therefore, EPA has referred BD to OSHA and requested a response within 180 days, by April 8, 1986.

II. Summary of Findings by EPA

A. The Effects of the Chemical Substance on Health

In conducting the risk assessment of this suspected carcinogen, EPA evaluated the evidence of carcinogenicity of BD in accord with its proposed guidelines (49 FR 46294). EPA concluded that the overall weight of currently available evidence indicated that BD is a probable human carcinogen [Group B2] base on sufficient evidence in long-term animal studies, including metabolism and short-term tests (Ex. 17–21). The epidemiological studies were judged inadequate to assess cancer mortality in the exposed population.

B. Human Exposure and Cancer Risk Assessment

Data complied from various source indicate there are 480 to 740 workers in monomer production plants and 4,800 to 7,500 workers in polymerization plants exposed to BD. Typical workday exposures ranged from less than 1 ppm to levels as high as 500 to 1,000 ppm in a few instances. Based on this information, EPA determined a range of hypothetical exposure profiles for the various job categories. These exposure profiles were employed using two different methods in the preparation of the quantitative risk assessment.

In the first method, the evidence of carcinogencity in animals provided the basis for the quantitative assessment of risks to workers exposed to BD. When the EPA's risk assessment methodology was applied to the hypothetical exposure profile developed for each of the job categories identified in monomer production and polymerization plants, the resulting upper limit risk estimates varied within each job category. For some job categories, the estimated individual risk ranged from 1 lifetime excess cancer incidence in 1,000 workers to 1 incidence in 1 worker. For some other job categories, the range of the estimated risk was from 1 cancer incidence in 10,000 workers to 1 in 10. The magnitude of the estimated risk depended on the range of BD airborne levels to which the individual worker was exposed.

The second method for expressing the cancer risk from BD in monomer and ploymer production plants involved calculating the extra lifetime cancer incidences in a work populations (i.e., population at risk) in these two industry segments. For the total population of 480 to 740 workers in the monomer production plants, EPA calculated the estimated number of lifetime cancer cases caused by 40 years of exposure to BD to range from 22 to 80 (Ex. 17–5). These numbers reflect the range in the number of workers and the range of individual risk depending on exposure levels. In the polymerization plants the number of extra lifetime cancer cases was estimated to be in the range of 148 to 838 for a total population of 4,800 to 7,500 workers.

It should be emphasized that the extra lifetime individual risk estimates upon which the EPA's calculations are based represent upper-limit risks . Although these estimates are considerd to be plausible upper bounds, indicating the upper end of the range of cancer risks that might be expected for the workers, the actual risks may be lower.

C. The Benefits of 1,3-Butadiene

EPA estimates that the current volume of 1,3-Butadiene production in the U.S. is approximately 3 billion pounds per year, with an industry capacity of about 4 billion pounds. Over 95 percent of all domestic BD consumption is used in manufacturing the following polymers: styrene-butadiene (SBR) elastomers and latexes; polybutadiene elastomers; polychloroprene; nylon fibers and resins; acrylonitrile-butadiene-styrene (ABS) resins; acrylonitrile-butadiene (nitrile) rubbers; and ethylene-propylene-diene modification (EPDM) elastomers.

BD is employed in a number of minor polymer applications, including modified polybutadiene as propellant binders, specialty copolymer sins and latexes for paints, coatings and adhesive applications, and hydrogenated butadiene-styrene polymers used as lubricating oil additives. BD is also used as an intermediate in the production of a

number of non polymers, including the agricultural fungicides Captan and Captofol, anthraquinone dyes, and the industrial extraction solvent Sulfodane.

Although technically suitable substitutes are available for most of the major users of BD, the cost of replacing this large-volume chemical is very high (Ex. 17–15).

D. The Reasonably Ascertainable Consequences of Potential Regulation

According to the EPA, workplace control methods could include engineering controls or the use of personal protective equipment. Effective, yet relatively inexpensive engineering controls consist of installation of dual mechnical seals to prevent BD leaks from pumps and compressors. These engineering controls are known and currently employed by several BD producing facilities. Fugitive emissions from pumps, compressors, transfer lines, and sampling equipment can be controlled by relatively standardized engineering designs.

Personal protective equipment and industrial hygiene practices can be effective means to protect the worker from exposure to BD in certain situations (e.g., protective gloves to prevent dermal contact with the liquified chemical). However, the use of personal protective equipment, such as NIOSH-approved respirators, may be less effective than engineering controls due to the physical layout of BD manufacturing and processing plants. Consequently, EPA's estimates of the cost of effective workplace controls are based on engineering controls.

EPA prepared a preliminary economic analysis of the cost associated with imposition of workplace engineering controls of both the manufacturing and the processing of BD (Ex. 17–21). In it, EPA reported that the imposition of workplace controls that should be capable of achieving workplace exposures of less than 1 ppm would result in estimated incremental costs of $118,000 to $320,000 per facility. On an annualized cost basis the costs would range from $20,000 to $53,000 per plant, assuming 10 percent discount rate over a 10-year period. Given the large volume of BD produced annually, the potential impact on costs of requiring engineering controls would not be significant.

E. Unreasonable Risk Determination

For the workers in the plants that produce and process BD into polymers, EPA estimated that the upper-bound lifetime risk is in the range of 1 in 1 to 1 in 10,000, resulting in up to 900 extra lifetime cases of cancer. EPA, therefore, concluded that it is reasonable to determine that current exposures during the manufacture of BD and its processing into polymers present an unreasonable risk of injury to the health of exposed workers.

EPA further concluded that the imposition of more effective engineering controls appears to be capable of reducing all workplace exposures to less than 1 ppm, thereby, reducing the cancer risk to 1 in 100 or less and the extra lifetime cases of cancer to less than 100. EPA's best estimate of their industry wide total cost of the improved engineering controls is in the range of $8 million to $21 million, expressed in current dollars. (On an annualized cost basis, these engineering controls would cost from $1.3 million to $3.4 million per year, calculated over a 10-year period at a 10 percent discount rate). Accordingly, up to 800 cancer cases over a 40-year period, at a total cost of $10,000 to $26,000 per cancer case, could be avoided. Thus, through relatively inexpensive engineering controls, which are already in place at some BD manufacturing and processing facilities, about 90 percent of the cancer risk may be eliminated.

F. Unreasonable Risk May Be Prevented or Reduced to a Sufficient Extent by Action Taken Under OSH Act

EPA has found that a significant concern about human exposures to BD relates to inhalation of this chemical in the workplace. That agency noted that a revised workplace standard may reduce unreasonable risks from the manufacture and processing of BD to a sufficient extent. The OSH Act is the primary statute for protecting the health and safety of workers and, as such, provides broad authorities to achieve this objective. Furthermore, EPA noted that OSHA has experience and expertise in enacting and enforcing these types of regulations. Therefore, EPA concluded that the unreasonable risk of injury to the health of exposed workers may be reduced or prevented to a sufficient extent by actions taken by OSHA under the Federal law it administers.

Once EPA has found that workplace exposures present an unreasonable risk of injury to human health and that such risks may be reduced to a sufficient extent by action taken under the OSH Act, OSHA must be given an opportunity to regulate. Therefore, as required by Section 9(a) of TSCA, EPA published the referral and requested OSHA to respond.

III. Action Required of OSHA

Following receipt of EPA's referral report, OSHA, under section 9(a) of TSCA, is required to first "... determine if the risk may be prevented or reduced to a sufficient extent by action taken under [the OSH Act] ..." To meet this requirement, the Agency must initially determine whether the OSH Act contains the appropriate legal authority to prevent or reduce the risk. Once that authority is ascertained, the Agency must decide if actions taken pursuant to the Act would be effective to reduce the risk to a sufficient extent. If OSHA determines that it lacks legal authority or that Action under the OSH Act will not effectively reduce the risk, no further determinations are necessary, and the Agency, using one of these bases, publishes its response to EPA as required below.

However, if the agency determines that the OSH Act can be used to so prevent or reduce the risk, OSHA then is required to issue an order ". . . declaring whether or not the activity . . . [specified in the EPA report] . . . presents such risk . . ."

Finally, OSHA is required to respond to EPA. The response, which in this case is due within 180 days of EPA's referral report, must be published in the **Federal Register** and must include a detailed statement of OSHA's findings and conclusions.

IV. Request for Comments

So that the Agency's reponse may be as complete as possible, OSHA requests information on:

—Preventing or reducing the risk under the authority of fthe OSHA Act; and
—Determining whether the activities (occupational exposures) specified by EPA present the risks described.

In addition, since OSHA health regulations must be based upon a finding of "significant risk," the Agency seeks data which can be used to help the Agency make that determination. In short, OSHA solicits comments on all issues related to the regulation of BD, including the EPA supporting documents and conclusion.

Information on BD that has already been submitted to EPA (EPA Docket Nos. OPTS–91002, 62034, 48502) is now part of the OSHA record (Docket No. H-041) and should not be resubmitted. Comments and data previously submitted to OSHA remain part of this record and likewise need not be resubmitted.

Comments should be sent in quadruplicate to the Docket Officer, at the address noted above where they will be available for inspection and copying. The date received will be carefully reviewed by OSHA for use in preparation of a response to EPA and in

the preparation of a Notice of Proposed Rulemaking for BD, should OSHA decide that is the appropriate action.

V. Authority

This Notice was prepared under the direction of Patrick R. Tyson, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act (Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1910; and Secretary of Labor's Order No. 9-83 (48 FR 35736)).

Signed at Washington, D.C., this 19th day of December, 1985.

Patrick R. Tyson,

Deputy Assistant Secretary of Labor.

[FR Doc. 85-30447 Filed 12-26-85; 8:45 am]

BILLING CODE 4510-26-M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1602, 1605, 1609, 1618, 1621, 1624, 1630, 1633, 1636, 1639, 1642, 1648, 1651, 1653, 1656, and 1657

Selective Service Regulations; Processing of Registrants

AGENCY: Selective Service System.

ACTION: Proposed rule.

SUMMARY: Procedures for the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) are revised to assure greater fairness and efficiency in administration.

DATES: Comment Date: Written comments received on or before January 27, 1986 will be considered. Effective date: Subject to the comments received, the amendments are proposed to become effective upon publication in the Federal Register of a final rule not earlier than 30 days after the Final Rule is published in the Federal Register.

ADDRESS: Written comments to: Selective Service System, ATTN: General Counsel Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, DC 20435 Phone (202) 724-1167.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations are published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)) and Executive Order 11623. These Regulations implement the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

Discussion or Proposed Regulations

A—Eliminated postponements because of hardship to dependents.

Reason: The provision permitting postponements of induction up to 90 days in lieu of granting hardship deferments raises very serious doubt as to the statutory authority to grant such postponements. The provision, if not changed, will lead to unequal treatment of registrants in substantially the same circumstances.

B—Clarify provisions relative to assignment of registrants to local boards and transfers for classification.

Reason: To simplify registrant processing.

C—Provide for immediate induction of registrants whose deferments or exemptions have expired.

Reasons: Eliminates possiblity that registrant who has been granted a deferment or exemption will avoid all military service when the reason for his deferment or exemption expires, if he is beyond the ages group that is currently being selected for induction. The Military Selective Service Act does not sanction this effect. The System cannot administratively cicumvent the language and thrust of the provision in section 17(c) of the Military Selective Service Act, which extends liability for registrants who have received deferments.

D—Effect changes in and indicated by the 1933 revision of alternative service regulations (Part 1656).

Reason: To harmonize related provisions.

E—Processing of overseas registrants.

Reason: Issurance of regulations covering overseas registrants has been delayed due to the urgency of completing domestic registrant processing. These changes are an essential step for governing the processing of overseas registrants.

F—Restrict Part 1633 to administration of classification.

Reason: To clarify and simplify the text.

G—Members of National Appeal Board to be uncompensated.

Reason: Members of all other boards in the System are uncompensated. There is no apparent reason for members of the National Board to be compensated.

H—Assure registrants seeking conscientious objector status (Class 1-O) are qualified for induction, prior to consideration of the 1-O claim.

Reason: This change requires that a registrant's acceptability for military service be satisfactorily determined prior to local board consideration of his claim for conscientious objection classification. It effectively implements the Military Selective Service Act requirement that a registrant's acceptability for military service be determined prior to his placement in Alternative Service. Furthermore, it will substantially reduce the work load of local and appeal boards and save time of registrants.

I—The requirement that a list of names and telephone numbers of persons who desire to advise registrants of their rights under Selective Service law be posted in the area office eliminated.

Reason: The innovation of requiring the System to post such list reflects unwise policy. The System should not advertise the availability of persons to advise registrants or others on Selective Service matters.

J—Eliminate right of appeal from the denial of a claim for classification in Class 4-F (unacceptable for military service).

Reason: The System has no discretion in classifying a person in Class 4-F or denying a claim therefor. Such action is based entirely on the determination of a Military Entrance and Processing Station. This change eliminates the possibility that a registrant may use the appeal procedure to harass the System and possibly avoid his military service obligation.

K—Establish Class 1-O-S as an administrative class for registrants discharged from military service by reason of their conscientious objection.

Reason: There is no occasion for a local board to exercise its judgment in this situation. The classification can and should be made administratively, based on documentation of the Service granting the discharge.

L—Proceedings of local boards and district appeal boards to be closed to the public.

Reason: Proceedings of the National (Presidential) Appeal Board are closed to the public and that practice should apply also to local and district appeal boards. The possibility of abuse of the personal appearance process and potential harassment of the registrant are substantially reduced by having

members of the public excluded from such proceedings.

M—The automatic scheduling of a registrant for a second personal appearance on his claim for Class 1–O (Conscientious Objector) to be eliminated.

Reason: The present provision creates opportunity for delay without any compensating benefits. The registrant concerned would be fully protected by the procedures which exist for registrants scheduled for personal appearances with respect to other claims.

N—Restrict appeals from local board decisions on administrative classifications to instances in which the decision of the local board is not unanimous.

Reason: Issued to be decided by a local board when reviewing an administrative classification are so narrow that it is unlikely that the board's decision will be overturned on appeal, if the registrant has not gained the support of at least one board member. This change will eliminate the potential harassment of the System, and submission of frivolous claims and appeals.

O—Clarify meaning of quorum of boards.

Reason: Question raised at local board training sessions prompted these proposals.

P—Establish Class 3–A–S for registrants separated from military service because of hardship to dependents.

Reason: Registrants separated from military service because of hardship to their dependents should be administratively classified on the basis of the services' determinations.

Q—Establish 4–A–A for registrants who have served in the military service of a foreign government.

Reason: Registrants who would now be placed in Class 4–A because of their service in the military forces of a foreign government should be easily identifiable in time of war.

R—Clarify authority to administer oaths of interpreters.

Reason: An oath is required of interpreters, but currently the persons authorized to administer it are not identified.

S—Substitute "delay" for "postponement" because of filing claim for reclassification.

Reason: The current use of "postponement" in two senses is confusing.

T—Require examination of registrants who have filed claims for judgmental classifications.

Reason: To assure that all registrant claims considered by the board are pertinent, and applicable only to registrants qualified for induction. Otherwise, claims consideration and processing will waste time, when registrant is classified into a class other than 1–A, and subsequently found unacceptable for military service.

U—To correct printing errors and cross-references and to clarify language.

Reason: To make the indicated corrections.

Interested persons are invited to submit written comments on the proposed regulations. Reference should be made to the number of the paragraph(s) to which comments are directed. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the General Counsel from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), I have determined that these regulations do not have a significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Parts 1602, 1605, 1609, 1618, 1621, 1624, 1630, 1633, 1636, 1639, 1642, 1648, 1651, 1653, 1656, 1657

Armed forces—Draft.

Dated: December 11, 1985.

Thomas K. Turnage,

Director.

PART 1602—DEFINITIONS

1. The authority citation for Part 1602 continues to read as follows:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

2. § 1602.2 is revised to read:

§ 1602.2 Administrative Classification.

A reclassification action relating to a registrant's claim for Class 1–C, 1–D–D, 1–D–E, 1–H, 1–O–S, 1–W, 3–A–S, 4–A–A, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T, or 4–W. These classes shall be identified as administrative classes.

3. § 1602.11 is revised to read:

§ 1602.11 District Appeal Board.

A district appeal board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to act on cases of registrants in accord with the provisions of Part 1651 of this chapter.

4. § 1602.14 is revised to read:

§ 1602.14 Local Board.

A local board or a panel thereof of the Selective System is a group of not less than three civilian members appointed by the President after nomination by a Governor to act on cases of registrants in accord with the provisions of Part 1648 of this chapter.

5. § 1602.15 is revised to read:

§ 1602.15 Local Board of Jurisdiction.

The local board of jurisdiction is the local board to which a registrant is assigned and which has authority, in accord with the provisions of this chapter, to determine his claim or to issue to him an order. "His local board" and "registrant's local board" refer to the local board of jurisdiction.

6. § 1602.18 is revised to read:

§ 1602.18 National Appeal Board.

The National Appeal Board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to act on cases of registrants in accord with the provisions of Part 1653 of this chapter.

7. § 1602.24 is added to read:

§ 1602.24 Claim.

A "claim" is a request for postponement of induction or classification into a class other than 1–A.

8. § 1602.25 is added to read:

§ 1602.25 Director.

Director is the Director of Selective Service.

PART 1605—SELECTIVE SERVICE SYSTEM ORGANIZATION

8A. The authority citation for Part 1605 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

9. § 1605.6 is revised to read:

§ 1605.6 National Appeal Board.

(a) There is hereby created and established within the Selective Service System a civilian agency of appeal which shall be known as the National Appeal Board. The President shall appoint not less than three members to the National Appeal Board, and he shall designate one member as chairman.

(b) The President shall appoint members of the National Appeal Board from among citzens of the United States who:

(1) Are not active or retired members of the Armed Forces or any reserve component thereof;

(2) Have not served as a member of the National Appeal Board for a period of more than five years;

(3) Are at least 18 years of age;

(4) Are able to perform such duties as are necessary;

(5) Are abe to devote sufficient time to Board affairs; and

(6) Are willing to fairly and uniformly apply Selective Service Law.

(c) The National Appeal Board may sit *en banc*, or upon the request of the Director or as determined by the chairman of the National Appeal Board, in panels, each panel to consist of at least three members. The Chairman of the National Appeal Board shall designate the members of each panel and he shall designate one member of each panel as chairman. A majority of the members of a panel shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present, shall decide any question. Each panel of the National Appeal Board shall have full authority to act on all cases assigned to it. The National Appeal Board or a panel thereof shall hold meetings in Washington, DC, and, upon request of the Director or as determined by the Chairman of the National Appeal Board, at any other place.

The National Appeal Board or panel thereof shall classify each registrant whose classification has been appealed to the President under Part 1653 of this chapter.

(e) No member of the National Appeal Board shall act on the case of a registrant who is the member's first cousin or closer relation either by blood, marriage, or adoption, or who is the member's employer, employee or fellow employee or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the National Appeal Board. A member of the National Appeal Board must disqualify himself in any matter in which he would be restricted for any reason in making an impartial decision.

(f) Each member of the National Appeal Board while on the business of the National Appeal Board away from his home or regular place of business shall receive actual travel expenses and per diem in lieu of subsistence in accordance with rates established by Federal Travel Regulations.

(g) The National Appeal Board shall in all respects be independent of the Director, except that the Director shall provide for the payment of the expenses of the members of the National Appeal Board, shall furnish that Board and its panels necessary personnel, suitable office space, necessary facilities and services. The Director and the chairman of the National Appeal Board shall furnish to each other such information, advice and assistance as will further the attainment of the objectives of the Military Selective Service Act, and promote the effective administration of the Act.

§ 1605.51 [Amended]

10. § 1605.51(b) is removed and reserved.

11. § 1605.81(b) is revised to read:

§ 1605.81 Interpreters.

* * * * *

(b) The following oath shall be administered by a member of the board or a compensated employee of the System to an interpreter each time he or she interprets:

Do you swear (or affirm) that you will truly interpret in the matter now in hearing?

* * * * *

PART 1609—UNCOMPENSATED PERSONNEL

11A. The authority citation for Part 1609 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

12. § 1609.1 is revised to read:

§ 1609.1 Uncompensated positions.

Members of civilian review boards, local boards, district appeal boards, and the National Appeal Board and all other persons volunteering their services to assist in the Administration of the Selective Service Law shall be uncompensated. No person serving without compensation shall accept remuneration from any any source for services rendered in connection with Selective Service matters.

PART 1618—NOTICE TO REGISTRANTS

12A. The authority citation for part 1618 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

§ 1618.3 [Removed]

13. § 1618.3 is removed.

PART 1621—DUTY OF REGISTRANTS

13A. The authority citation for part 1621 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

14. § 1621.1 is revised to read:

§ 1621.1 Reporting by registrants of their current status.

Until otherwise notified by the Director of Selective Service, it is the duty of every registrant who registered after July 1, 1980:

(a) To notify the System within 10 days of any change in the following items of information that he provided on his registration form: Name, current mailing address and permanent residence address; and

(b) To submit to the classifying authority, all information concerning his status within 10 days after the date on which the classifying authority mails him a request therefor, or within such longer period as may be fixed by the classifying authority; and

(c) Who has a postponement of induction, or has been deferred or exempted from training and service, to notify the System immediately of any changes in facts or circumstances relating to the postponement, deferment or exemption; and

(d) Who has a postponement of examination, to notify the System immediately of any changes in facts or circumstances relating to the postponement.

15. § 1621.3 is added to read:

§ 1621.3 Duty to report for and submit to examination.

When the Director orders a registrant for examination, it shall be the duty of the registrant to report for and submit to examination at the time and place ordered unless the order has been canceled. If the time when the registrant is ordered to report for examination is postponed, it shall be the continuing duty of the registrant to report for and submit to examination at such time and place as he may be reordered. Regardless of the time when or the circumstances under which a registrant fails to report for examination when it is

his duty to do so, it shall thereafter be his continuing duty from day to day to report for and submit to examination at the place specified in the order to report for examination.

PART 1624—INDUCTIONS

15A. The authority citation for part 1624 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

16. § 1624.3(c)(3) is revised to read:

§ 1624.3 Age selection groups.

* * * * *

(c) * * *

(3) They have been classified in one of the following classes:

(i) Class 1–D–D.

(ii) Class 2–D.

(iii) Class 3–A.

(iv) Class 4–B.

(v) Class 4–C.

(vi) Class 4–F.

* * * * *

17. § 1624.4 (b) and (c) are revised to read:

§ 1624.4 Selection and/or rescheduling or registrants for induction.

* * * * *

(b) Registrants whose postponements have expired in the order of expiration.

(c) Registrants who previously have been ordered to report for induction and whose exemptions or deferments have expired, in the order of their random sequence number (RSN) established by random selection procedures in accord with § 1624.1.

* * * * *

18. § 1624.5(a) is revised to read:

§ 1624.5 Order to report for induction.

(a) Immediately upon determining which persons are to be ordered for induction, the Director of Selective Service shall issue to each person selected an Order to Report for Induction. the order will be sent to the current address most recently provided by the registrant to the Selective Service System. The date specified to report for induction shall be at least 10 days after the date on which the Order to Report for Induction is issued. The filing of a claim for reclassification in accord with § 1633.2 of this chapter delays the date the registrant is required to report for induction until not earlier than the tenth day after the claim is determined to have abandoned or is finally determined in accord with the provisions of this chapter. A claim is finally determined when the registrant does not have a right to appeal the last classification action with respect to the claim or he fails to exercise his right to appeal.

* * * * *

19. § 1624.6, paragraphs (a) and (e) are removed and reserved, (b) is revised, and (j) is added to read as follows:

§ 1624.6 Postponement of induction.

(a) [Reserved]

(b) In the case of the death of a member of the registrant's immediate family, extreme emergency involving a member of the registrant's immediate family, serious illness or injury of the registrant, or other emergency beyond the registrant's control, the Director, after the Order to report for Induction has been issued, may postpone for a specific time the date when such registrant shall be required to report. The period of postponement shall not exceed 60 days from the date of the induction order. When necessary, the Director may grant one further postponement, but the total postponement shall not exceed 90 days from the reporting date on the induction order.

* * * * *

(e) [Reserved]

* * * * *

(j) The initial determination of claims for all postponements is made by area office compensated personnel. After a denial of a claim for a student postponement, the registrant may request the local board to consider the claim. Such registrant shall be afforded an opportunity to appear before the board in accord with the procedures of §§ 1648.4 and 1648.5.

20. § 1624.7 is revised to read:

§ 1624.7 Expiration of deferment or exemption.

The Director shall issue an Order to Report for Induction to a registrant who is liable for induction whenever his deferment or exemption expires.

21. § 1624.10 is revised to read:

§ 1624.10 Order to report for examination.

(a) The Director of Selective Service may order any registrant in Class 1–A who has filed a claim for classification in a class other than Class 1–A or whose induction has been postponed, to report for an Armed forces examination to determine acceptability for military service. The date specified to report for examination shall be at least 7 days after the date on which the Order to Report for Examination is issued. Such registrant will not be inducted until his claim for reclassification has been decided or abandoned.

(b) The reporting date for examination may be postponed for any reason a reporting date for induction may be postponed in accordance with § 1624.6(b), (d) or (f)(1).

(c) If a registrant fails to report for or complete an examination the local board will determine that he has abandoned his claim.

(d) If a registrant is determined not acceptable for military service, he will be reclassified in Class 4–F.

(e) If a registrant is determined acceptable for military service, the processing of his claim will be completed.

PART 1630—CLASSIFICATION RULES

21A. The authority citation for Part 1630 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq., E.O. 11623.

22. § 1630.13 is revised to read:

§ 1630.13 Class 1–D–D: Deferment for certain members of a reserve component or student taking military training.

In Class 1–D–D shall be placed any registrant who:

(a)(1) Has been selected for enrollment or continuance in the Senior (entire college level) Army Reserve Officer's Training Corps, or the Air Force Reserve Officer's Training Corps, or the Naval Reserve Officer's Training Corps, or the Naval and Marine Corps officer candidate program of the Navy, or the platoon leader's class of the Marine Corps, or the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or is appointed an ensign, U.S. Naval Reserve, while undergoing professional training; and

(2) Has agreed in writing to accept a commission, if tendered, and to serve subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the U.S. Coast Guard), not less than 2 years on active duty after receipt of a commission; and

(3) Has agreed to remain a member of a regular or reserve component until the eighth anniversary of his receipt of a commission. Such registrant shall remain eligible for Class 1–D–D until completion or termination of the course of instruction and so long thereafter as he continues in a reserve status upon being commissioned except during any period he is eligible for Class 1–C under the provisions of § 1630.12; or

(b) Is a fully qualified and accepted aviation cadet applicant of the Army, Navy, or Air Force, who has signed an agreement of service and is within such numbers as have been designated by the

Secretary of Defense. Such registrant shall be retained in Class 1–D–D during the period covered by such agreement but in no case in excess of four months; or

(c) Is other than a registrant referred to in paragraph (a) or (d) of this section who:

(1) Prior to the issuance of orders for him to report for induction; or

(2) Prior to the date scheduled for his induction and pursuant to a proclamation by the Governor of a State to the effect that the authorized strength of any unit of the National Guard of that State cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction; or

(3) Prior to the date scheduled for his induction and pursuant to a determination by the President that the strength of the Ready Reserve of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction: Enlists or accepts an appointment before attaining the age of 26 years, in the Ready Reserve of any Reserve component of the Armed Forces, the Army National Guard, or the Air National Guard. Such registrant shall remain eligible for Class 1–D–D so long a he serves satisfactorily as a member of an organized unit of such Ready Reserve or National Guard, or satisfactorily performs such other Ready Reserve service as may be prescribed by the Secretary of Defense, or serves satisfactorily as a member of the Ready Reserve of another reserve component, the Army National Guard, or the Air National Guard, as the case may be; or

(d) At any time has enlisted in the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, or the Coast Guard Reserve and who thereafter has been commissioned therin upon graduation from an Officer's Candidate School of such Armed Force and has not been ordered to active duty as a commissioned officer. Such registrant shall remain eligible for Class 1–D–D so long as he performs satisfactory service as a commissioned officer in an appropriate unit of the Ready Reserve, as determined under regulations prescribed by the Secretary of the department concerned; or

(e) Is serving satisfactory as a member of a reserve component of the Armed Forces and is not eligible for Class 1–D–D under the provisions of any other paragraph of this section: Provided, That, for the purpose of this paragraph, a member of a reserve component who is in the Standby Reserve or the Retired Reserve shall be deemed to be serving satisfactorily unless the Armed Force of which he is a member informs the Selective Service System that he is not serving satisfactorily.

23. § 1630.16 is added to read:

§ 1630.16 Class 1–O: Conscientious objector to all military service.

Any registrant whose acceptability for military service has been satisfactorily determined and who, in accord with Part 1636 of this chapter, has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces shall be classified in Class 1–O.

24. § 1630.17 is revised to read:

§ 1630.17 Class 1–O–S: Conscientious objector to all military service (separated).

Any registrant who has been separated from the Armed Forces (including their reserve components) by reason of conscientious objection to participation in both combatant and noncombatant training and service in the Armed Forces shall be classified in Class 1–O–S unless his period of military service qualifies him for Class 4–A. A registrant in Class 1–O–S will be required to serve the remainder of his obligation under the Military Selective Service Act in Alternative Service.

25. § 1630.18 is revised to read:

§ 1630.18 Class 1–W: Conscientious objector ordered to perform alternative service.

In Class 1–W shall be placed any registrant who has been ordered to perform alternative service contributing to the maintenance of the national health, safety, or interest.

26. § 1630.30 is revised to read:

§ 1630.30 Class 3–A: Registrant deferred because of hardship to dependents.

(a) In accord with Part 1642 of this chapter any registrant shall be classified in Class 3–A:

(1) Whose induction would result in extreme hardship to his wife when she alone is dependent upon him for support; or

(2) Whose deferment is advisable because his child(ren), parent(s), brother(s), grandparent(s), or sister(s) is dependent upon him for support; or

(3) Whose deferment is advisable because his wife and his child(ren), parent(s), grandparent(s), brother(s), or sister(s) are dependent upon him for support.

(b) The classification of each registrant in Class 3–A will not be granted for a period longer than 365 days.

27. § 1630.31 is added to read:

§ 1630.31 Class 3–A–S: Registrant deferred because of hardship to dependents (Separated).

Any registrant who has been separated from active military service by reason of dependency or hardship shall be placed in Class 3–A–S unless his period of military service qualifies him for Class 4–A or 1–D–E. No registrant shall be retained in Class 3–A–S for more than six months.

28. § 1630.40(a) introductory text is revised and (a)(4) is removed and reserved:

§ 1630.40 Class 4–A: Registrant who has completed military service.

(a) In Class 4–A shall be placed any registrant other than a registrant eligible for classification in Class 1–C, 1–D–D, or 1–D–E who is within any of the following categories:

* * * * *

(4) [Reserved]

* * * * *

29. § 1630.44 is revised to read:

§ 1630.44 Class 4–F: Registrant not qualified for military service.

In Class 4–F shall be placed any registrant who is found by the Secretary of Defense, under applicable physical, mental or administrative standards, to be not acceptable for service in the Armed Forces; except that no such registrant whose further examination or re-examination is determined by the Secretary of Defense to be justified shall be placed in Class 4–F until such further examination has been accomplished and such registrant continues to be found not acceptable for military service.

30. § 1630.45—the section heading and (a) are revised to read as follows:

§ 1630.45 Class 4–G: Registrant exempted from service because of the death of his parent or sibling while serving in the armed forces or whole parent or sibling is in a captured or missing in action status.

* * * * *

(a) A surviving son or brother:

(1) Whose parent or sibling of the whose blood was killed in action or died in the line of duty while serving in the Armed Forces of the United States after Decembr 31, 1959, or died subsequent to such date as a result of injuries received or disease incurred in the line of duty during such service; or

(2) Whose parent or sibling of the whole blood is in a captured or missing status as a result of such service in the Armed Forced during any period of time; or

* * * * *

31. § 1630.48 is added to read:

§ 1630.48 Class 4-A-A: Registrant who has performed military service for a foreign nation.

In Class 4-A-A shall be placed any registrant who, while an alien, has served on active duty for a period of not less than 12 months in the armed forces of a nation determined by the Department of State to be a nation with which the United States is associated in mutual defense activities and which grants exemptions from training and service in its armed forces to citizens of the United States who have served on active duty in the Armed Forces of the United States for a period of not less than 12 months; Proveded: That all information which is submitted to the Selective Service System concerning the registrant's service in the armed forces of a foreign nation shall be written in the English language.

PART 1633—ADMINISTRATION OF CLASSIFICATION

31A. The authority citation for Part 1633 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

32. § 1633.1(e) and (f) are revised to read as follows:

§ 1633.1 Classifying authority.

* * * * *

(e) A local board may also classify a registrant into Class 1-C, 1-D-D, 1-D-E, 1-O-S, 1-W, 3-A-S, 4-A, 4-A-A, 4-B, 4-C, 4-G, 4-T or 4-W for which he is eligible upon request by the registrant for a review of a classification denial action under § 1633.1(f).

(f) Compensated employees of an area office may in accord with § 1633.2 classify a registrant into Class 1-C, 1-D-D, 1-D-E, 1-O-S, 1-W, 3-A-S, 4-A, 4-A-A, 4-B, 4-C, 4-F, 4-G, 4-T or 4-W for which he is eligible. No individual shall be classified into Class 4-F unless the Secretary of Defense has determined that he is unacceptable for military service.

33. § 1633.2 is revised to read:

§ 1633.2 Claim for other than Class 1-A.

(a) Any registrant who has received an order to report for induction may, prior to the day he is scheduled to report, submit to the Selective Service System a claim that he is eligible to be classified into any class other than Class 1-A. The registrant may assert a claim that he is eligible for more than one class other than Class 1-A. The registrant cannot subsequently file a claim with respect to a class for which he was eligible prior to the day he was originally scheduled to report. Information and documentation in support of claims for reclassification and postponement of induction shall be filed in accordance with instructions from the Selective Service System.

(b) Any registrant who has received an order to report for induction that has not been canceled may, at any time before his induction, submit a claim that he is eligible to be classified into any class other than Class 1-A based upon events over which he has no control that occurred on or after the day he was originally scheduled to report for induction.

(c) (1) Claims will be filed with the area office supporting the local board of jurisdiction.

(2) Claims will be considered by the local board identified in (1) or its supporting area office as prescribed in this part.

(d) The initial determination of claims for all administrative classifications are made by area office compensated personnel. After a denial of a claim for an administrative classification other than Class 4-F the registrant may request the local board to consider the claim.

(e) The initial determination of a judgmental classification is made by a local board.

(f) A registrant may request and shall be granted a personal appearance whenever a local or appeal board considers his claim for reclassification. Personal appearances will be held in accord with Parts 1648, 1651 and 1653 of this chapter.

(g) A registrant who has filed a claim for classification in Class 1-A-0 or Class 1-0 shall be scheduled for a personal appearance in accord with § 1648.4 before his claim is considered.

(h) If granted, a deferment or exemption supersedes the original order to report for induction. When a deferment or exemption expires or ends, a new order to report for induction will be issued.

34. § 1633.6 is revised to read:

§ 1633.6 Consideration of classes.

Claims of a registrant will be considered in inverse order of the listing of the classes below. When grounds are estabilsed to place a registrant in one or more of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1-A-0 considered the highest class and Class 1-H considered the lowest class, according to the following table:

Class 1-A-0: Conscientious Objector Available for Noncombatant Military Service Only.
Class 1-0: Conscientious Objector to all Military Service.
Class 1-0-S: Conscientious Objector to all Military Sevice (Separated).
Class 2-D: Registrant Deferred Because of Study Preparing for the Ministry.
Class 3-A: Registrant Deferred Because of Hardship to Dependents.
Class 3-A-S: Registrant Deferred Because of Hardship to Dependents (Separated).
Class 4-D: Minister of Religion.
Class 1-D-D: Deferment for Certain Members of a Reserve Component or Student Taking Military Training.
Class 4-B: Official Deferred by Law.
Class 4-C: Alien or Dual National.
Class 4-G: Registrant Exempted From Service Because of the Death of his Parent or Sibling While Serving in the Armed Forces or Whose Parent or Sibling is in a Captured or Missing in Action status.
Class 4-A: Registrant Who Has Completed Military Service.
Class 4-A-A: Registrant Who Has Performed Military Service For a Foreign Nation.
Class 4-W: Registrant Who Has Completed Alternative Service in Lieu of Induction.
Class 1-D-E: Exemption of Certain Members of a Reserve Component or Student Taking Military Traning.
Class 1-C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 1,-W: Conscientious Objector Ordered to Perform Alternative Service in Lieu of Induction.
Class 4-T: Treaty Alien.

Class 4-F: Registrant Not Acceptable for Military Service.

Class 1-H: Registrant Not Subject to Processing for Induction.

35. § 1633.7(b) is revised to read as follows, and (c) removed:

§ 1633.7 General principles of classification.

* * * * *

(b) The classifying authority in considerating a registrant's claim for classification shall not discriminate for or against him because of his race, creed, color or ethnic background

36. § 1633.10 is revised to read:

§ 1633.10 Notification to registrant of classification action.

The Director will notify the registrant of any classification action.

37. § 1633.11 is revised to read:

§ 1633.11 Assignment of registrant to a local board.

(a) A registrant is assigned to the local board that has jurisdiction over his permanent address that he last furnished the Selective Service System prior to the issuance of his induction order.

(b) The Director may change a registrant's assignment when he deems it necessary to assure the fair and equitable administration of the Selective Service Law.

PART 1636—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

37A. The Authority Citation for Part 1636 Continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App 451 et seq.; E.O. 11623.

38. § 1636.3(a) is revised to read:

§ 1636.3 Basis for classification in Class 1-A-O.

(a) A registrant must be conscientiously opposed to participation in combatant training and service in the Armed Forces.

* * * * *

39. § 1636.6—the section heading is revised to read:

§ 1636.6 Analysis of belief.

* * * * *

40.1636.8(a)(3) is revised to read:

§ 1636.8 Considerations relevant to granting or denying a claim for classificaion as a conscientious objector.

(a) * * *

(3) The oral statements of the registrant's witnesses, if any, at his personal appearance(s) before the local board; and

* * * * *

PART 1639—CLASSIFICATION OR REGISTRANTS PREPARING FOR THE MINISTRY

40A. The authority citation for Part 1639 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

41. § 1639.3(a)(1) is revised to read:

§ 1639.3 Basis for classification in Class 2-D.

(a) * * *

(1) Who is satisfactorily pursuing a full-time course of instruction required for entrance into recognized theological or divinity school in which he has been pre-enrolled or accepted for admission; or

* * * * *

42. § 1639.6 the section heading is revised to read as follows:

§ 1639.6 Considerations relevant to granting or denying claims for Class 2-D.

* * * * *

43. § 1639.7 is amended by adding paragraph (c) to read:

§ 1639.7 Types of decisions.

* * * * *

(c) The board may deny a claim for Class 2-D when the evidence fails to meet any of the criteria established in this section.

PART 1642—[AMENDED]

43A. The authority citation for Part 1642 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

44. Part 1642—Heading is revised to read:

PART 1642—CLASSIFICATION OF REGISTRANTS DEFERRED BECAUSE OF HARDSHIP TO DEPENDENTS

45. § 1642.3 is revised to read:

§ 1642.3 Basis for classification in Class 3-A.

(a) In Class 3-A shall be placed any registrant:

(1) Whose induction would result in extreme hardship to his wife when she alone is dependent upon him for support; or

(2) Whose deferment is advisable because his child(ren), parent(s), grandparent(s), brother(s), or sister(s) is dependent upon him for support; or

(3) Whose deferment is advisable because his wife and child(ren), parent(s), grandparent(s), brother(s), or sister(s) are dependent upon him for support.

(b) In its consideration of a claim by a registrant for classification in Class 3-A, the board will first determine whether the registrant's wife, child(ren), parent(s), grandparents(s), brother(s), or sister(s) is dependent upon the registrant for support. Support may be financial assistance, personal care or companionship. If financial asssitance is the basis of suppport, the registrant's contribution must be a substantial portion of the necessities of the dependent. Under most circumstances 40 to 50% of the cost of the necessities may be considered substantial. If that determination is affirmative, the board will determine whether the registrant's induction would result in extreme hardship to his wife when she is the only dependent, or whether the registrant's deferment is advisable because his child(ren), parent(s), grandparent(s), brother(s) or sister(s) is dependent upon him for support, or because his wife and his child(ren), parent(s), grandparent(s), brother(s), or sister(s) are dependent upon him for support. A deferment is advisable whenever the registrant's induction would result in hardship to his dependents.

(c) The registrant's classification shall be determined on the basis of the written information in his file, oral statements, if made by the registrant at his personal appearance before a board, and oral statements, if made by the registrant's witnesses at his personal appearances.

46. § 1642.4(a)(4) is revised to read as follows, and (b) is removed.

§ 1642.4 Ineligibility for Class 3-A.

(a) * * *

(4) There are other persons willing and able to assume the support of his dependents; or

* * * * *

§ 1642.5 [Removed]

47. § 1642.5 is removed.

48. § 1642.7(a) is revised to read as follows, and (c) is removed and reserved.

§ 1642.7 Types of decisions.

(a) A board may grant a classification into Class 3-A for such period of time it deems appropriate but in no event shall the period exceed one year.

* * * * *

(c) [Reserved]

* * * * *

PART 1648—CLASSIFICATION BY LOCAL BOARD

48A. The authority citation for Part 1648 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

49. § 1648.1 is revised to read:

§ 1648.1 Authority of local board.

A local board shall consider and determine all claims which it receives in accord with § 1633.2 or § 1648.6 of this chapter. No action shall be taken by the board in the absence of a quorum of its prescribed membership.

§ 1648.2 [Removed]

50. § 1648.2 is removed.

51. § 1648.3 (a) and (c) are revised to read as follows:

§ 1648.3 Opportunity for personal appearances.

(a) A registrant who has filed a claim for classification in Class 1-A-O or Class 1-O shall be scheduled for a

personal appearance in accord with § 1648.4 before his claim is considered.

* * * * *

(c) Any registrant who has filed a claim for classification in Class 1-C, 1-D-D, 1-D-E, 1-O-S, 1-W, 3-A-S, 4-A, 4-A-A, 4-B, 4-C, 4-G, 4-T, or 4-W and whose claim has been denied, shall be afforded an opportunity to appear before the board if he requests that the denial of such claim be reviewed by the board.

52. § 1648.4(b) is revised to read:

§ 1648.4 Appointment for personal appearances.

* * * * *

(b) Should the registrant who has filed a claim for classification in Class 1-A-O or Class 1-O fail to appear at his scheduled personal appearance, the board will not consider his claim for classification in Class 1-A-O or Class 1-O. The board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his claim for Class 1-A-O or 1-O and will be notified that his claim will not be considered. The board will notify the registrant in writing of its action under this paragraph.

* * * * *

53. § 1648.5 (a) and (i) are revised to read:

§ 1648.5 Procedures during personal appearance before the local board.

(a) A quorum of the prescribed membership of a board shall be present during all personal appearances. Only those members of the board before whom the registrant appears shall classify him.

* * * * *

(i) Proceedings before local boards are closed to the public.

54. § 1648.6(a) is revised to read:

§ 1648.6 Registrants transferred for classification.

(a) Before a board of jurisdiction has undertaken the classification of a registrant, the file may, at his request, be transferred for classification to a local board nearer to his current address than is the local board of jurisdiction.

* * * * *

PART 1651—CLASSIFICATION BY DISTRICT APPEAL BOARD

54A. The authority citation for Part 1651 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

55. § 1651.1(b) is revised to read:

§ 1651.1 Who may appeal to a district appeal board.

* * * * *

(b) The registrant may appeal the denial of his claim for a judgmental classification by the local board to a district appeal board. The registrant may appeal to a district appeal board the denial of his claim for an administrative classification by the local board whenever its decision is not unananimous.

56. § 1651.4(a), (j), (n)(3) and (r) are revised to read as follows:

§ 1651.4 Review by district appeal board.

(a) An appeal to the district appeal board is determined by its classification of the registrant in a class other than 1-A or by its refusal to take such action. No action shall be taken by the board in the absence of a quorum of its prescribed membership.

* * * * *

(j) A quorum of the prescribed membership of a board shall be present during all personal appearances. Only those members of the board before whom the registrant appears shall classify him.

* * * * *

(n) * * *

(3) Has abandoned his right to an opportunity to appear; or

* * * * *

(r) Proceedings before district appeal boards are closed to the public.

PART 1653—APPEAL TO THE PRESIDENT

56A. The authority citation for Part 1653 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

57. § 1653.3(a) and (k) are revised to read:

§ 1653.3 Review by the National Selective Service Appeal Board.

(a) An appeal to the President is determined by the National Appeal Board by its classification of the registrant in a class other than 1-A or by its refusal to take such action. No action shall be taken by the board in the absence of a quorum of its prescribed membership.

* * * * *

(k) a quorum of the prescribed membership of a board shall be present during all personal appearances. Only those members of the board before whom the registrant appears shall classify him.

* * * * *

PART 1656—ALTERNATIVE SERVICE

57A. The authority citation for Part 1656 continues to read:

Authority: Sec. 6(j) Military Selective Service Act; 50 U.S.C. App. 456(j).

58. § 1656.2 is revised to read:

§ 1656.2 Order to perform alternative service.

(a) The local board of jurisdiction shall order any registrant who has been classified in Class 1-O or 1-O-S to perform alternative service at a time and place to be specified by the Director.

(b) When the local board orders a registrant to perform alternative service, it shall be the duty of the registrant to report for and perform alternative service at the time and place ordered unless the order has been canceled. If the time when the registrant is ordered to report for alternative service is postponed, it shall be the continuing duty of the registrant to report for and perform alternative service at such time and place as he may be reordered. Regardless of the time when or the circumstances under which a registrant fails to report for and perform alternative service when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for and perform alternative service at the place specified in the order to report for and perform alternative service.

(c) In the case of the death of a member of the registrant's immediate family, extreme emergency involving a member of the registrant's immediate family, serious illness or injury of the registrant, or other emergency beyond the registrant's control, the Director, after the order to perform alternative service has been issued, may postpone for a specific time the date when such registrant shall be required to report. The period of postponement shall not exceed 60 days from the date of the order to perform alternative service. When necessary, the Director may grant one further postponement but the total postponement shall not exceed 90 days

from the reporting date on the order to perform alternative service.

(d) The Director may authorize a postponement of the reporting date to perform alternative service when the registrant qualifies and is scheduled for a State or National examination in a profession or occupation which requires certification before being authorized to engage in the practice of that profession or occupation.

(e) The Director shall issue to each registrant whose reporting date to perform alternative service is postponed a written notice thereof.

(f) A postponement of reporting date to perform alternative service shall not render invalid the order to report for alternative service which has been issued to the registrant, but shall operate only to postpone the reporting date, and the registrant shall report on the new date scheduled without having issued to him a new order to report for alternative service.

(g) Any registrant receiving a postponement under the provisions of this section, shall, after the expiration of such postponement, be rescheduled to report for alternative service at the place to which he was originally ordered.

(h) The Director may authorize a delay of reporting for alternative service for any registrant whose date for reporting conflicts with a religious holiday historically observed by a recognized church, religious sect or religious organization of which he is a member. Any registrant so delayed shall report for alternative service on the next business day following the religious holiday.

§ 1656.5 [Amended]

59. § 1656.5 is amended by adding (a)(1)(iii) to read as follows:

(a) * * *

(1) * * *

(iii) Those who do not require as a condition of the employment of an ASW (A) his commitment to any political or religious belief or doctrine or (B) his membership or non-membership in a political or religious group.

* * * * *

§ 1656.5 [Amended]

60. § 1656.5(e) is revised to read:

* * * * *

(e) A registrant classified in Class 1-O may seek his own alternative service work by identifying a job with an employer he believes would be appropriate for Alternative Service assignments and by having the employer advise the ASO in writing that he desires to employ the ASW. The acceptability of the job and employer so identified will be evaluated in accordance with Section 1656.5(a).

61. Part 1657 is added to read:

PART 1657—OVESEAS REGISTRANT PROCESSING

Sec.

1657.1 Purpose: definition.
1657.2 Local boards.
1657.3 District appeal boards.
1657.4 Consideration of claims.
1657.5 Place of induction.
1657.6 Transportation.

Authority: Military Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1657.1 Purpose; definition.

(a) The provisions of this part apply to the processing of overseas registrants, and, where applicable, they supersede inconsistent provisions in this chapter

(b) An overseas registrant is a registrant whose bona fide current address most recently provided by him to the Selective Service System is outside the United States, its territories or possessions, Commonwealth of Puerto Rico, Canada and Mexico.

§ 1657.2 Local boards.

The Director shall establish local boards with jurisidiction to determine claims of overseas registrants. Such boards shall consist of three or more members appointed by the President. The Director shall prescribe the geographic jurisdiction of each board, and designate or establish an area office to support it.

§ 1657.3 District appeal boards.

The Director shall establish district appeal boards with jurisdiction to determine appeals of claims of overseas registrants. Such boards shall consist of three or more members appointed by the President. The Director shall prescribe the geographic jurisdiction of each board.

§ 1657.4 Consideration of claims.

An overseas registrant's claim shall be determined by a local board (or its supporting area office) or appeal board as may be established in accord with this part or, upon the request of the registrant filed no later than the filing of his claim for reclassification, by the board having geographic jurisdiction over his permanent address within the United States last reported by him to the Selective Service system prior to issuance of his induction order.

§ 1657.5 Place of induction.

The Director may order an overseas registrant to any place in the world for induction.

§ 1657.6 Transportation.

(a) The Director shall furnish transportation for an overseas registrant from the place at which the registrant's order to report for induction was sent to the place he is required to report for induction. If such registrant is not inducted, the Director shall furnish him transportation from the place he reported for induction to the place to which his order to report for induction was sent.

(b) In the event the personal appearance before a local board or appeal board of an overseas registrant is required by regulation or occurs at the registrant's request, travel expenses incurred in personally appearing before the board shall be at the registrant's own expense.

[FR Doc 85-30450 Filed 12-26-85; 8:45 am]

BILLING CODE 8501-01-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 50716-5116]

Variety Naming Requirements for Plant Patent Applications

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Revision of proposed rules of practice; Public hearing.

SUMMARY: Extensive comments have been received by the Patent and Trademark Office in reponse to proposed rules of practice for naming and registering the names of new plant varieties, published in the Federal Register, Vol. 50, page 33062 on August 16, 1985. The proposed rules of practice will be revised in light of these comments. The revised rules will be published for comments and a public hearing will be announced.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley D. Scholosser, Office of Legislation and International Affairs, by telephone at (703) 557-3065 or by mail addressed to the Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

Dated: December 11, 1985.

Donald J. Quigg,

Assistant Secretary and Commissioner

[FR Doc. 85-30539 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300141A; FRL-2946-1]

Proposed Tolerance for Ethylene Dibromide; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule; Extension of Comment Period.

SUMMARY: This notice announces the extension of the comment period on the proposed rule published in the **Federal Register** on November 27, 1985 (50 FR 48779) that proposed a tolerance for residues of ethylene dibromide (EDB) *per se* of .03 ppm (30 ppb) in the edible pulp of mangoes that have been fumigated after harvest with the insecticide ethylene dibromide (EDB). The comment period has been extended from December 27, 1985 to January 10, 1986.

DATE: Comments identified by the document control number [OPP-300141], must be received on or before January 10, 1986.

ADDRESS: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Linda K. Vlier, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-7451).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of November 27, 1985 (50 FR 48779) that proposed the establishment of a tolerance of 30 ppb (.03 ppm) in 40 CFR 180.397 for residues of the insecticide ethylene dibromide (EDB) in the edible pulp of the raw agricultural commodity mangoes resulting from fumigation of this commodity after harvest in accordance with the Mediterranean Fruit Fly Control Program of the U.S. Department of Agriculture, effective until September 30, 1986, with the possibility of extension for an additional year.

The Florida Fruit and Vegetable Association has requested that EPA extend the comment period on this proposed rule in order to allow that association a meaningful opportunity to comment. In support of this request, the Florida Fruit and Vegetable Association points out that the real time for submitting comments to the rule is substantially shorter than the allowed time because of the two major national holidays falling within this period.

The Agency has carefully reviewed the request of the Florida Fruit and Vegetable Association, and has concluded that allowing some additional comment time is reasonable to afford all interested parties a meaningful opportunity to comment. Accordingly, the comment time on this proposal has been extended 14 days until January 10, 1986.

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agriculture commodities, Pesticides and pests.

Dated: December 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 78-72; CC Docket No. 80-286; FCC 85-639]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: Recommended Decision and Order in the Matter of MTS and WATS Market Structure and Amendment of Part 69 of the Commission's Rules and Establishment of a Joint Board—CC Docket Nos. 80-286 and 78-72.

SUMMARY: On December 9, 1985, the Federal-State Joint Board recommended that the Commission adopt broader lifeline assistance measures in order to assist low income households in affording telephone service. The Joint Board recommended that federal assistance be provided through a waiver of the subscriber line charge up to the amount of the state assistance provided for qualifying households. This matching assistance would be made available to subscribers receiving assistance under highly targeted programs which provide for verification of eligibility. The state contribution could take the form of reduced local telephone service rates, reduced connection charges or deposit requirements for a single telephone line to the principal residence of eligible households. The Joint Board recommended that the federal assistance be funded through the interstate carrier common line charge. The Joint Board made this recommendation because the record showed that telephone subscribership is below average in the lowest income groups, although telephone subscribership levels for all income groups have remained stable in recent years and should remain stable in the future. Implementation of this recommendation will assist low income households in affording telephone service during this period of rapid change in the telephone industry.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Margot Bester or Claudia Pabo, Common Carrier Bureau at (202) 632-6363.

SUPPLEMENTARY INFORMATION:

Recommended Decision and Order

In the Matter of MTS and WATS Market Structure: CC Docket No. 78-72, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board: CC Docket No. 80-286.

Adopted: December 2, 1985.
Released: December 9, 1985.

By the Federal-State Joint Board.

I. Introduction

A. Summary

1. The Federal-State Joint Board hereby presents its recommendations concerning the adoption of broader lifeline assistance measures. The existing record demonstrates that telephone subscribership levels have

remained stable in recent years, and should remain stable or increase in the future, although telephone subscribership is substantially below average in the lowest income groups. In order to assist low income households in affording telephone service during this period of rapid change in the telephone industry, we recommend that the Commission establish a federal lifeline assistance program. We believe that our goals in this regard can best be accomplished by making federal assistance available to supplement the benefits provided under state approved local lifeline service offerings which meet certain guidelines. We recommend that the federal assistance be provided through a waiver of the full subscriber line charge up to the amount of the state assistance provided for qualifying households. This matching assistance would be available for highly targeted programs which provide for verification of eligibility. The state contribution could take the form of reduced local telephone service rates, reduced connection charges or deposit requirements for a single telephone line to the principal residence of eligible households. No restrictions would be imposed on the source of funding for the intrastate assistance. The federal assistance would be funded through the interstate carrier common line charge. We recommend that this program be re-evaluated in conjunction with the Joint Board's re-examination of subscriber line charges as a method of recovering non-traffic sensitive (NTS) costs scheduled to begin in late 1986.

B. Background

2. The preservation of universal service has been a basic goal of the Joint Board and the Commission thoughout the proceedings concerning the allocation and recovery of non-traffic sensitive (NTS) local exchange costs. The statutory basis for this goal is found in Section 1 of the Communications Act of 1934 which states that the Commission was created:

[f]or the purpose of regulating interstate and foreign commerce in communications by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication. . . .[1]

In the *Third Report and Order* in the *MTS and WATS Market Structure* proceeding,[2] the Commission stated that the goal of preserving universal service required that it "[avoid] actions that would cause a significant number of local exhange service subscribers to cancel [telephone] service."[3] At that time, the Commission also stated that it would consider requests by local exchange carriers for waiver of the mandatory flat subscriber line charge in the case of low income households which might otherwise be unable to afford telephone service.[4]

3. The issue of a federal lifeline telephone assistance mechanism was again raised in the Commission's *Second Reconsideration Order* in the *MTS and WATS Market Structure* proceeding.[5] In that decision, the Commission found that the existing record did not contain enough information to allow the development of a federal assistance program for low income households, but stated that it would conduct further proceedings on this matter. The Commission subsequently requested comments concerning a subscriber line charge exemption or other assistance measures to help low income households afford telephone service, and asked the Joint Board to prepare recommendations regarding this issued.[6]

4. The Joint Board adopted recommendations concerning assistance measures for low income households on November 15, 1984.[7] Although we concluded that implementation of limited subscriber line charges would not undermine universal service, we acknowledged the concern of some parties that implementation of subscriber line charges in conjunction with the general upward pressure on local rates could undermine universal telephone service. As a result, the Joint Board recommended a two-phase approach for dealing with this issue. First, we recommended that the Commission implement a mechanism providing the equivalent of a waiver of the subscriber line charge for low income households.[8] Second, we recommended an expedited study of broader measures to assist low income households in affording telephone service. The Commission adopted the Joint Board recommendations in its December 19, 1984 *Decision and Order*[9] in this proceeding, and directed the Joint Board to prepare recommendations concerning broader lifeline assistance measures on an expedited basis.

II. Summary of Comments

A. Initial Comments

5. We released an *Order Inviting Comments*[10] on March 29, 1985, requesting comments on the following issues: (1) The proper state and federal roles in implementing assistance measures for low income households; (2) the criteria for determining eligibility for assistance; (3) the type of lifeline telephone service which should be made available to eligible subscribers; and (4) the mechanism for funding these assistance measures.[11]

6. In its comments, the American Telephone and Telegraph Company (AT&T) states that any assistance program should involve coordinated federal and state efforts. It asserts that such programs should be limited to households eligible for state welfare payments, and cover only basic telephone service at the household's principal residence. AT&T states that such assistance programs should be funded from general tax revenues, and opposes funding lifeline programs through an increase in the carrier common line charge. Satellite Business System, Inc. (SBS) argues that the states should be permitted to implement lifeline assistance programs if they wish

[1] 47 U.S.C. 151 (1934).

[2] CC Docket No. 78-72, 93 FCC 2d 241 (1983).

[3] *Id.* at 266.

[4] In the First *Reconsideration Order* reaffirming the subscriber line charge concept, the Commission noted that it had not received any petitions for waiver. *See* CC Docket No. 78-72, 48 FR 42984 at 42987 (September 21, 1983). Requests for waivers of the subscriber line charge were subsequently filed by the New York Telephone Company and the Pacific Telephone and Telegraph Company. *Second Reconsideration Order*, CC Docket No. 78-72, FR 7810 at 7812 (March 2, 1984).

[5] CC Docket No. 78-72, 49 FR 7810 (March 2, 1984).

[6] *Further Notice of Proposed Rulemaking, MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-286, 49 FR 18318 (April 20, 1984). The *Further Notice* requested comments on the type of assistance needed by low income households and how such a program should be funded.

[7] *Recommended Decision and Order*, CC Docket Nos. 78-72 and 80-286, 49 FR 48325 (December 12, 1984).

[8] We recommended that this be accomplished through an optional program for a 50 percent reduction in the subscriber line charge for customers who satisfy a state determined means test which is subject to verification. The resulting shortfall in subscriber line charge revenues would be recovered through an increase in the nationwide average carrier common line charge. States wishing to take advantage of this assistance mechanism would be required to implement an equal monetary reduction in the local exchange rate for qualifying subscribers to be funded from intrastate sources.

[9] CC Docket Nos. 78-72 and 80-286, 50 FR 939 (January 8, 1985).

[10] CC Docket Nos. 78-72 and 80-286, 50 FR 14727 (April 15, 1985).

[11] Comments in response to this *Order* were filed on April 26, 1985. Replies were filed on May 17, 1985.

SBS also states that eligibility for lifeline service should be limited to basic local exchange service for those eligible for state welfare payments. It argues that such assistance should be funded from general tax revenues. US Telecom Inc. (US Telecom) argues that the Communications Act requires the Commission to ensure the availability of telephone service. It supports keying eligibility to the national poverty level income adjusted to reflect regional cost of living differentials. US Telecom also maintains that flat rate telephone service should be included in assistance programs only where local measured service is not available. It states that funding for such assistance programs should come from both federal and state sources, but opposes funding this assistance through an increase in the state or interstate carrier common line charge.

7. The Bell Operating Companies (BOCs) argue that the states should have primary responsibility for developing and administering lifeline telephone assistance programs. They contend that the states are in the best position to evaluate local needs and tailor assistance programs to fit them. The BOCs, with the exception of Pacific Bell Telephone Company (Pacific), assert that such assistance programs should be funded from general tax revenues, not an increase in the carrier common line charge. Pacific supported funding telephone assistance through a tax on intrastate interLATA toll services. The other BOCs, however, expressed concern that funding assistance measures through a surcharge on the carrier common line charge would increase the incentives for uneconomic bypass.

8. The BOCs differed somewhat in their views concerning eligibility criteria and the type of lifeline service which should be made available. The Ameritech Operating Companies (Ameritech) state that the development of eligibility criteria should be left to the states, although they support use of existing welfare criteria. Ameritech argues that it is unnecessary to limit the service options available to lifeline subscribers. Bell Atlantic Corporation (Bell Atlantic) states that existing state welfare agencies should certify eligibility. It argues that lifeline service should consist of basic dial tone. BellSouth Corporation (BellSouth) states that eligibility criteria should be based on the standards for existing welfare programs. In addition to reduced monthly rates, it supports provisions for waiver of service connection charges and deposit requirements once every twelve months. New York Telephone Company and New England Telephone Company (NYNEX) argue that the states should determine eligibility for lifeline service. It states that lifeline assistance should apply only to charges for residential customer access lines including installation and service connection charges as well as the monthly charge. NYNEX argues that toll service, local usage, and custom calling features should be excluded.

9. Mountain States Telephone, Northwestern Bell and Pacific Northwest Bell (US West) state that eligibility for lifeline assistance measures should be based on income. It states that lifeline service offerings could include reduced local exchange rates for measured or flat rate service. Pacific states that eligibility criteria should be established by the states, and emphasizes that any federal action should avoid interfering with existing programs. Pacific states that telephone assistance programs should include reduced rate local exchange service with subsidies for installation and a telephone instrument. Southwestern Bell Telephone Company (Southwestern) urges the use of existing federal and state assistance program eligibility criteria for lifeline assistance programs. It states that lifeline service should include a discounted basic dial tone connection, but believes that a range of usage options should be made available.

10. The independent telephone companies, with the exception of the Puerto Rico Telephone Company, argue that the states should have primary responsibility for developing and administering lifeline assistance programs. They express a variety of views concerning eligibility standards, the type of lifeline service to be offered and funding, although there is strong opposition to funding lifeline assistance through telephone industry revenues. GTE Corporation (GTE) argues that lifeline programs should be limited to local measured service or supplemental payments under existing entitlement programs. It contends that no Commission action should be taken until actual experience demonstrates a need for lifeline service. GET argues that any such program should be funded from general tax revenues or credits against exchange carrier tax liabilities. It maintains that the telephone industry should not be required to fund social welfare programs, such as lifeline telephone service. United Telephone Systems, Inc. (United) suggests basing eligibility on the criteria for existing social welfare programs. It states that lifeline assistance should not be limited to a particular type of local service, and urges funding of the revenue shortfall through tax revenues or reductions in the telephone company tax liability. United does not support a funding mechanism that would require telephone industry subsidies.

11. Southern New England Telephone Company (SNET) recommends using eligibility standards similar to those for other public assistance programs. It states that lifeline assistance should consist of a fixed dollar rate discount for eligible subscribers regardless of the class of exchange service chosen. SNET also argues that lifeline programs should be funded from broadly based state revenue sources, not telephone company operating revenues. Cincinnati Bell Telephone Company also supports use of eligibility criteria for existing public assistance programs. It believes that lifeline service should not include more than current budget service offerings. Central Telephone Company (Centel) argues that development of eligibility criteria should be left to the states. It also argues that local measured service should be used as a low cost alternative to lifeline service. Centel maintains that lifeline programs should be funded from general tax revenues like other social welfare programs. Continental Telecom, Inc. (Contel) also argues that the states should determine the eligibility criteria, the service options included, and should be the source of funding for these programs. Contel is concerned that federally mandated guidelines would result in a uniform response to a problem which requires diverse solutions geared to local conditions. The Puerto Rico Telephone Company (PRTC) argues that expanding service to areas with telephone penetration rates that are below the national average should be the goal of assistance programs. PRTC also states that the funds used to pay for lifeline assistance should be generated on a nationwide basis.

12. The United States Telephone Association (USTA) maintains that the states should have primary responsibility for lifeline assistance programs, with funding generated from the widest possible base, not other telephone users. The Rural Telephone Coalition (RTC) argues that lifeline assistance is a national responsibility and should be funded from general tax revenues, not telephone company revenues. The Oregon Independent Telephone Association states that lifeline assistance is the responsibility of the states and should be funded by subsidies within local telephone company operations.

13. The Alabama Public Service Commission (Alabama) states that eligibility for lifeline assistance should be based on income. It supports assistance for basic local service and toll service as well as a portion of service connection charges with incentives to prevent abuse and maximize benefits. Alabama argues that such assistance measures should be funded by both the federal and state jurisdictions, with the federal share recovered through a tapered carrier common line charge. The California Public Utilities Commission and the State of California (California) assert that a federal lifeline plan should assist the states in developing telephone assistance measures without interfering with ongoing state programs. California states that eligibility for assistance should be based on household income with lifeline rates set at one-half of the existing local exchange rate. California also recommends including a waiver of installation charges once a year and elimination of deposit requirements. California argues that federal funding should be derived from a tax on toll service.

14. The Public Service Commission of the District of Columbia (D.C.) states that funding for lifeline assistance programs should come from general tax revenues. The Florida Public Service Commission (Florida) asserts that a federally mandated lifeline program would not ensure universal telephone service. Instead, Florida recommends that the local exchange companies be allowed to design a variety of service options with different rate levels.

15. The Illinois State Commerce Commission supports state developed and funded lifeline programs. The New Jersey Board of Public Utilities (New Jersey) opposes a mandatory federally administered lifeline program, stating that a national solution to a local problem is unwarranted. However, it supports the development of optional state programs where deemed necessary by state regulators. New Jersey strongly opposes a surcharge on interstate telephone traffic to fund lifeline service. The New York State Department of Public Service (New York) maintains that the states should determine the type of lifeline service to be offered, although it supports federal funding for half of the costs involved. New York recommends generating the federal contribution from interstate toll services. The North Carolina Utilities Commission (North Carolina) asserts that telephone assistance programs should be dealt with at the state level.

16. The Oregon Public Utility Commissioner (Oregon) asserts that the states should have primary responsibility for lifeline assistance programs. Oregon suggests that funding could be provided from general tax revenues, excise taxes on local telephone service, taxes on intrastate toll carriers, or voluntary contributions by organizations that place a high value on universal service. The Vermont Public Service Board (Vermont) maintains that the states are in a better position than the federal government to develop lifeline plans. It argues that the bulk of the funding for lifeline assistance should be derived from interstate services because intrastate toll services cannot provide a major financial contribution due to the threat of bypass, arbitrage and customer comparisons with interstate rates. Vermont recommends that initial service connection fees be included in assistance programs. Representative Bob Wise of West Virginia asserts that the federal government should play a very limited role in the development of lifeline plans.

17. The Colorado Public Utilities Commission (Colorado) strongly supports a federally mandated lifeline assistance plan. Colorado argues that the FCC is obligated to aid the states in efforts to preserve universal service because it controls the allocation of non-traffic sensitive (NTS) costs. Colorado states that assistance should be limited to households with incomes at or below 150 percent of the federally established poverty level income. It argues that assistance should be provided through a fifty percent discount on the charge for basic flat rate service, with funding from state and federal general tax revenues. If this approach to funding is not viable, Colorado suggests generating the federal contribution through an increase in the interstate carrier common line charge. The Commonwealth of Puerto Rico (Puerto Rico) supported a federally mandated lifeline plan funded from interstate services.

18. The Ad Hoc Telecommunications Users Committee (Ad Hoc) argues that the ultimate responsibility for designing and administering lifeline programs lies with the states, although the FCC should determine the amount and type of funding from interstate sources. Ad Hoc states that funding should be provided from general tax revenues or a surcharge on the subscriber line charge. The Associated Telephone Answering Exchanges, Inc. states that funding for any assistance program should be paid by all telephone subscribers. It asserts that a lifeline program should offer the same services provided to customers paying the full rate with a limitation on long distance calling. The Communication Workers of America (CWA) urges establishment of a lifeline plan modeled after California's Moore Act and Congressional legislative proposals. CWA supports measured service as a lifeline offering in areas where it is available. It suggests that funding be provided by a surcharge on the intrastate toll services of all interexchange carriers, an adjustment to local service rates or a combination of the two.

19. The Consumer Federation of America and the U.S. Public Interest Research Group (CFA) strongly support a federally mandated lifeline program for low income households. CFA argues that the need for lifeline service should not be determined solely on the basis of a decline in subscribership levels because many low income households will give up other essential goods and services before discontinuing telephone service. It argues that the responsibility for funding lifeline service should be split between the state and federal jurisdictions with federal lifeline funding provided through an increase in the interstate carrier common line charge. The Office of Consumers' Counsel, State of Ohio (OCCO) contends that the Commission should fund a full waiver of the subscriber line charge from interstate carrier revenues.[12]

B. Further Comments

20. After reviewing the comments and replies filed in response to the *Order Inviting Comments*, the Joint Board concluded that additional information was necessary for resolution of this issue. As a result, we adopted an *Order Inviting Further Comments* on July 26, 1985,[13] requesting further comments on three basic issues: (1) The types of service offerings and assistance programs currently available to low income households; (2) telephone subscription levels and toll usage by low income households; and (3) the need for and/or appropriate level of federal funding for such assistance programs.

21. In its further comments, AT&T urges the Joint Board to recommend guidelines to assist the states in implementing narrowly targeted, state funded local lifeline assistance plans. AT&T supports state funding for these programs and reiterates its opposition to

[12] A more detailed summary of these comments was attached to the Joint Board's *Order Inviting Further Comments* on these issues. CC Docket Nos. 78-72 and 80-286, 50 FR 31738 (August 6, 1985).

[13] CC Docket Nos. 78-72 and 80-286, 50 FR 31738 (August 6, 1985).

funding this assistance through surcharges on toll services or carrier access charges because of the threat of bypass.

22. Ameritech states that it has found no evidence to indicate that universal service is in danger. As a result, it does not believe that there is an immediate need for lifeline service offerings in addition to the low priced local exchange service options already available. Ameritech also opposes any funding mechanism using telephone industry revenues. Bell Atlantic argues that the best strategy for maintaining universal service is an economically sound rate structure for all telephone services. Bell Atlantic supports development of state funded lifeline plans, but maintains that any federal funds should be distributed based on subscriber need, not the relative rate level for basic telephone service. Bell Atlantic opposes funding lifeline assistance through the carrier common line pool. BellSouth argues that a federally mandated lifeline program is not necessary at this time, but states that if such programs are developed, they should be funded solely through state tax revenues, not from increased telecommunications service charges.

23. NYNEX asserts that telephone subscription levels have risen even among the lowest income groups despite increases in local telephone rates. It maintains that any lifeline assistance programs should be funded through general tax revenues, not telephone industry revenues. Southwestern Bell reiterates its position that lifeline plans should be administered by the states with federal involvement limited to the provision of a reduced interstate subscriber line charge for eligible subscribers. US West states that the data derived from its internal monitoring programs has not identified any decline in subscribership levels due to rate increases in its region. All of the BOCs also stated that they offer low priced budget service options in most of the states they serve.

24. Cincinnati Bell states that it sees no need for lifeline assistance since the subscription rate in its territory is 94.5 percent. SNET does not perceive a need for lifeline service since Connecticut, which constitutes the majority of its service territory, has a 97 percent telephone subscription rate. SNET also indicates that it offers several basic exchange service options with rates dependent on the amount and type of calling. SNET supports funding assistance through an excise tax on telephone service. Contel asserts that lifeline programs should be administered by state regulatory agencies which can best determine local needs and target assistance. The Puerto Rico Telephone Company supports a federally mandated lifeline program funded from the broadest possible nationwide base. The Anchorage Telephone Utility (ATU) argues that a federally mandated lifeline program is unnecessary unless current telephone penetration rates drop significantly. It argues that lifeline programs threaten universal service by forcing local exchange companies to adopt subsidy mechanisms which could lead to bypass. ATU opposes funding lifeline assistance through telephone industry revenues. USTA opposes funding lifeline programs through the charges for interstate telephone services. It also states that 93.9 percent of U.S. households have telephone service, with a 80.53 percent penetration rate for those below the poverty line.

25. Vermont asserts that funding for lifeline service should be derived from general tax revenues wherever possible, but suggests interstate toll revenues as an alternative source of funding. The Iowa State Commerce Commission (Iowa) does not support a federal lifeline program and maintains that the 1983–84 data which it has compiled indicates that telephone subscription levels in Iowa have remained the same despite increases in local exchange rates and a decrease in population. D.C. states that its local exchange carrier currently offers an economy local exchange service, and notes that it has implemented an experimental lifeline assistance program for eligible senior citizens. D.C. opposes funding lifeline plans through interstate toll charges. New York reiterates its belief that lifeline funding should be derived from a uniform nationwide surcharge on interstate toll rates. The Virginia State Corporation Commission (Virginia) argues that basic telephone service is already available to Virginia residents at affordable rates. It states that lifeline telephone service is a social issue which should be addressed by state legislatures or Congress, not the Commission.

26. The American Association of Retired Persons (AARP) supports implementation of a federally mandated lifeline program. The AARP emphasizes that the elderly rely heavily on telephone service, and states that 75 percent of those over 65 years old have experienced increases in their local telephone rates, and that 20 percent of those individuals report cutting back on telephone use in some way. The Consumer Federation of America (CFA) states that there is an immediate need for implementation of a federally mandated lifeline program to be funded through interstate telephone industry revenues.

III. Discussion

A. Introduction

27. Telephone subscribership levels have remained stable in recent years and should remain stable or increase in the future. While local telephone rates will probably continue to increase gradually, there is no basis for anticipating increases of sufficient magnitude to undermine universal telephone service. However, telephone subscribership levels are substantially below average in the lowest income groups. As a result, we recommend that the Commission adopt assistance measures for low income households in order to assist them in affording telephone service during this period of rapid change in the telephone industry.

B. Universal Telephone Service

28. The April 1980 Census showed that 92.9 percent of American households subscribed to telephone service. Census Bureau data for April 1983, prior to the AT&T divestiture and the implementation of subscriber line charges, showed that 91.9 percent of households subscribed to telephone service. The Census Bureau has conducted a survey of 58,000 households in March, July and November of each year since November 1983 to determine the percentage of households with telephone service. This data shows that telephone subscribership levels have remained stable since November 1983, although there is a slight seasonal variation, with subscribership levels generally lower in the fall and higher in the spring. A table showing national subscribership levels is set out below:

TELEPHONE SUBSCRIBERSHIP IN THE UNITED STATES [1]

[In percent]

	1983	1984	1985
March		91.8	91.8
July		91.6	91.8
November	91.4	91.4	

[1] Letter to Mr. Edward J. Minkel, Managing Director, FCC from Kenneth A. Riccini, Chief, Current Population Surveys Branch, Demographic Surveys Division, Bureau of the Census, at Table 1, dated October 3, 1985. This data shows the percentage of households with a telephone in their home. The percentage of households which report that telephone service is available to them is somewhat higher.

Due to the seasonal variation, comparisons should be based on data for the same month each year.

29. Recent Census Bureau data shows that telephone subscribership levels

among low income households have also remained relatively stable as the following table concerning telephone subscribership among the unemployed demonstrates:

TELEPHONE SUBSCRIBERSHIP AMONG UNEMPLOYED PERSONS [1]

[In percent]

	1983	1984	1985
March		82.0	82.9
July		81.2	83.6
November	82.5	81.8	

[1] *Id.* at Table 2. This data shows the percentage of households with a telephone in their home. The percentage of households which report that telephone service is available to them is somewhat higher.

[In percent]

	1983	1984	1985
Telephone Subscribership—Households With Less Than $5,000 in Annual Income[1]			
March		71.4	71.1
July		71.8	72.0
November	71.7	70.3	
Telephone Subscribership—Households with $5,000–$7,499 in Annual Income [2]			
March		83.6	82.5
July		82.6	83.2
November	82.7	83.7	
Telephone Subscribership—Households With $7,500–$9,999 in Annual Income [3]			
March		85.8	86.3
July		86.5	86.9
November	88.2	87.0	
Telephone Subscribership—Households With $10,000–$12,499 in Annual Income [4]			
March		90.0	89.5
July		89.7	89.7
November	89.7	89.4	

[1] *Id.* at Table 4. The data on this and the following three tables shows the percentage of households with a telephone in their home. The percentage of households which report that telephone service is available to them is somewhat higher.
[2] *Id.*
[3] *Id.*
[4] *Id.*

As these charts demonstrate, telephone subscribership levels have not changed significantly, even among the groups that would be most affected by rate increases. A comparison of the data for July 1984 and 1985 even shows an increase in subscribership levels for all but one group, although the changes are relatively small and are probably not statistically significant.

30. The comments in this proceeding also confirmed this conclusion. Although certain parties expressed concern about declines in subscribership, none of the telephone companies stated that they had experienced such declines. In fact, a number of the local telephone companies participating in this proceeding stated that they had implemented significant local rate increases without declines in subscribership levels.

31. Despite the current stability in telephone subscribership levels, certain parties argue that local rates will increase dramatically in the next few years, seriously threatening universal telephone service. The information currently available does not support this contention. The Commission has issued two reports concerning the effect of federal decisions on local rates and the availability of local service. The initial *Michigan Report* was issued in December, 1983.[14] It found that existing Commission policies would not threaten the availability of universal service. Among other things, the report concluded that: (1) In almost all cases revenue requests by exchange telephone companies vastly exceeded actual revenue authorizations by state commissions; (2) the bulk of the current revenue requests by exchange telephone companies are linked to factors other than federal decisions; (3) federal decisions will not cause sharply higher minimum charges for obtaining residential telephone service; and (4) federal decisions will not cause residential subscribers to discontinue service. The Common Carrier Bureau subsequently requested comments on the initial report, and issued a second report based on these filings, referred to as the *Michigan II Report*, in January, 1985.[15] The *Michigan II Report* affirmed the conclusions reached by the Commission in the *Michigan Report*. At that time, the Commission also stated that it would monitor subscribership levels and would work closely with the Joint Board and the states to ensure the continued preservation of universal service.

32. The conclusions contained in the *Michigan I and II Reports* have been confirmed by the actual pattern of rate increase requests filed by the local telephone companies. In fact, the amount of rate increase requests currently pending is significantly lower than in 1983. There were approximately $6.9 billion in state rate increase requests before the state commissions by the end of 1983.[16] At present, only about $2.6 billion in state rate increases are under consideration nationwide, and rate cases filed by Pacific Bell in California and New York Telephone account for approximately half of this amount.[17] Furthermore, the state commissions have granted only about half of the increases rquested. For example, in 1984, $7.3 billion in revenue increases requested by local telephone companies were acted on in state rate cases, but only 53 percent of the amounts requested or $3.9 billion in rate increases were actually granted nationwide. In the second quarter of 1985, only $580 million in rate increases were acted on in state rate cases and only 51 percent of the amounts requested were granted by state commissions nationwide. In addition, the state commissions have generally chosen to increase rates for specialized business services, intrastate toll and enhanced services before increasing rates for basic residential local exchange service. Local telephone flat rate monthly service charges increased by 8.9 percent from January 1982 to January 1983. The increase was 4.7 percent for the period January 1983 to January 1984, with an increase of 7.6 percent from January 1984 to January 1985.[18] The charges for all local service, including installation, inside wiring, equipment and taxes as well as local service charges increased 13.4 percent from January 1982 to January 1983, 9.7 percent from January 1983 to January

[14] *Order, Petition by the State of Michigan Concerning the Effect of Certain Federal Decisions on Local Telephone Service ("Michigan Report")*, 96 FCC 2d 941 (1983). The report was issued in response to a petition filed by the State of Michigan, on February 24, 1983, which asked the FCC to investigate the effects of decisions in the following five areas on local rates and the availability of local service: (1) Depreciation; (2) interstate access charges; (3) expensing station connections and amortizing previously capitalized investment; (4) the CPE-phase out; and (5) divestiture of AT&T. At that time, the Commission had adopted a plan for implementation of a monthly minimum subscriber line charge of $2.00 per loop for residential subscribers and ¢4.00 per loop for business subscribers, with additional usage charges up to a certain maximum level. Under this approach, most interstate non-traffic sensitive (NTS) costs would have been shifted to end users over a seven year transition period. *Third Report and Order*, CC Docket No. 78–72, 48 FR 10319 (March 11, 1983). The Commission subsequently referred the issues related to subscriber line charges as a means of recovering NTS costs to the Joint Board in this proceeding. *Further Notice of Proposed Rulemaking*, CC Docket Nos. 78–72 and 80–286, 49 FR 18318 (April 30, 1984). The Joint Board subsequently recommended the implementation of a $1.00 monthly subscriber line charge for residential and single line business subscribers, effective June 1, 1985, with an increase to $2.00 per month June 1, 1986. The Commission adopted these recommendations. *Decision and Order*, CC Docket No. 78–72 and 80–286, 50 Fed. Reg. 939 (January 8, 1985). Since the filing of the Michigan Petition, the Commission has also taken a number of other steps, based on Joint Board recommendations, to ease the transition to a more cost based system of allocating and recovering costs.

[15] *Further Report on the Effects of Federal Decisions on Universal Service*, FCC No. 84–636, released January 9, 1985.

[16] *Summary of State Telephone Rate Cases* [released September 30, 1985].

[17] *Id.*

[18] U.S. Department of Labor, Bureau of Labor Statistics, Producer Price Index, Series 4811–111, Local Service, Residential.

1984, and 8.3 percent from January 1984 to January 1985.[19]

33. Despite the stability in telephone subscribership levels demonstrated by the Census data and the fact that there is no reason to expect dramatic increases in local rates, subscribership levels for the unemployed and those in the lowest income categories are significantly below the national average. In order to promote telephone subscribership among low income households during this period of rapid change in the telephone industry, we recommend that the Commission adopt broader lifeline assistance measures.

34. We believe that this can best be accomplished by provisions for federal assistance to supplement the benefits provided under state or local telephone company lifeline plans which meet certain minimum federal guidelines. We are confident that state regulators working in conjunction with the local companies will be able to identify local subscriber needs and respond to them in an appropriate manner. In light of this, and the current data concerning telephone subscribership levels, a mandatory federal program is not required.[20] Although the present record leads us to conclude that universal telephone service is not threatened, we would be deeply concerned should the states fail to respond appropriately to any developments which caused a decline in subscribership levels.

35. Accordingly, the Joint Board recommends that the Commission match state assistance for low income households under qualifying lifeline programs up to the amount of the subscriber line charge.[21] This would be accomplished through a waiver of the subscriber line charge (or the matching portion of it) for eligible households, and funded through an increase in the interstate carrier common line charge. The waiver would be available to participating subscribers in states or individual telephone company service areas having highly targeted local lifeline programs. For example, programs directed to individuals who are eligible to receive Supplemental Security Income (SSI) or Aid to Families with Dependent Children (AFDC) would be included. Of course, we encourage those states which believe it is appropriate, to adopt additional lifeline measures as well. We also recommend limiting the qualifying state plans to those in which eligibility is subject to verification. If states or telephone companies choose to implement assistance programs that do not meet these criteria, their subscribers would not be eligible for supplemental federal assistance. Under our recommendation, federal assistance would be available for a single telephone line at the principal residence of eligible households. We recommend that state assistance for basic local telephone service, connection charges and customer deposit requirements be included in determining the level of the state contribution to be matched by federal assistance. The state contribution may be generated from any intrastate source. We do not believe that any showing of actual or imminent declines in telephone subscribership levels should be required as a pre-condition to receiving federal assistance.

36. We also recommend that local companies and states seeking to obtain supplemental federal benefits be required to submit information to the Commission demonstrating that their plan meets these criteria. We recommend that the supplemental assistance be made available immediately upon certification that the plan meets the federal standards described above. In order to facilitate action on these filings, we recommend that the Commission delegate authority to act on such plans to the Chief, Common Carrier Bureau.[22] We recommend that federal supplemental assistance for eligible lifeline plans be made available as soon as the Commission certification is issued and the necessary tariff revisions become effective. The amounts involved at this initial stage in the program will be minimal, and we believe that they can be covered through the existing carrier common line charge without reducing the carriers' access earnings below the authorized level. The carrier common line charge should be revised effective June 1, 1986 to reflect lifeline funding requirements.

37. In addition, we recommend that the Joint Board review the effectiveness of this plan in conjunction with its review of subscriber line charges which is scheduled to begin in late 1986. To facilitate this, we recommend that the Commission require participating local companies to monitor the effectiveness of their assistance programs and provide the Joint Board and the Commission with annual reports. These reports should include a description of the assistance measures, the cost of the program, information on the number of households taking advantage of the assistance program, including information on the number of existing subscribers who switch to lifeline service from other service offerings and the number of new subscribers using the service. We are also asking that these reports contain any available information concerning the effect of the plan on subscribership levels among low income groups.

38. We believe that this approach will provide state regulators with a strong incentive to develop lifeline assistance programs, while ensuring that they are able to respond appropriately to local conditions. Although we strongly encourage local telephone companies and state regulators to participate in this program, we do not believe that the existing record warrants implementation of a mandatory federal program. Furthermore, we have every reason to believe that state regulators and the local companies will respond in a responsible manner to ensure that universal service is maintained.

39. Providing the federal assistance through waiver of the full subscriber line charge will ensure an adequate level of assistance based on existing local rate levels. Based on the present residential and single line business subscriber line charge of $1.00, this approach would provide a maximum of $2.00 per month in assistance for participating subscribers. When the subscriber line charge increases to $2.00 on June 1, 1986, this approach will generate a maximum of $4.00 per month in assistance. We believe that these amounts are reasonable in light of existing local rate levels, and the targeting and verification measures which we are recommending will ensure that the benefits of this program are directed to the groups which currently have the lowest telephone subscribership levels, and are most in need of assistance.

40. Re-evaluation of this approach in conjunction with the Joint Board's re-examination of subscriber line charges

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[19] The consumer price index, also maintained by the Bureau of Labor Statistics, contains a subindex of local telephone charges. This index, unlike the producer price index, includes charges for installation, wiring, equipment and taxes.

[20] At present, a number of states have constitutional, statutory or judicially imposed prohibitions on implementation of telephone assistance programs for low income households. We strongly urge these states to eliminate any such restrictions to ensure that state regulators and the local telephone companies are able to respond appropriately to any circumstances which may warrant implementation of a state lifeline program.

[21] This would be in addition to the existing provisions which allow the equivalent of a subscriber line charge waiver for low income households. States or local telephone companies which wish to continue to participate in this more limited program may do so.

[22] We believe that the Joint Board should prepare a recommendation in any case where a party seeks Commission review of a Bureau Chief decision not to approve supplemental assistance.

to begin in late 1986 will allow us to study the effectiveness of this program and recommend adjustments if experience indicates that they are necessary.

IV Ordering Clauses

41. Accordingly, the Joint Board recommends, that the Commission adopt the recommendations set out above concerning assistance measures to aid low income households in affording telephone service and the revisions to Part 69 of the Commission's Rules set out in Attachment A.[23]

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 69—[AMENDED]

Attachment A

Recommended Amendments to Part 69 of the Commission's Rules

1. Amend § 69.203(d) by substituting the phrase "paragraphs (f) and (g)" for "paragraph (f)".

2. Amend § 69.203 by adding the following paragraph (g):

(g)(1) The End User Common Line charge for residential subscribers shall be reduced to the extent of the state assistance as calculated in (g)(2), or waived in full if the state assistance equals or exceeds the residential End User Common Line Charge under the circumstances described below. In order to qualify for this waiver, the subscriber must be eligible for and receive assistance or benefits provided pursuant to a narrowly targeted telephone lifeline assistance plan requiring verification of eligibility, implemented by the state or local telephone company. A state or local telephone company wishing to implement this End User Common Line reduction or waiver for its subscribers shall file information with the Commission Secretary demonstrating that its plan meets the criteria set out in this section, and showing the amount of state assistance per subscriber as described in (g)(2). The reduction or waiver of the End User Common Line Charge shall be available as soon as the Commission certifies that the state or local telephone plan statisfies the criteria set out in this subsection, and the relevant tariff provisions become effective.

(2)(i) The State assistance per subscriber shall be equal to the difference between the charges to be paid by participating subscribers and those to be paid by other subscribers for comparable monthly local exchange service, service connections and customer deposits, except that benefits or assistance for connection charges and deposit requirements may only be counted once annually. In order to be included in calculating the state assistance, such benefits must be for a single telephone line to the household's principal residence.

(2)(ii) The monthly state assistance per participating subscriber shall be calculated by adding the amounts calculated in paragraphs (A) and (B).

(A) The amount of the monthy state assistance per participating subscriber for local exchange service charges shall be calculated by dividing the annual difference between the charges paid by all participating subscribers for local exchange service and the amount which would have been charged to non-qualifying subscribers for comparable service by twelve times the number of subscribers participating in the state assistance program. Estimates may be used when historic data is not available.

(B) The amount of the monthly state assistance for service connections and customer deposits per participating subscriber shall be calculated by determining the annual amount of the reduction in these charges for participating subscribers each year, and dividing this amount by twelve times the number of participating subscribers. Estimates may be used when historic data is not available.

[Doc. 85-30427 Filed 12-26-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-81; RM-4833]

TV Broadcast Station in San Clemente and Brawley, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF television Channel 26 to San Clemente, California, in response to a petition filed by Steve Newhort. UHF television Channel *48 must be substituted for Channel *26 at Brawley, California in order to accommodate this assignment. The assignment of Channel 26 at San Clemente could provide a first television service to that community.

DATES: Comments must be filed on or before February 10, 1986, and reply comments on or before February 25, 1986.

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

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

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

Notice of Proposed Rulemaking

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (San Clemente and Brawley, California) MM Docket No. 85-81, RM-4883.

Adopted: March 13, 1985.

Released: December 19, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by Steve Mewhort ("petitioner"), proposing the assignment to UHF Television Channel 26 to San Clemente, California. The substitution of UHF Television Channel *48 for unused UHF Television Channel *26 in Brawley, California, would be required to allow the San Clemente assignment to be made in accordance with the mileage requirements. Petitioner submitted information in support of the proposal and expressed an interest in applying for the San Clemente channel, if assigned. The substitution and the assignment can be made in compliance with the minimum distance separation requirements and other technical criteria. However, since San Clemente and Brawley, California, are both located within 199 miles of the common U.S.-Mexican border, Mexican concurrence in the proposal is required.

2. San Clemente (population 27,325) [1] in Orange County (population 1,932,709) is located in southern California, approximately 80 kilometers (50 miles) southeast of Los Angeles.

3. Currently pending before the Commission is a rule making proceeding to institute further land mobile sharing arrangements within the UHF band (See General Docket 85-172, *Notice of Proposed Rule Making*, 50 FR 25587, published June 20, 1985). In that proceeding, specific sharing plans are mentioned which could affect this proposal. Thus, this proceeding will be considered in connection with General Docket 85-172.

PART 73—[AMENDED]

4. In view of the fact that San Clemente would receive its first local television service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the

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[23] This recommendation is made pursuant to sections 4(i) and (j), 5, 201, 202, 203, 205, 218, 221, 403 and 410 of the Communications Act, as amended, 47 U.S.C. 154(i) and (j), 155, 201, 202, 203, 205, 218, 221, 403 and 410.

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

Commission's Rules, for the following communities:

City	Channel No.	
	Present	Proposed
Brawley, CA	*26	*48 +
San Clemente, CA		26

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before February 6, 1986, and reply comments on or before February 25, 1986, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows: Dwight R. Magnuson, OMNI Communications, Inc., One Regency Square, Suite 450, Knoxville, Tennessee 37915 (consultant to the petitioner).

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

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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

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

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

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

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

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

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

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

[FR Doc. 85–30429 Filed 12–26–85; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 334 (Sub-No. 6)]

Review of Car Hire Regulation

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time of file replies.

SUMMARY: The due date for filing replies is extended.

DATE: Reply comments are due by February 7, 1986.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION. An advance notice of proposed rulemaking published April 29, 1985 (50 FR 16724) established due dates of June 28 and August 27, 1985, respectively, for the filing of initial and reply comments in this proceeding. In response to two extension requests, opening comments were filed on October 28, 1985, and reply comments are due on January 8, 1986. By petition filed December 17, 1985, the Atlantic & Western Railway Company, NRUC Corporation, Peninsula Terminal Company, Pickens Railroad, and Mississipian Railway, Inc., joined by the Bessemer & Lake Erie Railroad Company, Elgin, Joliet & Eastern Railway Company, Grand Trunk Western Railroad Company, Illinois

Central Gulf Railroad Company, and US Rail Services, Inc., request an extension of time to file reply comments until January 27, 1986. These parties request the extension in order to analyze the numerous and novel plans that have been proposed. The American Short Line Railroad Association, BRAE Corporation, and Itel Rail Corporation request a 30-day extension.

Because of the complex issues, an extension is warranted. This will enable all parties to better define their positions, and thus produce a better ultimate disposition of this proceeding in a manner that will promote the public interest.

Decided: December 19, 1985.

By the Commission, Heather J. Gradison, Chairman.

James H. Bayne,

Secretary.

[FR Doc. 85-30615 Filed 12-26-85; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 19)]

Boxcar Car Hire and Car Service

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments.

SUMMARY: The Commission grants an extension of time to file comments in response to the notice of proposed rulemaking published December 3, 1985 (50 FR 49576). A 60- or 75-day extension was requested by a number of railroads to enable the preparation of detailed comments and to avoid scheduling difficulties during the holiday season. BRAE Corporation, Itel Rail Corporation, and the American Short Line Railroad Association reply that a 30-day period is warranted.

DATE: Comments are due February 3, 1986.

ADDRESS: An original and 15 copies of comments in Ex Parte No. 346 (Sub-No. 19) should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

Comments must be served on all parties of record in Ex Parte No. 346 (Sub-No. 19).

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

Decided: December 20, 1985.

By the Commission, Heather J. Gradison, Chairman.

James H. Bayne,

Secretary.

[FR Doc. 85-30614 Filed 12-26-85; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 50, No. 249
Friday, December 27, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 20, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Food and Nutrition Service

State Plan & Operating Guidelines, Forms, and Waivers
FNS-366A, FNS-366B
Annually
State or local governments; 106 responses; 3496 hours; not applicable under 3504(h)
Paul Jones (703) 756-3427

Extension

- Agricultural Marketing Service

Reporting requirements under the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products
FV-159, FV-356, FV-468
On occasion
Businesses or other for-profit; State and local governments; 12,421
Responses; 652 hours; not applicable under 3504(h)
Joe A. Fly (202) 447-4693

Revision

- Statistical Reporting Service

Integrated Survey Program
Monthly; Quarterly
Farms; 132,500 responses; 40,618 hours; not applicable under 3504(h)
Lee Sandberg (202) 447-6820

Revision

- Agricultural Marketing Service

Potatoes Grown in Idaho and Malheur County, Oregon, Marketing Order 945
Recordkeeping; On occasion
Farms; Businesses or other for-profit; 2617 responses; 435 hours; not applicable under 3504(h)
Charles W. Porter (202) 447-2615

Revision

- Animal and Plant Health Inspection Service

Prohibited and restricted importation of meats, animals, animal by-products, poultry, organisms and vectors into the U.S.
VS 16-3, VS 16-25
Recordkeeping; Quarterly, On occassion
Businesses or other for-profit, State or local government; Federal agencies or employees; non-profit institutions; small businesses or organizations; 3241 responses; 4,936 hours; not applicable under 3504(h)
David Herrick (301) 436-8499

New

- Agricultural Cooperative Service

Agricultural Exports by Cooperatives, 1985
Five Year Intervals
Businesses and other for-profit; Small businesses or organizations; 113 responses; 57 hours; not applicable under 3504(h)
Tracey L. Kennedy (202) 382-1759

Donald E. Hulcher,
Acting Department Clearance Officer.

[FR Doc. 85-30645 Filed 12-26-85; 8:45 am]
BILLING CODE 3410-01-M

Federal Grain Inspection Service

Cancellation of Designation Issued to Enid Grain Inspection Co., Inc.; Interim Assignment of Designation to Enid Grain Inspection Co., Inc.; and Request for Designation Applicants (OK)

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: This notice announces the cancellation of designation of Enid Grain Inspection Co., Inc. (Enid), effective January 1, 1986. The sole stockholder has sold his stock to Barry Hibbets, Enid, Oklahoma, who proposes to continue the business as Enid Grain Inspection Co., Inc. (Hibbets), and has requested that a designation be granted to that corporation. Hibbets will provide official inspection services, in the geographic area specified below, on an interim basis, from January 1, 1986, to June 30, 1986. A request for designation applicants is also included in this notice.

DATE: Applications to be postmarked on or before February 10, 1986.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications reveived will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and

determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

This notice announces the cancellation of designation of Enid Grain Inspection Co., Inc. (Enid), effective January 1, 1986. The sole stockholder sold his stock to Barry Hibbets, Enid, Oklahoma, who proposes to continue the business as Enid Grain Inspection Co., Inc. (Hibbets), and has requested that a designation be granted to that corporation. Hibbets will provide official inspection services, in the geographic area specified below, on an interim basis, from January 1, 1986, to June 30, 1986. A request for designation applicants is also included in this notice.

The Administrator of FGIS has determined that the interim assignment of this geographic area to Hibbets is consistent with the provisions and objectives of the U.S. Grain Standards Act, as amended (Act) and that this Action will facilitate the providing of official inspection services in the specified geographic area.

Section 7(f)(1) of the Act specifies that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Section 7(g)(1) of the act states that official agencies' designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area in the State of Oklahoma to be provided service by Hibbets, on an interim basis, and which is available for assignment to the applicant selected for the new designation is as follows:

Atoka, Blaine, Bryan, Canadian, Carter, Cleveland, Coal, Commanche, Cotton, Craig, Creek, Garfield, Garvin, Grady, Grant, Harmon, Hughes, Jackson, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Mayes, Murray, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Rogers, Seminole Stephens, Tillman, Tulsa, Wagoner, and Washington Counties.

Interested parties, including Hibbets, are hereby given opportunity to apply for official agency designation to provide official inspection services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period July 1, 1986, through June 30, 1989. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Dated: December 23, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85–30718 Filed 12–26–85; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to D.L. Boltenhouse Grain Inspection Service (OH)

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of one agency will terminate, in accordance with the Act, and requests applications from parties, including the agency currently designated, interested in being designated as the official agency to provide official services in the geographic area currently assigned to specified agency. The official agency is D.L. Boltenhouse Grain Inspection Service.

DATE: Applications to be postmarked on or before February 10, 1986.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Department Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

D.L. Boltenhouse Grain Inspection Service (Boltenhouse), 301 North Street, P.O. Box 96, BEllevue, OH 44811, was designated under the Act as an official agency to provide inspection functions on July 1, 1983.

The official agency's designation terminates on June 30, 1986. Section 7(g)(1) of the Act states that official agencies' designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Boltenhouse, in the States of Michigan and Ohio, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

In Ohio, the area shall be:

Bounded on the North by the northern Lucas County line east to Lake Erie; the Lake Erie shoreline east to the Ohio-Pennsylvania State line;

Bounded on the East by the Ohio-Pennsylvania State south to State Route 154;

Bounded on the South by State Route 154 west to Lisbon, Ohio; U.S. Route 30 west to Bucyrus, Ohio; and

Bounded on the West by State Route 19 north to Seneca County; the southern Seneca County line west to State Route 53; State Route 53 north to Sandusky County; the southern Sandusky County line west to State Route 590; State Route 590 north to Ottawa County; the southern and western Ottawa and Lucas County lines.

In Michigan, the area shall include those sections of Jackson, Lenawee, and Monroe Counties which are east of State Route 127 and south of State Route 50.

An exception to the described geographic area is the following location situated inside Boltenhouse's area which has been and will continue to be serviced by Grain Inspection Services, Inc.: Crop Aid, Hudson, Lenawee County, Michigan.

Additional exceptions to the described geographic area are the following export port locations situated inside Boltenhouse's area which have been and will continue to be serviced by FGIS: The Andersons, Toledo and Maumee, Ohio; Cargill, Inc., Toledo and Maumee, Ohio; and Mid-States Terminals, Inc., Toledo, Ohio.

Interested parties, including Boltenhouse, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning July 1, 1986, and ending June 30, 1989. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: December 23, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85-30716 Filed 12-26-85; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicants in the Geographic Areas Currently Assigned to Detroit Grain Inspection Service, Inc. (MI) and Grain Inspection Services, Inc. (MI)

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic areas currently assigned to Detroit Grain Inspection Service, Inc. (Detroit), and Grain Inspection Services, Inc. (Battle Creek).

DATE: Comments to be postmarked on or before February 10, 1986.

ADDRESS: Comments must be submitted, in writing, to Lewis Lebakken, Jr., Information Resources Staff, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS requested applications for official agency designation to provide official services within specified geographic areas in the October 25, 1985, **Federal Register** (50 FR 43428). Applications were to be postmarked by November 25, 1985. Detroit was the only applicant for designation in the area currently assigned to that agency and applied for designation renewal in its present geographic area. FGIS received two applications for the Battle Creek area. Battle Creek applied for designation renewal in the area currently assigned to that agency. Andrew J. Matako, Reese, Michigan, proposes to establish Michigan Grain Inspection Services, Inc., and has applied for designation in a portion of the geographic area presently assigned to Battle Creek. The area in Michigan that this applicant is applying for is as follows:

Bounded on the North by the northern Montcalm County line; the western, northern, and eastern Isabella County lines; the northern Gratiot and Saginaw County lines; the western Bay County line; the western and northern Arenac County lines; the western and northern Iosco County lines;

Bounded on the East by the Lake Huron and Saginaw Bay shorelines south and east to State Route 53; State Route 53 south to State Route 46;

Bounded on the South by State Route 46 west to Sheridan Road; Sheridan Road south to Barnes Road; Barnes Road west to State Route 15; State Route 15 south to the Genesee County line; the northern Genesee County line west to the the Shiawassee County line; the Shiawassee County line west to State Route 52; State Route 52 south to State Route 21; State Route 21 west to Clinton County; the eastern and northern Clinton County lines west to U.S. Route 27; U.S. 27 north to State Route 57; State Route 57 west to the western Gratiot County line; the western Gratiot County line north to Washington Road; Washington Road west to State Route 66; State Route 66 north to State Route 46; State Route 46 west to U.S. Route 131; and

Bounded on the West by U.S. Route 131 north to the northern Montcalm County line.

This notice provides interested persons the opportunity to present their comments concerning the designation applicants. All comments must be submitted to the Information Resources Staff, Resources Management Division, specified in the address section of this notice.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7) U.S.C. 71 *et seq.*))

Dated: December 23, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85-30715 Filed 12-26-85; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicant in Portions of the States of Illinois and Iowa

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in portions of the States of Illinois and Iowa, previously assigned to Keokuk Grain Inspection Service, Inc. (Keokuk). This area is currently being provided service on an interim basis by John H. Oliver, Inc., doing business as Keokuk Grain Inspection Service (Oliver).

DATE: Comments to be postmarked on or before Febrary 10, 1986.

ADDRESS: Comments must be submitted, in writing, to Lewis Lebakken, Jr., Information Resources Staff, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not be a rule or regulation as defined in Executive Order 12291 and

Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS requested applications for official agency designation to provide official services within a specified geographic area in the October 25, 1985, **Federal Register** (50 FR 43429). Applications were to be postmarked by November 25, 1985. Oliver was the only applicant, and applied for designation in the entire geographic area available for assignment.

This notice provides interested persons; the opportunity to present their comments concerning the designation applicant. All comments must be submitted to the Information Resources Staff, Resources Management Division, specified in the address section of this notice.

Comments and other available information will be considered in making a final decision., Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

(Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: December 23, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85–30714 Filed 12–26–85; 8:45 am]

BILLING CODE 3410-EN-M

Designation Renewal of Lima Grain Inspection Service, Inc. (OH) and Virginia Department of Agriculture and Consumer Services (VA)

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of the Lima Grain Inspection Service, Inc. (Lima), and Virginia Department of Agriculture and Consumer Services (Virginia), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

EFFECTIVE DATE: February 1, 1986.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS announced the Lima's and Virginia's designations terminate on January 31, 1986, and requested applications for official agency designation to provide official services within specified geographic areas in the August 1, 1985, **Federal Register** (50 FR 31208). Applications were to be postmarked by September 3, 1985. Lima and Virginia were the only applicants for their respective designations and each applied for designation renewal in the areas currently assigned to those agencies.

FGIS announced that applicant names and requested comments on same in the September 20, 1985, **Federal Register** (50 FR 38145). Comments were to be postmarked by November 4, 1985; no comments were received.

FGIS evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), determined that Lima and Virginia are able to provide official services in the geographic area for which FGIS is renewing their designation. Effective February 1, 1986, and terminating January 31, 1989, Lima will provide official inspection services and Virginia will provide official inspection services and Class X or Class Y weighing services in their specified geographic areas, which are the entire areas previously described in the August 1 **Federal Register**.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency for the performance of official inspection or Class X or Class Y weighing services and where the agency and one or more of its inspectors or weighers is located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring an inspector or weigher to all locations within its geographic area.

Interested persons may contact the Review Branch, specified in the address section of this notice, to obtain a list of an agency's specified service points. Interested persons also may obtain a list of the specified service points by contacting the appropriate agency at one of the following addresses:

Lima Grain Inspection Service, Inc., 2242 Arcadia Avenue, Lima, OH 45805

Virginia Department of Agriculture and Consumer Services, 1100 Bank Street, Washington Building, Richmond, VA 23209

(Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Dated: December 23, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85–30717 Filed 12–26–85; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Noxious Weed and Poisonous Plant Control, Helena National Forest; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement to identify methods for controlling noxious weeds on the Helena National Forest.

The proposed Helena National Forest Plan has been prepared. One of the Forest-wide Standards and Guidelines was to contain present infestations and prevent the spread of noxious weeds.

The Helena National Forest has many acres of land that contain noxious weeds. These weeds have been identified as noxious by the State of Montana. These plants can severely affect the productivity of forest and rangelands. Infestations on National Forest lands have the potential to spread to adjacent private lands.

A range of alternatives for treating these sites will be considered. One of these will be no treatment of problem plants by any means. Other alternatives may include.

1. Hand spraying with chemicals and/or hand application of pelleted herbicides.
2. Control by biological methods.
3. Hand grubbing and hand-held mechanical methods.
4. Mechanical treatment.
5. Broadcast application of herbicides by truck mounted sprayer.
6. Integrated pest management using a combination of above methods.

Federal, State, and local agencies, local landowners, and other individuals or organizations who may be interested in or affected by the decisions will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be considered in depth.
3. Elimination of insignificant issues of those which have been covered by a previous environmental review.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species

habitat if any such species are found to exist in the area of consideration.

No public meetings are scheduled at this time, but the public is invited to comment. Written comments should be mailed by January 30, 1985, to: Robert S. Gibson, Forest Supervisor; Helena National Forest; Federal Office Building, Drawer 10014; Helena, Montana 59626.

Robert S. Gibson, Forest Supervisor, Helena National Forest, Helena, Montana 59626, is the responsible official.

The Draft Environmental Impact Statement should be available for public review by March, 1986. The Final Environmental Impact Statement is scheduled to be completed by April, 1986.

Questions about the proposed action and Environmental Impact Statement should be directed to John Padden, Range Staff Officer, Helena National Forest, phone 406–449–5201.

Dated: December 20, 1985.

Robert S. Gibson,

Forest Supervisor.

[FR Doc. 85–30633 Filed 12–26–85; 8:45 am]

BILLING CODE 3410–11–M

Mono Basin National Forest Scenic Area Comprehensive Management Plan; Inyo National Forest, Mono County, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement to determine future management practices for the Mono Basin National Forest Scenic Area (hereafter referred to as the Scenic Area), located on the Mono Lake Ranger District, Inyo National Forest. A range of alternatives will be considered. These alternatives will analyze various management practices and policies and their effects on resources, recreational opportunities, and the protection of the geologic, ecologic, natural, cultural, and scenic values as identified in Pub. L. 98–425, which created the Scenic Area.

Federal, State, and local agencies, affected Indian tribes, and individuals or organizations who may be interested in or affected by the decisions will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.

2. Identification of issues to be analyzed in depth.

3. Elimination of insignificant issues, those which have been covered by previous environmental review or which are outside the authority granted by the enabling legislation.

4. Determination of potential cooperating agencies and assignment of responsibilities.

Public input and comments may be solicited in a variety of ways including requests for written comments, and public meetings and/or workshops. Methods, times, and locations of scoping sessions will be announced.

Eugene E. Murphy, Forest Supervisor, Inyo National Forest, is the responsible official.

The analysis is expected to take about 19 months. The draft environmental impact statement is currently scheduled for public review in November, 1986. The final environmental statement is currently scheduled for completion by August, 1987.

Written comments and suggestions concerning the analysis should be sent to the Forest Supervisor, Inyo National Forest, 873 N. Main St., Bishop, California 93514 by May 1, 1986.

Questions about the proposed action and environmental impact statement should be directed to Dick Warren, Recreation Planner, Inyo National Forest, 873 N. Main St., Bishop, California 93514, telephone (619) 873–5841.

Dated: December 19, 1985.

Eugene E. Murphy,

Forest Supervisor.

[FR Doc. 85–30556 Filed 12–26–85; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

East Menomonie Watershed Critical Area Treatment RC&D Measure, WI

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

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

FOR FURTHER INFORMATION CONTACT: Cliffton A. Maguire, State Conservationist, Soil Conservation Service, 4601 Hammersley Road Madison, Wisconsin, 53711, telephone 608–264–5577.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Cliffton A. Maguire, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project. East Menomonie Watershed Critical Area Treatment RC&D Measure, Wisconsin Notice of a Finding of No Significant Impact.

The measure concerns the primary objective to reduce excessive runoff water from the rolling lands in the watershed causing soil erosion and flooding in a public use area; the secondary objective is to reduce sediment deposition. This action will stabilize, protect, improve the quality of our natural resource base, and provide a quality environment for citizens of the area.

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

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

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.

Cliffton A. Maguire,

State Conservationist.

December 17, 1985.

[FR Doc. 85–30646 Filed 12–26–85; 8:45 am]

BILLING CODE 3410–16–M

Tyler County Fairgrounds Critical Area Treatment and Land Drainage RC&D Measure Plan, WV

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40

CFR Part 1500); and the Soil Conservation Service Guidelines. (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Tyler County Fairgrounds Critical Area Treatment RC&D Measure, Tyler County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, Telephone 304–291–4151.

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

The measure consists of critical area treatment and land drainage. The area to be affected by the project is located on a recreation area between Route 18 and Middle Island Creek at the Tyler County Fairgrounds. Approximately 10 acres will be altered to permit intensive use for school, fair, and community functions. Lack of vegetation in areas has caused sheet and gully erosion. Presently the area is poorly drained. During wet weather the area is limited for recreation purposes. Surface water will be controlled by reshaping the land surface. Tile drains will be installed to remove excess water. The erosion areas will be stabilized with rock riprap and by vegetation.

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

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

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Rollin N. Swank,

State Conservationist.

December 12, 1985.

[FR Doc. 85–30552 Filed 12–26–85; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.
Title: Atlantic Tuna Fisheries.
Form Number: Agency—N/A; OMB—N/A.
Type of Request: Existing Collection in use without OMB approval.
Burden: 4 respondents; 43 reporting/recordkeeping hours.
Needs and Uses: Data are used by the National Marine Fisheries Service and the International Commission for the Conservation of Atlantic Tunas to determine effects of fishing on tuna abundance. Management decisions are based on the data.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations.
Frequency: On occasion, weekly.
Respondent's Obligation: Mandatory:
OMB Desk Officer: Sheri Fox., 395–3785.

Agency: National Oceanic and Atmospheric Administration.
Title: Specifications for Portrayal of Marine Information on Electronic (Chart) Displays.
Agency—N/A; OMB—0648–0166.
Form number:
Type of Request: New collection.
Burden: 65 respondents; 260 reporting hours.
Needs and Uses: This information will be used to establish a minimum standard for portrayal of nautical charting information on an electronic display.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations.
Frequency: One time only.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Sheri Fox., 395–3785.

Agency: National Oceanic and Atmospheric Administration.
Title: Interim Capital Construction Fund Agreement and Certification.
Form Number: Agency—NOAA 88–14; OMB—0648–0090.
Type of Request: Extension of the expiration date.
Burden: 1,000 respondents; 2,250 reporting hours.
Needs and Uses: Information is used to establish eligibility for agreements for the Capital Construction Fund Program, and to certify completion of the agreement's objectives.
Affected Public: Businesses or other for-profit institutions; small businesses or organization.
Frequency: On occasion.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Sheri Fox., 395–3785.

Agency: National Oceanic and Atmospheric Administration.
Title: Certificate of Origin.
Form Number: Agency—SF 369–1, SF 370–1; OMB—0648–0040.
Type of Request: Extension of the expiration date.
Burden: 40 respondents; 400 reporting hours.
Needs and Uses: Information is used to verify that fish or fishery products being imported originated in countries meeting standards set in the Marine Mammal Protection Act.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations.
Frequency: On occasion.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Sheri Fox., 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: December 23, 1985.

Edward Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 85–30665 Filed 12–26–85; 8:45 am]

BILLING CODE 3510–CW–M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: Prelist Survey of Special Districts—1987 Census of Governments.
Form Number: Agency—G–24; OMB–NA.
Type of Request: New collection.
Burden: 3,000 respondents; 1,500 reporting hours.
Needs and Uses: This survey will be used to verify the existence of special districts for the 1987 Census of Governments.
Affected Public: State or local governments.

Frequency: Quinquennially.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of the Census.
Title: Current Trade Report.
Form Number: Agency—B-310; OMB—0607–0190.
Type of Request: Revision of a currently approved collection.
Burden: 5,560 respondents; 5,332 reporting hours:
Needs and Uses: This survey provides the only continuous measure of monthly wholesale sales, end-of-month inventories, methods of inventory valuation, and stock/sales ratios. The Bureau of Economic Analysis uses the information on methods of inventory valuation and changes in the valuation methods to improve the inventory valuation adjustments applied to estimates of the gross national product.
Affected Public: Business or other for-profit institutions.
Frequency: Monthly.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: December 23, 1985.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 85–30666 Filed 12–26–85; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 44–85]

Foreign-Trade Zone 65—Panama City, FL; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Panama City Port Authority (PCPA), grantee of Foreign-Trade Zone 65, requesting authority to expand its zone within the Port terminal area in Panama City, and to include two industrial park sites in Bay County, Florida, adjacent to the Panama City Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on December 10, 1985.

On January 16, 1981, PCPA received authority from the Board to establish a foreign-trade zone, (Board Order 171, 46 FR 8072, 1/26/81). The project currently involves 15 acres at the Port of Panama City. Most existing zone activity involves a steel pipe manufacturer and a crane company.

The proposed expansion would add 542 acres to the zone project. The present site would be expanded to encompass the entire 125-acre Port terminal area, and to industrial park sites would be added to the project. One of the latter sites is at the Hugh Nelson Industrial Park, a 174-acre facility located off Highway 390, northeast of the Panama City-Bay County Airport and owned by the Panama City-Bay County Airport and Industrial District Authority. The other is a PCPA planned industrial park covering 259 acres on U.S. Highway 231 northeast of the intersection with Highway 167 in Bay County. The additional space will allow PCPA to offer zone services to companies that cannot be accommodated at the existing site.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Douglas Angle, District Director, U.S. Customs Service, South Central Region, 250 N. Water St., P.O. Box 27418, Mobile, AL 36628; Colonel Carroll H. Dunn, District Engineer, U.S. Army Engineer District Mobile, P.O. Box 2288, Mobile, AL 36628.

Comments concerning the proposed zone expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before February 3, 1986.

A copy of the application is available for public inspection at each of the following locations:

U.S. Customs Service, Port Director's Office, James H. Moor Bldg., Rm. 212, P.O. Box 469, Panama City, FL 32401.
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania, NW., Washington, DC 20230.

Dated: December 20, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85–30586 Filed 12–26–85; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 321]

Resolution and Order Approving the Application of the Louisville and Jefferson County Riverport Authority for a Special-Purpose Subzone for General Electric Corporation in Jefferson County, KY

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Louisville and Jefferson County Riverport Authority, grantee of Foreign-Trade Zone 29, filed with the Foreign-Trade Zones Board (the Board) on December 7, 1984, requesting authority for a special-purpose subzone for the home appliance manufacturing plant of General Electric Corporation in Jefferson County, Kentucky, adjacent to the Louisville Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied, and that the proposal would be in the public interest if approval is subject to certain conditions, approves the application subject to the condition that any basic steel shape classifiable under Schedule 6, Part 2, Subpart B of TSUS and not incorporated into merchandise otherwise classified, shall be subject to Customs duty in accordance with applicable law if the same item, with comparable performance qualities and availability, is then being produced by a steel mill in the United States.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone for General Electric Corporation in Jefferson County, Kentucky, Adjacent to the Louisville Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Louisville and Jefferson County Riverport Authority, grantee of Foreign-Trade Zone No. 29, has made application (filed December 7, 1984, Docket No. 54–84, 49 FR 48581) in due and proper form to the Board for authority to establish a special-purpose subzone at the home appliance manufacturing plant complex of General Electric Corporation, in Jefferson County, Kentucky, adjacent to the Louisville Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed December 7, 1984, the Board hereby authorizes the establishment of a subzone at the home appliance manufacturing plant complex of General Electric Corporation in Jefferson County, Kentucky, designated on the records of the Board as Foreign-Trade Subzone No. 29C at the locations mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations, those stated in the resolution accompanying this action, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from federal, state, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The Executive Secretary shall be notified by the grantee or operator for approval prior to the commencement of any manufacturing operations not approved as part of the application and when manufacturing activity is changed to include foreign items subject to inverted tariffs.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 19th day of December 1985, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Paul Freedenberg,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85–30587 Filed 12–26–85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 40–85]

Foreign-Trade Zone 105—Providence, RI; Application for Special-Purpose Subzone (Stainless Steel), Pawtucket Fasteners, Inc.

The period for comments on the above case, involving request by the Rhode Island State Port Authority and Economic Development Corporation, grantee of Foreign-Trade Zone 105 for a special-purpose subzone at the stainless steel fastener manufacturing plant of Pawtucket Fasteners, Inc., in Pawtucket, Rhode Island (50 FR 46678, 11/12/85), is extended to January 31, 1986, to allow interested parties additional time to comment on the proposal.

Comments are invited in writing during this period. Submissions shall include 5 copies. Materials submitted will be available at Import Administration Central Records Unit, U.S. Department of Commerce, Room B-099, 14th & Pennsylvania Ave., NW, Washington, DC 20230.

Dated: December 20, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85–30588 Filed 12–26–85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 41–85]

Foreign-Trade Zone 84—Harris County, TX; Application for Special-Purpose Site (Fuel Blending), GATX Terminals

The period for comments on the above case, involving amendment of the Foreign-Trade Zone 84 zone plan to include a special-purpose zone site for the motor fuel storage and blending facilities of GATX Terminals Corporation, in the Houston, Texas area (50 FR 46678, 11/12/85), is extended to January 31, 1986, to allow interested parties additional time to comment on the proposal.

Comments are invited in writing during this period. Submissions shall include 5 copies. Materials submitted will be available at Import Administration Central Records Unit, U.S. Department of Commerce, Room B-099, 14th & Pennsylvania Ave., NW, Washington, DC 20230.

Dated: December 20, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85–30589 Filed 12–26–85; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[Docket No. 51200-5200]

Finding for Foreign Availability Assessments

AGENCY: Export Administration, Office of Foreign Availability, Commerce.

ACTION: Notice of Finding for Foreign Availability Assessments.

SUMMARY: The Office of Foreign Availability (OFA) of Export Administration (EA) is required by the Export Administration Act of 1979, as amended by the Export Administration Amendments Act of 1985, to initiate and review claims of foreign availability on items controlled for national security purposes. OFA has completed assessments on step and repeat mask alignments and exposure systems (controlled under ECCN 1355A of the Commodity Control List) and Winchester disk drives (controlled under ECCN 1565A of the Commodity Control List) and has found no foreign availability for these commodities. Specific control parameters applicable to this equipment may be found in 399.1 of the Export Administrations Regulations (October 1, 1985).

FOR FURTHER INFORMATION CONTACT: Robert Rarog, Office of Foreign Availability, Department of Commerce, Washington, DC (Telephone: (202) 377–4890).

SUPPLEMENTARY INFORMATION:

Background

The Office of Foreign Availability has completed assessments on foreign availability for decontrol of national security export controls of the following items:

Step and Repeat Mask Alignment and Exposure Systems

Such systems are a category of semiconductor manufacturing equipment controlled for national security purposes under ECCN 1355A of the Commodity Control List.

Winchester Disk Drives

These drives are a category of computer peripheral controlled for national security purposes under ECCN 1565A of the Commodity Control List.

Export Administration gives notice that the Office of Foreign Availability has completed assessments of foreign availability on the above-mentioned equipment and has found no foreign availability as defined by law.

If and when OFA receives substantive new evidence of foreign availability, assessments in these product categories will be re-evaluated.

Inquires concerning the scope of these assessments may be directed to the Office of Foreign Availability.

Dated: December 23, 1985.

James K. Pont,

Acting Director, Office of Foreign Availability

[FR Doc. 85-30648 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-DT-M

[Docket Nos. 3641-01 and 3641-02]

Peter K. Gopal, and Semiconductor Systems International, Inc. Respondents; Order Affirming Imposition of Civil Penalty and Denying Export Privileges

On October 21, 1985, the Administrative Law Judge entered a default Order (50 FR 45138, Oct. 30, 1985) in the above matter, which was referred to the Assistant Secretary pursuant to Section 13(c) of the Export Administration Act of 1979, 50 U.S.C. App. sections 2401–2420 as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985), for his action affirming, modifying or vacating the subject Order. On November 21, 1985, the Acting Assistant Secretary, pursuant to his delegated authority affirmed the Order of the Administrative Judge, which constitutes the final Agency action in this matter. That Order provides:

Pursuant to section 13(c) of the Export Administration Act, the record and Administrative Law Judge Hugh Dolan's Order Imposing A Civil Penalty and Denying Export Privileges were referred to me on November 12, 1985. Having examined the record, I find that it supports Judge Dolan's order in all respects. His order is affirmed.

Dated: November 21, 1985.

William T. Archey,

Acting Assistant Secretary.

A copy of the Order has been served upon the Respondent and will be published in the **Federal Register**, pursuant to 15 CFR 387.12(c).

Dated: December 23, 1985.

Hugh J. Dolan

Administrative Law Judge.

[FR Doc. 85-30667 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-DT-M

Minority Business Development Agency

Minority Business Development Center, Washington, DC; Application

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency's Request for Applications for the operation of a Minority business Development Center (MBDC) in the Washington, DC. Metropolitan statistical area is hereby concelled. The announcement appeared at page 50336 of the **Federal Register** on December 10, 1985.

FOR FURTHER INFORMATION CONTACT: Willie J. Williams, Regional Director, Washington Regional Office, Room 6711 H.C. Hoover Building, Washington, DC 20230. Telephone (202) 377–8275.

Dated: December 20, 1985.

Margaret Matta,

Special Projects Officer, Washington Regional Office.

[FR Doc. 85-30635 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-21-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Intent To Prepare a Draft Environmental Impact Statement on the Proposed New Hampshire Coastal Program (NHCP)

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Commerce.

ACTION: Notice of intent to prepare a draft environmental impact statement as required under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA).

SUMMARY: Notice is hereby given of the intent to prepare a Draft Environmental Impact Statement (DEIS) on the proposed approval of the New Hampshire Coastal Program (NHCP) under the provisions of section 306 of the Federal Coastal Zone Management Act of 1972 (Pub. L. 92–583, as amended), and distribute it in April 1986. The program incorporates the Great Bay area with the existing Ocean and Harbor Coastal Program, which was approved by the Office of Ocean and Coastal Resource Management in May of 1982.

Federal approval of the NHCP would make the State eligible for program administration grant funds and require that Federal actions in and directly affecting the coastal zone be consistent with the NHCP.

The NHCP consists of numerous policies on diverse management issues which will be prescribed and enforced by the existing laws of the State and is the culmination of several years of development. The New Hampshire Program will condition, restrict or prohibit some uses in parts of the management area, while encouraging development and other uses in other parts. The Program should improve the decisionmaking process for determining appropriate coastal land and water uses in light of resource considerations and increase public awareness of coastal resources. The Program will possibly result in some short-term economic impacts on coastal users but should lead to increased long-term protection of the

State's coastal resources. Federal alternatives will include delaying or denying approval if certain requirements of the Coastal Zone Management Act have not been met. State alternatives include the possibility of modifying parts of the Program or withdrawal of the request for Federal approval.

In order to determine the scope and significance of issues to be addressed in the DEIS, the Office of Ocean and Coastal Resource Management (OCRM) would like to solicit comments on the proposed action, particularly with respect to the following issues:

(1) The adequacy of the scope of the Program's enforceable policies, laws and regulations in meeting the requirements of the Coastal Zone Management Act;

(2) The adequacy of the geographic boundary;

(3) The adequacy of the mechanisms for administrative review and enforcement of compliance of agency decisions;

(4) The adequacy of the mechanisms for State agency coordination and consultation in order to effectively implement the NHCP.

A scoping meeting will be held on January 16, 1986 in the Navy Conference Room B–100, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, DC at 2 p.m. All interested parties are invited to attend.

Persons or organizations wishing to submit comments on these or other issues should do so by January 25, 1986. Any comments received after that time will be considered in the response to comments received on the DEIS.

FOR FURTHER INFORMATION CONTACT: Kathryn Cousins, Manager, North Atlantic Region, Office of Ocean and Coastal Resource Management, 3300 Whitehaven Street, NW., Washington, DC 20235, (202) 634–4126.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration

Dated: December 23, 1985.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 85–30663 Filed 12–26–85; 8:45 am]

BILLING CODE 3510–08–M

Marine Mammals; Application for Permit; North Wind Undersea Institute

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: North Wind Undersea Institute (P339A).

b. Address: 610 City Island Avenue, City Island, New York 10464.

2. Type of Permit: Public Display.

3. Name and Number of Marine Mammals: Harbor seals *(Phoca vitulina richardii)*, 3.

4. Type of Take: Captive maintenance.

5. Location of Activity: Transfer from the New England Aquarium.

6. Period of Activity: 1 year.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC; and Director, Northwest Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930–3799.

Dated: December 17, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85–30554 Filed 12–26–85; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Issuance of Permit; Gulf World, Inc.

On October 29, 1985, notice was published in the **Federal Register** (50 FR 43759) that an application had been filed by Gulf World, Inc., 15412 West Alt. Highway 98, Panama City Beach, Florida 32407, for a permit to take one (1) Atlantic bottlenose dolphin *(Tursiops truncatus)* for public display.

Notice is hereby given that on December 18, 1985 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above

taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC; and Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: December 18, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85-30555 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Limits for Certain Wool and Man-Made Fiber Textile Product From the Polish People's Republic Effective on January 1, 1986

December 20, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5 and 31, 1984, between the Governments of the United States and the Polish People's Republic establishes an aggregate limit and within the aggregate, group limits for Categories 330-359, 630-642, 645-659, as a group, 431-442 and 444-459, as a group, and 443/643/644, as a group. Within those overall limits are individual limits for Categories 333, 334, 335, 338, 339, 433, 435, 440, 444, 445, 446, 447, 459, 634, 635, 638, 645/646, 647, 648, and 659, produced or manufactured in Poland and exported during the twelve-month period which begins on January 1, 1986 and extends through December 31, 1986.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool and man-made fiber textile products in the foregoing categories in excess of the designated twelve-month restraint limits.

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 55907), 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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilaternal agreement, but are designed to assist only in the implementation of certain of its provisions.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

Commissioner of Customs, Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5 and 31, 1984 between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in the following categories produced or manufactured in Poland and exported in the twelve-month period which begins on January 1, 1986 and extends through December 31, 1986, in excess of the following levels of restraint:

Category	12 month restaint limits
Group II (300-359, 630-642 and 645-659).	55,784,683 yd² equivalent.
Group III 431-442 and 444-459.	2,328,142 yd² equivalent.
Group IV 443/643/644.	15,609 doz of which not more than 13,663 doz shall be in T.S.U.S.A. Nos. in these categories except 381.9351, 381.9352, 381.9520, and 381.9560.
333	99,019 doz.
334	242,925 doz.
335	47,854 doz.
338	743,459 doz of which not more than 297,384 doz shall be in T.S.U.S.A. No. 381.4130.
339	305,438 doz.
410	2,312,222 yd.²
433	7,520 doz.
435	6,016 doz.
440	7,664 doz.
444	5,013 doz.
445	14,555 doz.
446	12,736 doz.
447	12,032 doz.
459	109,266 lb.
634	162,066 doz of which not more than 120,213 doz shall be in T.S.U.S.A. Nos. 381.2315, 381.2325, 381.2857, 381.3551, 381.3554, 381.6671, 381.6673, 381.8523, 381.8706, 381.8608, 381.8611, 381.9223, 381.9232, and 791.7460 and not more than 51,520 doz shall be in T.S.U.S.A. Nos. 376.5612, 381.3120, 381.3331, 381.3363, 381.3341, 381.8868, 381.6664, 381.9505, 381.9520, 381.9525, 381.9530, 381.9836, 381.9842, 381.9855, 381.9962, and 791.7471.
635	849,023 doz of which not more than 38,592 doz shall be in T.S.U.S.A. Nos. 384.2818, 376.5612, 384.2316, 384.2323, 384.2555, 384.2565, 384.2678, 384.2772, 384.2773, 384.5565, 384.5596, 381.7659, 384.7660, 384.8805, and 791.7473.
638	225,204 doz.
639	165,903 doz.
645/646	121,533 doz.
647	161,176 doz of which not more than 62,679 doz shall be in T.S.U.S.A. Nos. 376.5616, 381.3180, 381.3190, 381.333, 381.3548, 381.6984, 381.9310, 381.9675, 381.9580, 381.9585, 381.9846, 381.9965, 381.9974, and 791.7481.
648	89,542 doz of which not more than 35,817 doz. shall be in T.S.U.S.A. Nos. 376.5623, 384.2341, 384.2343, 384.2345, 384.2348, 384.2351, 384.2355, 384.2667, 384.2681, 384.2769, 384.5684, 384.7858, 384.9168, 384.9169, 384.9172, 384.9174, 384.9176, 384.9481, 384.9678, and 791.7481.
659	204,339 lb.

In carrying out this directive, entries of wool and man-made fiber textile products in the foregoing categories, produced or manufactured in Poland, which have been exported to the United States on and after January 1, 1985 and extending through December 31, 1985, shall, to the extent of any unfilled balances, be charged against the levels of restraint limits established for such goods during the twelve-month period beginning on January 1, 1985 and extending through December 31, 1985. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The restraint limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of December 5 and 31, 1984, between the Governments of the United States and the Polish People's Republic, which provide, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific limits may be exceeded by designated percentages; (2) these same specific limits may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement will be made to you by letter.

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 (48 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall 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. 85-30584 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey Effective on January 1, 1986

December 20, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On October 18, 1985, the Governments of the United States and the Republic of Turkey exchanged letters for a new bilateral textile agreement dating from January 1, 1985 and extending through December 31, 1987. The agreement establishes specific limits on plied acrylic yarn in Category 604pt. (only T.S.U.S.A. number 310.5049) and cotton sheeting in Category 313, produced or manufactured in Turkey and exported during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986. The letter from the Chairman of the Committee for the Implementation of Textile Agreements which follows this notice directs the Commissioner of Customs to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textiles and textile products in Categories 313 and 604 pt. in excess of the designated twelve-month limits.

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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

Commission of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement of October 18, 1985, between the Governments of the United States and the Republic of Turkey; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 313 and 604 pt.,[1] produced or manufactured in Turkey and exported during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986 in excess of the following limits:

Category	12-mo restraint limit
313	15,900,000 yd.[2]
604 pt.[1]	689,000 lbs.

[1] In Category 604, only T.S.U.S.A. number 310.5049.

In carrying out this directive, entries of textile products in the foregoing categories, produced or manufactured in Turkey, which have been exported to the United States on and after January 1, 1985 and extending through December 31, 1985, shall, to the extent of any unfilled balances, be charged against the restraint limits established for them during that period. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this letter.

[2] In Category 604, only T.S.U.S.A. number 310.5049.

The restraint limits set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of October 18, 1985, between the Governments of the United States and the Republic of Turkey, which provided, in Part, that specific limits may be increased by designated percentages for swing, carrover and carryforward; however, carryforward will not be available in the final twelve-month agreement period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include the entry for consumption into the Commonwealth of Puerto Rico.

The Committe for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533 (a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30585 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Import Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in India, Effective on January 1, 1986

December 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 January 1, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, between the Governments of the United States and India establishes, among other things, levels of restraint for cotton, wool and man-made fiber textile products in Group II (Categories 330-359, 431-459 and 630-659), and in individual

Categories 310, 313, 318, 334, 335, 336, 337, 338/339/340, 341, 342, 347/348 and 363, produced or manufactured in India and exported during the agreement year which begins on January 1, 1986 and extends through December 31, 1986. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements, directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced or manufactured in India and exported during 1986, in excess of the designated restraint limits.

The limits for Group II and Categories 313, 334, 335, 336, 337, 338/339/340, 341, 342 and 347/348 have been adjusted to account for carryforward used in 1985.

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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended and extended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories produced or manufactured in India and exported during 1986, in excess of the following levels of restraint:

Category	12-month level of restraint
300-359, 431-459, and 630-659 [1]	115,634,800 square yards equivalent.
310	749,000 square yards.
313	11,687,396 square yards.
318	4,066,000 square yards.
334	33,892 dozen.
335	146,068 dozen.
336	272,776 dozen.
337	65,541 dozen.
338/339/340	1,096,786 dozen.
341	2,275,411 dozen.
342	349,289 dozen.
347/348	231,270 dozen.
363	18,375,645 numbers.

[1] Excluding Categories 355, 356, 455, 456, 655, and 656.

Floor coverings in Categories 369 (only T.S.U.S.A. numbers 360.7600 and 361.5420), 465 (only T.S.U.S.A. numbers 360.0600, 360.1015, 361.1200, 361.4200 and 361.4500), and 665 (only T.S.U.S.A. numbers 360.7800 and 361.5426) are exempt from visa and certification requirements and from the limits set forth in this directive.

In carrying out this directive, cotton, wool and man-made fiber textile products in all of the foregoing categories, produced or manufactured in India and exported to the United States on and after January 1, 1985 and extending through December 31, 1985, shall to the extent of any unfilled balances, be charged against the restraint limits established for such goods during that twelve-month period. In the event the limits established during that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this directive.

The 1986 restraint limits are subject to adjustment in the future, as applicable, according to the provisions of the bilateral agreement of December 21, 1982, between the Governments of the United States and India which provide, in part, that: (1) Group and specific limits may be exceeded by designated percentages for swing, carryover and carryforward, and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533(1)(a).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for Implementation of Textile Agreements.

[FR Doc. 85-30671 Filed 12-26-85; 8:45 am

BILLING CODE 3510-DR-M

Announcing an Import Restraint Limit for Certain Cotton Textile Products Produced or Manufactured in Nepal

December 23, 1985.

On October 22, 1985, a notice was published in the **Federal Register** (50 FR 42751) announcing that, on September 29, 1985, the United States Government under section 204 of the Agricultural Act of 1956, as amended (7 U.S.C 1854) had requested the Government of Nepal to enter into consultations concerning exports to the United States of cotton playsuits in Category 337, produced or manufactured in Napal.

The United States has decided, inasmuch as consultations have not been held with the Government of Napal, to control imports of textile products in Category 337, produced or manufactured in Nepal and exported during the twelve-month period which began on September 29, 1985 and extends through September 28, 1986, at a level of 51,188 dozen. If a different level is agreed in consultations further notice will be published in the **Federal Register.**

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).

For further information contact: Nathaniel Cohen, Trade Reference Assistant Office of Textiles and Apparel, U.S. Department of Commerce, Washington, DC (202/377-4212).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 30, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 337, produced or manufactured in Nepal and exported during the twelve-month period which began on September 29, 1985 and extends through September 28, 1986, in excess of 51,118 dozen.[1]

Textile products in Category 337 which have been exported to the United States prior to September 29, 1985 shall not be subject to this directive.

Textile products in Category 337 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

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,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 85-30674 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Singapore Effective on January 1, 1986

December 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 January 1, 1986. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Governments of the United States and the Republic of Singapore have agreed to extend their expiring Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, for three months, beginning on January 1, 1986 and extending through March 31, 1986. The agreement, as amended and extended, includes limits for the aggregate and three groups and for individual Categories 301, 331, 333/334/335, 336, 337, 338/339, 340, 341, 347/348, 359, 442, 445/446, 447, 448, 459, 631, 633/634/635, 636, 637, 638/639, 640, 641, 643/644, 646, 647/648 and 659, produced or manufactured in Singapore and exported during the aforementioned three-month period. In the letter published below, the CITA Chairman directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the aggregate, group and individual limits which are in excess of those limits.

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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commission: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textitle Agreement of August 21, 1981, as amended and extended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Singapore and exported during the three-month period which begins on January 1, 1986 and extends through March 31, 1986 in excess of the following limits:

Category	3-month restraint limit
300-352, 359-369, 400-448 459-469, 600-652, and 659-669	68,652,715 square yards equivalent of which not more than 19,899,734 square yards equivalent shall be in Categories 300-320, 360-369, 600-627, and 665-669; not more than 68,103,396 square yards equivalent shall be in Categories 330-352, 359, 630-652 and 659, and not more than 921,876 square yards equivalent shall be in Categories 400-448, 459 and 464-469.
301	54,348 pounds.
331	62,500 dozen pairs.
333/334/335	52,766 dozen of which not more than 3,034 dozen shall be in Category 333, not more than 16,020 dozen shall be in Category 334 and not more than 41,628 dozen shall be in Category 335.
336	8,750 dozen.
337	6,750 dozen.
338/339	175,888 dozen of which not more than 99,966 dozen shall be in Category 338 and not more than 117,115 dozen shall be in Category 339.
340	123,121 dozen.
341	24,412 dozen.
347/348	175,888 dozen of which not more than 151,483 dozen shall be in Category 347 and not more 68,376 dozen shall be in Category 348.
359	75,000 pounds of which not more than 50,000 pounds shall be in T.S.U.S.A. numbers 381.0258, 381.0554, 381.3949, 381.5800, 381.5920, 384.0648, 384.0652, 384.4300, and 384.4420.
442	1,389 dozen.
445/446	5,000 dozen.
447	1,389 dozen.
448	1,389 dozen.
459	12,500 pounds.
631	62,500 dozen pairs.
633/634/635	140,710 dozen of which not more than 7,482 dozen shall be in Category 633, not more than 61,240 dozen shall be in Category 634 and not more than 78,235 dozen shall be in Category 635.
636	10,000 dozen.
637	11,750 dozen.
638/639	836,314 dozen of which not more than 104,540 dozen shall be in Category 638.
640	19,250 dozen.
641	33,600 dozen.

[1] The level has not been adjusted to reflect any imports exported after September 28, 1985.

Category	3-month restraint limit
643/644	83,642 dozen of which not more than 14,416 dozen shall be in Category 643 and not more than 76,148 dozen shall be in Category 644.
646	25,000 dozen.
647/648	474,897 dozen of which not more than 61,264 dozen shall be in Category 647.
659	300,000 pounds.

In carrying out this directive, entries of textile products in the foregoing categories, except Categories 442, 447, 448, 459, 633/634/635, 643/644, 646, 647/648 and 659, which have been exported to the United States on and after January 1, 1985 and extending through December 31, 1985, shall, to the extent of any unfilled balances, be charged against the levels established for such goods during that period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 442, 447, 448, 459, 633/634/635, 643/644, 646, 647/648 and 659 exported before January 1, 1986 shall not be subject to this directive.

The three-month limits are subject to adjustment in the future on a prorata basis according to the provisions of the bilateral agreement of August 21, 1981, as amended, and extended, between the Governments of the United States and the Republic of Singapore, which provide, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific limits may be exceeded by certain designated percentages; (2) specific limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include the entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30673 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-DR-M

Establishing Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products From Taiwan Effective on January 1, 1986

December 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 January 1, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)377-4212.

Background

The bilateral agreement of November 18, 1982 concerning cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan, establishes specific limits among other categories, for Category 313, 314, 315, 317, 319, 320, 331, 333/334, 335, 336, 337, 338/339, 340, 341, 342, 345, 347/348, 350, 351, 353/354/653/654, 433, 434, 435, 438, 444, 445/446, 447, 448, 604, 605pt. (only in T.S.U.S.A. number 310.9500), 612, 613, 631, 633/634/635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645/646, 647, 648, 650, 652, 659, 669, and 670, produced or manufactured in Taiwan and exported during the twelve-month period which begins on January 1, 1986 and extends through December 31, 1986. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in the foregoing categories be limited to the designated amounts during the agreement year which begins on January 1, 1986.

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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 18, 1982 concerning cotton, wool and man-made fiber textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in the following categories, produced or manufactured in Taiwan and exported during the twelve-month period which begins on January 1, 1986 and extends through December 31, 1986 in excess of the indicated restraint limits:

Category	12-mo restraint limit
313	44,834,372 square yards.
314	3,440,637 square yards.
315	28,439,474 square yards.
317	19,326,733 square yards.
319	19,489,574 square yards.
320	85,955,334 square yards.
331	480,137 dozen pair.
333/334	70,604 dozen.
335	84,433 dozen.
336	84,515 dozen.
337	141,167 dozen.
338/339	584,964 dozen.
340	654,264 dozen.
341	378,996 dozen.
342	188,533 dozen.
345	88,305 dozen.
347/348	950,610 dozen of which not more than 466,876 dozen shall be in Category 347 and not more than 753,707 dozen shall be in Category 348.
350	97,041 dozen.
351	313,654 dozen.
353/354/653/654	22,429 dozen.
433	12,590 dozen.
434	9,296 dozen.
435	19,911 dozen.
438	35,564 dozen.
444	14,786 dozen.
445/446	128,190 dozen.
447	5,421 dozen.
448	11,910 dozen.
604	482,413 pounds.
605 pt.[1]	1,031,719 pounds.
612	9,692,016 square yards.
613	28,883,648 square yards.
631 pt.[2]	210,125 dozen pairs.

Category	12-mo restraint limit
633/634/635	1,534,030 dozen of which not more than 1,011,717 dozen shall be in Category 633/634 and not more than 752,416 dozen shall be in Category 635.
636	317,682 dozen.
637	354,881 dozen.
638	1,651,166 dozen.
639	5,033,179 dozen.
640	3,303,344 dozen.
641	714,335 dozen.
642	603,083 dozen.
643	45,697 dozen.
644	163,946 dozen.
645/646	4,026,555 dozen.
647	2,467,273 dozen.
648	3,136,227 dozen.
650	45,191 dozen.
652	1,365,813 dozen.
659 pt.[2]	4,296,491 pounds.
659 pt.[3]	1,5211,560 pounds.
659 pt.[4]	3,539,916 pounds.
659 pt.[5]	3,493,442 pounds.
659 pt.[6]	1,804,318 pounds.
669 pt.[7]	1,071,934 pounds.
669 pt.[8]	538,446 pounds.
669 pt.[9]	1,750,061 pounds.
670 pt.[10]	68,946,866 pounds of which not more than 3,156,866 pounds shall be in T.S.U.S.A. number 706.3420.
670 pt.[11]	39,205,676 pounds of which not more than 445,676 pounds shall be in T.S.U.S.A. number 706.3410.
670 pt.[12]	3,801,985 pounds of which not more than 111,985 pounds shall be in T.S.U.S.A. number 706.3410.

[1] In Category 605, only T.S.U.S.A. number 310.9500.
[2] In Category 631, only T.S.U.S.A. numbers 704.3215, 704.8525, 704.8550 and 704.9000.
[3] In Category 659, only T.S.U.S.A. numbers 381.2340, 381.3170, 381.9100, 381.9570, 384.1920, 384.2339, 384.8300, 384.8400, 384.9353.
[4] In Category 659, only T.S.U.S.A. numbers 384.1815, 384.8022.
[5] In Category 659, only T.S.U.S.A. numbers 384.2105, 384.2115, 384.2120, 384.2125, 384.2546, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359, 384.9365.
[6] In Category 659, only T.S.U.S.A. numbers 703.0510, 703.9520, 703.0530, 703.0540, 703.0550, 703.0560, 703.1000.
[7] In Category 659, only T.S.U.S.A. numbers 703.1610, 703.1620, 703.1630, 703.1640, 703.1650.
[8] In Category 669, only T.S.U.S.A. numbers 355.4520 and 355.4530.
[9] In Category 669, only T.S.U.S.A. number 385.5300.
[10] In Category 669, only T.S.U.S.A. numbers 380.1105, 386.5100, and 389.6210.
[11] In Category 670, only T.S.U.S.A. numbers 706.4144, 706.4152 and 706.3420.
[12] In Category 670, only T.S.U.S.A. numbers 706.4140 and 706.3410.
[13] In Category 670, only T.S.U.S.A. numbers 706.3900 and 706.3430.

In carrying out this directive entries of textile products in the foregoing categories, except Categories 605 and 652, produced or manufactured in Taiwan, which have been exported to the United States on and after January 1, 1985 and extending through December 31, 1985, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1985 and extending through December 31, 1985. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The 1986 limits are subject to adjustment pursuant to the provisions of the agreement of November 18, 1982, which provide, in part, that: (1) Specific limits or sublimits may be exceeded by designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more specific limits of sublimits during the same agreement year; (2) certain specific limits and sublimits may be increased by carryforward; (3) special shift may be applied to certain categories, provided an equal amount to square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above, will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of the Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533(a)(1).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30672 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Levels for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

December 24, 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 December 27, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textile and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On September 9 and 19 and October 29, 1985 notices were published in the **Federal Register** (50 F.R. 36645, 38023 and 43762) announcing that, in August and September 1985, the American Institute in Taiwan (AIT), under the terms of the agreement of November 18, 1982, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan, had requested the Coordination Council for North American Affairs (CCNAA) to enter into consultations concerning exports to the United States of combed cotton yarn in Category 301, cotton headwear in Category 359pt., spun filament combination fabrics in Category 614pt., and man-made fiber brassieries in Category 649. Agreement was reached in consultations to establish limits for textile products in Categories 359pt., 614pts., and 649, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985. Because no agreement was reached on Category 301, the United States has decided to establish a limit on textile products in this category produced or manufactured in Taiwan and exported to the United States during the twelve-month period beginning January 1, 1985 and extending through December 31, 1985.

No charges have been made to the levels for the foregoing categories to account for any imports exported during 1985. Such adjustments will be made as the data become available.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3, of the Tariff Schedules of the United States Annotated (1985).

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 24, 1985

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 21, 1984, which established limits for certain categories, produced or manufactured in Taiwan and exported during 1985.

Effective on December 27, 1985, the directive of December 21, 1984 is hereby further amended to include the following levels for cotton and man-made textile products in the Categories 301, 359pt.,[1] 614pt.[2] and 649:

[1] In Category 359, only TSUSA numbers 702.0600 and 702.1200.

[2] In Category 614 only T.S.U.S.A. numbers 338.5040, 338.5045, 338.5051, 338.5056, 338.5061, 338.5065, 338.5069, 338.5072, 338.5075, 338.5079, 338.5084, 338.5087, 338.5092, 338.5095 and 338.5098.

Category	12-mo. restraint level 3
301	407,252 lb.
359 pt. [1]	4,000,000 lb.
614 pt. [2]	13,925,000 yd[4].
649	643,000 doz.

[1] In Category 359, only TSUSA numbers 702.0600 and 702.1200.
[2] In Category 614 only T.S.U.S.A. numbers 338.5040, 338.5045, 338.5051, 338.5056, 338.5061, 338.5065, 338.5069, 338.5072, 338.5075, 338.5079, 338.5084, 338.5087, 338.5092, 338.5095 and 338.5098.
[3] The levels has not been adjusted to account for any imports exported after December 31, 1984. Imports during the January—October 1985 period have amounted to 502,739 pounds in Category 301; 1,883,733 pounds in Category 359pt.; 5,358,606 pounds in Category 614pt., and 446,170 dozen in Category 649.

Textile products in the foregoing categories which have been exported to the United States prior to January 1, 1985 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1448(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30762 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia Effective on January 1, 1986

December 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, as issued the directive published below to the Commissioner of Customs to be effective on January 1, 1986. For further information contact Jane Corwin, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement between the Governments of the United States and Malaysia, effected by exchange of notes dated July 1 and 11, 1985, as amended, establishes specific limits for cotton, wool and man-made fiber textile products in Categories 313, 331, 333/334/335, 336, 338/339, 340, 341, 345, 347/348, 369pt. (only T.S.U.S.A. number 366.2840), 438pt. (only women's knit shirts and blouses), 445/446, 604, 613, 631, 634, 635, 640, 645/646, produced or manufactured in Malaysia and exported during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in the foregoing categories in excess of the designated twelve-month restraint limits.

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 57709), 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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

December 23, 1985.

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C.1954), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Texitle Agreement effected by exchange of notes dated July 1 an 11, 1985 between the Governments of the United States and malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohitit, effective on January 1, 1986, entry into the United States for comsumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Malaysia and exported during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986 in excess of the indicated restraint limits:

Catetgory	Twelve-month restaraint limit
313	13,780,000 yd.[2]
331	657,306 doz pairs.
333/334/335	106,242 doz of which not more than 53,121 doz shall be in category 333, not more than 47,809 doz shall be in category 334 and not more than 53,121 doz shall be in category 335.
336	68,900 doz.
338/339	540,600 doz of which not more than 211, 366 doz shall be in category 339.
340	369,052 doz.
341	269,240 doz.
345	78,705 doz.
347/348	221,361 doz of which not more than 115,755 doz shall be in category 348.
369pt.[1]	901,000 lbs.
438pt.[2]	11,110 doz.
445/446	26,260 doz.
604	5,936,000 yd [3] equivalent.
613	17,000,000 yd [3].
631	371,000 doz yd [3].
634	238,500 doz.
635	159,000 doz.
636	135,000 doz.
638/639	235,599 doz.
640	275,600 doz.
641	604,200 doz.
645/646	163,117 doz.
647/648	848,983 doz of which not more than 551,200 doz shall be in T.S.U.S.A. Nos. 381.2370, 381.2375, 381.2859, 381.3380, 381.6679, 381.8531, 381.8730, 381.8815, 381.8835, 381.8840, 381.9234, 384.1926, 384.1928, 384.1950, 384.1950, 384.2010, 384.2020, 384.2030, 384.2040, 384.2050, 384.2267, 384.2273, 384.2722, 384.5482, 384.7756, 384.8241, 384.8243, 384.8245, 384.8247, 387.8256, 384.8258, 384.8262, 384.8264.

[1] In Category 369, only T.S.U.S.A. number 366.2840.
[2] In Category 438, only T.S.U.S.A. numbers 384.1307, 384.1309, 384.2711, 384.5434, 3894.5910, 384.6310, 384.7724, and 384.9640.

In carrying out this directive entries of textile products in the foregoing categories, except Categories 613, 631, produced or manufactured in Malaysia, which have been exported to the United States on and after January 1, 1985 and extending through December 31, 1985, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1985 and extending through December 31, 1985. In the event the levels of restraint established for the period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 613 and 631 which have been exported before January 1, 1986 shall be subject to this directive.

The restraint limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement between the Governments of the United States and Malaysia which provide, in part, that: (1) specific limits or sublimits may be exceeded by not more than 5 percent, provided a corresponding reduction in equivalent square yards is made in one or more other specific limits during the same agreement year; (2) specific limits may be adjusted for carryover and carry forward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47

FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533 (a)(1).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30670 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986 Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement ist.

SUMMARY: The Committee has received proposals to add to Procurement List 1986 commodities to be produced by and service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 29, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshop for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1986, October 15, 1985 (50 FR 41809):

Commodities

Holder, Binder Label, 7510-00-272-3044
(GSA Regions 3, 4, 7 and 10 only)
Coin Bags:
8105-00-NSH-0005
8105-00-NSH-0006
8105-00-NSH-0008
8105-00-NSH-0009
8105-00-NSH-0010
8105-00-NSH-0011
8105-00-NSH-0012
(Portion of Government requirement not on Procurement List)

Services

Commissary Shelf Stocking, Naval Air Station, Pensacola, Florida
Commissary Shelf Stocking and Custodial, Redstone Arsenal, Alabama
Commissary Shelf Stocking and Custodial, Fort Monroe, Virginia
Grounds Maintenance, DOT/Federal Aviation Administration, Airway Facilities Sector, ARTC Center, 299 Woolsey Road, Hampton, Georgia

C.W. Fletcher,

Exective Director.

[FR Doc. 85-30652 Filed 12-26-85; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1986 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1986 services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: December 27, 1985.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On August 30 and September 27, 1985, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (50 FR 35287 and 50 FR 39160) of proposed additions to Procurement List 1986, October 15, 1985 (50 FR 41809).

Additions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77 and 41 CFR 51-2.5.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. the actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the services listed.

c. The actions will result in authorizing small entities to provide the services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1986:

Janitorial/Custodial, U.S. Department of Agriculture, National Finance Center, NASA Facility, 13800 Old Gentilly Road, Building 350, New Orleans, Louisiana
Janitorial/Custodial, Federal Building, 240 West Third Street, Williamsport, Pennsylvania

C. W. Fletcher,

Executive Director.

[FR Doc. 85-30651 Filed 12-26-85; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation; Information Collection Activities Under OMB Review

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

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of currently approved information collection.

ADDRESS: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Office of Federal Acquisition and Regulatory Policy, 202-523-5168.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* Contractor inventory schedules [SF 1423 through 1434] are forms prepared by Government personnel to inventory Government property held by contractors. The inventories are used to redistribute and dispose of excess government property after contract completion.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents *12,500;* responses per respondent *4;* total annual responses, *50,000;* hours per response, *1;* and total burden hours, *50,000.*

Obtaining copies of proposals: Requesters may obtain copies from the FAR Secretariat (VRS), Room 4041, GS Building, Washington, DC 20405, telephone 202–523–4755. Please cite OMB Control No. 9000–0015, Contractor Inventory Schedule forms.

Dated: December 18, 1985.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 85–30534 Filed 12–26–85; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, January 7, 1986; Tuesday, January 14, 1986; Tuesday, January 21, 1986; and Tuesday, January 28, 1986; at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense [Force Management and Personnel] concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency" (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 23, 1985.

[FR Doc. 85–30597 Filed 12–26–85; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Small ICBMs; Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Small ICBMs will meet in closed session on January 24, 1986 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will receive classified briefings on ICBMs.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 23, 1985.

[FR Doc. 85–30598 Filed 12–26–85; 8:45 am]

BILLING CODE 3810–01–M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 130. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 130 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: January 1, 1986.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 130

To the Heads of the Executive Departments and Establishments

Subject: Table of Maximum per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated 17 August 1966, subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702 (a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropriate and in accordance with

regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 129 except for the cases identified by asterisks which rates are effective on the date of this Bulletin.

3. Each Department or establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$19
£Anaktuvuk Pass	£140
£*Anchorage	£122
£Aqasuk	£215
£*Barrow	£144
£*Betinel	£124
£Coldfoot	£122
£*College	£105
£*Cordova	£113
£*Deadhorse	£145
£Dillingham	£114
£Dutch Harbor-Unalaska	£105
£*Eielson AFB	£105
£*Elmendorf	£122
£*Fairbanks	£105
£*Ft. Richardson	£122
£*Ft. Wainwright	£105
£Juneau	£109
£*Kenai	£119
£Ketchikan	£113
£*Kodiak	£110
£*Kotzebue [2]	£126
£*Murphy Dome [3]	£105
£*Noatak	£126
£Nome	£136
£*Noorvik	£126
£Petersburg	£113
£Point Hope	£160
£Point Lay	£179
£Prudhoe Bay	£131
£Sand Point	£103
£Shemya AFB [3]	£80
£*Shungnak	£126
£Sitka-Mt. Edgecombe	£113
£Skagway	£113
£*Spruce Cape	£110
£St. Mary's	£100
£Tanana	£136
£*Valdez	£136
£Wainwright	£165
£Wrangell	£113
£Yakutat	£100
£*All Other Localities [1]	£91
£American Samoa	£81
£Guam M. I.	£91
Hawaii:	
£Hawaii, Island of	£83
£Oahu	£94
£All Other Islands	£85
£Johnston Atoll [3]	£23
£Midway Islands [1]	£13
Puerto Rico:	
Bayamon:	
£12-16—5-15	£132
£5-16—12-15	£105
Carolina:	
£12-16—5-15	£132
£5-16—12-15	£105
Fajardo (Including Luquillo):	
£12-16—5-15	£132
£5-16—12-15	£105
Ft. Buchanan (Incl GSA Service Center, Guaynabo):	
£12-16—5-15	£132
£5-16—12-15	£105
£Ponce (Incl. Ft. Allen NCS)	£99
Roosevelt Roads:	
£12-16—5-15	£132
£5-16—12-15	£105
Sabana Seca:	
£12-16—5-15	£132
£5-16—12-15	£105
San Juan (Including San Juan Coast Guard Units):	
£12-16—5-15	£132
£5-16—12-15	£105
£All Other Localities	£111
Virgin Islands of U.S.:	
£12-1—4-30	£126
£5-1—11-30	£112
£Wake Island [3]	£20
£All Other Localities	£20

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska—when Government quarters are not utilized, and quarters are obtained at the Simons Construction, Inc. camp, a daily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals and incidental expenses at this facility.

[2] On any day when US Government or contractor quarters and US Government or contractor messing facilities are used, a per diem rate of $13 is prescribed to cover meals and incidental expenses at Shemya AFB and the following Air Force Stations: Cape Lisburne, Cape Newenham, Cape Romanzof, Clear, Cold Bay, Fort Yukon, Galena, Indian Mountain, King Salmon, Kotzebue, Murphy Dome, Sparrevohn, Tatalina and Tin City. This rate will be increased by the amount paid for US Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

[3] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 20, 1985.

[FR Doc. 85-30599 Filed 12-26-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB), TRADOC Operations Research Activity Ad Hoc Subgroup.

Dates of meeting: Tuesday-Thursday, 21-23 January 1986.

Times of meeting: 0830-1630 hours.

Places: TRADOC Research Element Monterey, Monterey, CA.

Agenda: The Army Science Board Ad Hoc Subgroup for TRADOC Operations Research Activity (TORA) will meet for briefings by analysis and research agencies. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85-30606 Filed 12-26-85; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Thursday & Friday, 23-24 January 1986.

Times of Meeting: 0800-1700 hours.

Places: SRI International, Menlo Park, CA.

Agenda: The Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense Follow-On will meet to discuss Army Free Electron Laser Program and Active Midcourse Discrimination. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85-30637 Filed 12-26-85; 8:45 am]

BILLING CODE 3710-08-M

Defense Contract Audit Agency

Privacy Act of 1974; Amendments of Records Systems

AGENCY: Defense Contract Audit Agency (DCA), DOD.

ACTION: Notices to amended records sytems.

SUMMARY: The Defense Contract Audit Agency is giving notice of the amendment of five existing systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a). The specific changes to the notices being amended are set forth below followed by the records systems notices, as amended, published in their entirety.

DATES: This proposed action will be effective without further notice on or before January 27, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mr. John van Santen, Assistant Director, Resources, Cameron Station, Alexandria, VA 22304-6178. Telephone: 202/274-7308, Autovon: 284-7308.

SUPPLEMENTARY INFORMATION: The Defense Contract Audit Agency systems of records notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) have been previously published in the **Federal Register** as follows:

FR Doc. 85-10237 (50 FR 22884) May 29, 1985
FR Doc. 85-29260 (50 FR 50339) December 10, 1985

None of the following five amended systems of records are subject to an altered system report as required by 5 U.S.C. 552a(o).

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 23, 1985.

AMENDMENTS

RDCAA 152.2

System Name:

Personal Security Date Files (50 FR 22886, May 29, 1985).

Changes:

categories of records in the system:

In the first paragraph, after "requests" delete "for an approval or disapproval of" and substitute "for, and approval or disapproval of.".

RDCCA 152.5

System Name:

Notification of Security Determination (50 FR 22887, May 29, 1985).

Changes:

Retrievability:

Delete "file series" and substitute with "organizational element."

RDCAA 152.7

System Name:

Clearance Certification (50 FR 22888, May 29, 1985).

Changes:

System Location:

In the first paragraph, after "Field Audit Offices" and: "Field Detachment." In the second paragraph, after "Chiefs of Personnel" add: "Divisions, DCAA Regional Offices,".

Categories of Records in the System:

After "Field Audit Offices" add: Field Detachment."

RDCAA 358.3

System Name:

Grievance & Appeal Files (50 FR 22893, May 29, 1985).

Changes:

Storage:

Delete entry; substitute: "Paper records in file folders."

Safeguards:

Delete entry; substitute: "Grievance files are under the control of the personnel office staff during duty hours. During nonduty hours, the personnel office and/or filing cabinet is locked."

RDCAA 371.5

System Name:

Locator Records (50 FR 22894, May 29, 1985).

Changes:

System Location:

Delete entry; substitute: "Director of Personnel, HQ, DCAA, Cameron Station, Alexandria, VA 22304-6178; Regional Offices, whose addresses are in the DoD directory in the appendix to DCAA's systems notices; and Field Audit Offices, whose addresses may be obtained from their cognizant regional office.

System Manager(s) and Address:

Delete entry; substitute: "Director of Personnel, HQ, DCAA, Cameron Station, Alexandria, VA 22304-6178; Personnel Officers in regional offices, whose addresses are in the DoD directory in the appendix to DCAA's systems notices; and Managers of field audit offices, whose addresses may be obtained from their cognizant regional office.

RDCAA 152.2

SYSTEM NAME:

Personnel Security Data Files.

SYSTEM LOCATION:

Primary System—Security Officer, Defense Contract Audit Agency (DCAA), Headquarters, DCAA.

Decentralized Segments—Director of Personnel, DCAA; DCAA Regional Offices; Chiefs of Personnel Divisions and Regional Security Officers whose addressess are in the DoD directory in the appendix to DCAA's system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants for employment with DCAA; all DCAA employees; all military personnel assigned, detailed, or attached to DCAA; all persons hired on a contractual basis by, or serving in an advisory capacity to DCAA, who require access to classified information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Section One contains copies of individual's employment applications, security investigative questionnaires, requests for, and approval or disapproval of, emergency appointment authority; requests for investigation or security clearance; interim and final security clearance certificates.

Section Two contains non record copies of investigations, or summaries or extracts of the results of investigations, furnished by investigative agencies, conducted to determine suitability, eligibility or qualifications for Federal civilian employment, military service, or access to classified information.

Section Three contains summaries or extracts of reports of investigation, internal Agency memorandums and correspondence furnishing analysis of results of investigations in so far as their relationship to the criteria set forth in the Executive Order 10450, in the Federal Personnel Manual and in Department of Defense and DCAA Directives and Regulations; comments and recommendations of the DCAA Central Clearance Group to the Director, DCAA, and determination by the Director, DCAA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 USC 2904, 3102; 5 USC 7531 through 7533; Executive Order 10450, 'Security Requirements for Government Employees,' as amended; Executive Order 12356, 'National Security Information'.

PURPOSE(S):

To provide a basis for requesting appropriate investigations; to permit determinations on employment or retention; to authorize and record access to classified information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses at the beginning of this component's listing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Sections One and Three—Paper records in file folders. Section Two—Paper records and microfiche in file folders.

RETRIEVABILITY:

Folders are filed by file series then by organizational element (DCAA Headquarters or DCAA field activities) and then alphabetically by last name of individual concerned.

SAFEGUARDS:

Records are accessible only to authorized personnel who are properly cleared and trained and who require access in connection with their official duties. Records are stored in locked filing cabinets after normal business hours.

RETENTION AND DISPOSAL:

Section One and Three: Records pertaining to Federal employees, military personnel, and persons furnishing services to DCAA on a contract basis are destroyed upon separation of employees, transfer of military personnel from DCAA, and upon termination of the contracts of contractor personnel. Records pertaining to applicants are destroyed if an appointment to the Agency is not made.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, DCAA, Headquarters, DCAA, Cameron Station, Alexandria, VA 22304-6178.

NOTIFICATION PROCEDURE:

Information may be obtained from Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178, Telephone: Area Code 202/274-7288.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178.

Written requests for information should contain the full name of the individual, current address and telephone number and current business address. Visits are limited to those offices (Headquarters and 6 regional offices) listed in the DoD directory in the appendix to DCAA systems notices.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license or employing offices' identification card.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determinations may be obtained from the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178.

RECORD SOURCE CATEGORIES:

Headquarters, DCAA: Security Officer and Director of Personnel; DCAA Regional Offices: Chiefs of Personnel Divisions, Regional Security Officers, Chiefs of Field Audit Offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

RDCAA 152.5

SYSTEM NAME:

Notification of Security Determinations.

SYSTEM LOCATION:

Primary System—Regional Security Officer, DCAA Regional Office; Security Control Officer, DCAI.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DCAA personnel and applicants for DCAA employment on whom specific security or suitability action must be taken.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may contain a summary of pertinent security or suitability information; the results of security determinations approved by the Director, DCAA; and directed or recommended actions to be taken at DCAA Regional Office, Field Audit Office or DCAI level.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 USC 2904, 3102; 5 USC 7531 through 7533; Executive Order 10450, "Security Requirements for Government Employees," as amended, and Executive Order 12356, "National Security Information".

PURPOSE(S)

To permit required actions of a suitability or security nature to be taken by appropriate DCAA officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses at the beginning of this component's listing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Folders are filed by organizational element, then alphabetically by name of person concerned.

SAFEGUARDS:

Records are accessible only to authorized personnel who are properly cleared and trained and who require access in connection with their official duties. Records are stored in locked filing cabinets after normal business hours.

RETENTION AND DISPOSAL:

Destruction is directed individually in each case upon completion of final security or suitability actions or automatically upon non-appointment of applicants or separation of employees, whichever is earlier.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, Headquarters, DCAA, Cameron Station, Alexandria, VA 22304-6178.

NOTIFICATION PROCEDURE:

Information may be obtained from: Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178, Telephone: Area Code 202/274-7288.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178.

Written requests for information should contain the full name of the individual, current address and telephone number and current business address. Visits are limited to those offices (Headquarters and 6 regional offices) listed in the DoD directory in the appendix to DCAA systems notices.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license or employing offices' identification card.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determinations may be obtained from the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304-6178.

RECORD SOURCE CATEGORIES:

Results of investigations received from Federal agencies and recommendations for action from appropriate DCAA Headquarters staff elements.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

RDCAA 152.7

SYSTEM NAME:

Clearance Certification.

SYSTEM LOCATION:

Primary System—Regional Security Officers, DCAA Regional Offices; Security Control Officers, DCAA Field Audit Offices, Field Detachment, and DCAI, whose addresses are in the DoD

directory in the appendix to DCAA's systems notices.

Decentralized Segments—Security Officer, DCAA, and Director of Personnel, Headquarters, DCAA; Chiefs of Personnel Divisions, DCAA Regional Offices, whose addresses are in the DoD directory in the appendix to DCAA's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DCAA personnel who require access to classified information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain interim and final security clearance certificates attesting to type of investigation conducted and degree of access to classified information which is authorized as well as at the Field Audit Offices, Field Detachment, and DCAI, copies of security acknowledgment certificates and special access briefing statements executed by individuals upon being granted security clearances or access to special access information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 USC 2904, 3102, 5 USC 7531 through 7533; Executive Order 10450, 'Security Requirements for Government Employees,' as amended, and Executive Order 12356, 'National Security Information'.

PURPOSE(S):

To maintain a record of the security clearance status of all DCAA personnel as well as certification of briefings for access to classified information and special access information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To DoD contractors to furnish notice of security clearance and access authorization of DCAA employees. See blanket routine uses at the beginning of this component's listing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of individual concerned within subject file.

SAFEGUARDS:

Records are accessible only to those authorized personnel required to act upon a request for access to classified defense information. Records are stored in locked filing cabinets after normal business hours and stored in locked rooms or buildings.

RETENTION AND DISPOSAL:

Files pertaining to Federal employees, military personnel, and persons furnishing services to DCAA on a contract basis are destroyed upon separation or transfer of employee or military personnel and upon termination of contractor personnel. Files of individuals transferring within DCAA are transferred to security control office of gaining element for maintenance.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, DCAA, Headquarters, DCAA, Cameron Station, Alexandira, VA 22304–6178.

Regional Security Officers in DCAA Regional Offices whose addresses are in the DoD directory in the appendix to DCAA's systems notices.

NOTIFICATION PROCEDURE:

Information may be obtained from: Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178, Telephone: Area Code 202/274–7288.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

Written requests for information should contain the full name of the individual, current address and telephone number and current business address. Visits are limited to those office (Headquarters and 6 regional offices) listed in the DoD directory in the appendix to DCAA systems notices.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license or employing offices' identification card.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determinations may be obtained from the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

RECORD SOURCE CATEGORIES:

Security Officer, DCAA; Regional Security Officers, DCAA Regional Offices and Security Control Officers of DCAA Field Audit Offices and DCAI.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

RDCAA 358.3

SYSTEM NAME:

Grievance & Appeal Files.

SYSTEM LOCATION:

Grievant's servicing personnel office in Headquarters or in the regional offices whose addresses are in the DoD directory in the appendix to DCAA's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees who have filed formal grievances that may be adjudicated under either Chapter 58, DCAA Personnel Manual or a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The written grievance; assignment of examiner; or selection of an arbitrator or referee; statements of witnesses; written summary of interviews; written summary of group meetings; transcript of hearing if one held; correspondence relating to the grievance and conduct of the inquiry; exhibits evidence; transmittal; memorandums and letters; decision.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301; 10 USC 133; 44 USC 2901; Part 771, Civil Service Regulations.

PURPOSE(S):

To record the grievance, the nature and scope of inquiry into the matter being grieved, and the treatment accorded the matter by management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To arbitrators, referees, or other third party hearing officers selected by management and/or the parties to the grievance to serve as factfinders or deciders of the matter grieved. See blanker routine uses at the beginning of this component's listing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Grievance files are filed by subject matter, contract clause, or by name alphabetically.

SAFEGUARDS:

Grievance files are under the control of the personnel office staff during duty hours. During nonduty hours, the

personnel office and/or filing cabinet is locked.

RETENTION AND DISPOSAL:

Review annually; destroy entire file 1 year after the grievance has been decided or after the transfer or separation of the employee, whichever is shorter.

SYSTEM MANAGER(S) AND ADDRESS:

Each servicing personnel officer in Headquarters or the Regions whose addresses are in the DoD directory in the appendix to DCAA's systems notices.

NOTIFICATION PROCEDURE:

Requests for information should be made to the region in which the grievance originated.

Written requests should contain individual's full name, current address, telephone number and office of assignment. Individuals may visit the personnel office of the region in which the grievance was filed. For personal visits, individual must furnish positive identification.

Information will be at the Personnel Office of the Region in which the grievance originated or HQ, DCAA.

RECORD ACCESS PROCEDURES:

Individuals may obtain information on access to records by communicating in writing or personally with the SYSMANAGER or Personnel Officer of the region of record.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

RECORD SOURCE CATEGORIES:

Grievant;

Witnesses;

Exhibits furnished in evidence by grievant and witnesses;

Grievance examiner; and persons interviewed by the grievance examiner;

Deciding official arbitrator, referee, or other third party factfinder or decider.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

RDCCA 371.5

SYSTEM NAME:

Locator Records.

SYSTEM LOCATION:

Director of Personnel, HQ, DCAA, Cameron Station, Alexandria, VA 22304–6178; Regional Offices, whose addresses are in the DoD director in the appendix to DCAA's system notices; and Field Audit Offices, whose addresses may be obtained from their cognizant regional office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees of DCAA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, office room number, office telephone number, office symbol, home address, home telephone number, date prepared, spouse's name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301; 10 USC 133; 44 USC 2901, et seq.

PURPOSE(S):

To provide a ready reference to employee home address and telephone number for business, protocol and social purposes.

ROUTINE USES OF RECORD MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See blanket routine uses at the beginning of this component's listing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3 x 5 card, stored in index card box.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Under control of office staff during duty hours. Building and/or office locked and/or guarded during nonduty hours.

RETENTION AND DISPOSAL:

Retained until separation of employee, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, HQ, DCAA, Cameron Station, Alexandria, VA 22304–6178; Personnel Officers in regional offices, whose addresses are in the DoD directory in the appendix to DCAA's systems notices; and Managers of field audit offices, whose addresses may be obtained from their cognizant regional office.

NOTIFICATION PROCEDURE:

Information may be obtained from the SYSMANAGER.

Written requests for information must include individual's full name, current address, telephone number and office of assignment.

Individual may visit the Office of the SYSMANAGER.

For personal visit, individual must furnish positive identification.

RECORD ACCESS PROCEDURES:

A personal or written request to the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determinations may be obtained from the Records Administrator, Defense Contract Audit Agency, Cameron Station, Alexandria, VA 22304–6178.

RECORD SOURCE CATEGORIES:

Employee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 85–30595 Filed 12–26–85; 8:45 am]

BILLING CODE 3810–01–M

Department of the Navy

Privacy Act of 1974; Amended Systems of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice of amendments to systems of records.

SUMMARY: The Department of the Navy proposes to amend nine systems of records in its inventory of systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The specific changes to the notices being amended are set forth below followed by the particular notice as amended.

DATES: The proposed action will be effective without further notice on or before January 27, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the systems manager identified in the particular system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op–09B30), Department of the Navy, The Pentagon, Washington, DC 20350–2000, Telephone: 202/694–2004, Autovon: 224–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub.

L. 93–579 were published in the **Federal Register** as follows:

FR Doc. 85–10237 (50 FR 22735) May 29, 1985
FR Doc. 85–16564 (50 FR 28442) July 12, 1985
FR Doc. 85–20719 (50 FR 35290) August 30, 1985
FR Doc. 85–21577 (50 FR 36914) September 10, 1985

The proposed amendments are not within the purview of the provision of 5 U.S.C. 552a(o) which requires the submission of an altered system report.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 23, 1985.

N05350–1

System name:

Navy Personnel Rehabilitation Support System (50 FR 36914) September 10, 1985.

Changes:

System location:

In lines 12 and 13, delete the phrase: "* * * Navy Corrections Centers, * * *"

Categories of records in the system:

Delete the entire entry and substitute with the following: "Copies of interview appraisals, progress reports, psychosocial histories, counselor observations and impressions of client's behavior and rehabilitation progress, copies of medical consultation and laboratory procedures performed, results of biochemical urinalysis for alcohol/drug abuse, and personnel, service, biographical and educational data."

Purpose(s):

Delete the entire entry and substitute with the following: "To identify alcohol and drug abusers and either restore such persons to effective duty or identify rehabilitation failures for separation from Government service. Information is used to treat, diagnose, counsel and rehabilitate individuals in the drug or alcohol abuse programs. For counselors and counselor candidates to use in the screening and evaluation of candidates for counselor school and the continuing evaluation of counselors during the course of their duties."

Notification Procedures:

In lines 9 through 12, delete the sentence: "(Those inquiring about records at Confinement Centers must have their signatures notarized, if not confined at the time of the request)."

N05350–1

SYSTEM NAME:

Navy Personnel Rehabilitation Support System.

* * * * *

SYSTEM LOCATION:

Primary system—Naval Military Personnel Command, Navy Department, Washington, DC 20370;

Decentralized segments—Navy Drug Rehabilitation Centers, Navy Alcohol and Drug Information System Processing Office, Navy Alcohol Rehabilitation Centers, Naval Regional Medical Centers, Navy Counseling and Assistance Centers, Navy Alcohol Rehabilitation Drydocks, Naval Health Research Centers, and local activities to which an individual is assigned (see Directory of Department of the Navy Mailing Addresses).

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of interview appraisals, progress reports, psychosocial histories, counselor observations and impressions of client's behavior and rehabilitation progress, copies of medical consultation and laboratory procedures performed, results of biochemical urinanalysis for alchohol/drug abuse, and personnel, service, biographical and educational data.

* * * * *

PURPOSE(S):

To identify alchohol and drug abusers and either restore such personms to effective duty or identify rehabilitation failures for separation form Government service. Information is used to treat, diagnose, counsel and rehabilitate individuals in the drug or alcohol abuse programs. For counselors and counselor candidates to use in the screening and evaluation of candidates for counselor school and the continuing evaluation of counselors during the course of their duties."

* * * * *

NOTIFICATION PROCEDURES:

Written requests should be addressed to activity to which the individual received treatment or to the Commander, Naval Military Personnel Command, Navy Annex, Washington, DC 20370. Requests must contain full name, social security number, military status, address and signature of requester. The individaul may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB–2) for assistance with records located in the Naval Military Personnel Command; the individual may also visit local activities concerned (See Directory of Department of the Navy mailing addresses). Proof of identification will consist of military ID card for persons having them or other picture-bearing identification.

* * * * *

NO5810–2

System name:

Military Justice Correspondence File (50 FR 22811) May 29, 1985.

Changes:

System Manager(s) and Address:

In line 2, delete the phrase: "* * *(Civil Law)* * *" and substitute with: "* * *(Military Law)* * *"

N05810–2

SYSTEM NAME:

Military Justice Correspondence File.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332.

* * * * *

N05813–3

System name:

General Courts-Martial Records of Trial (50 FR 22813) May 29, 1985.

Changes:

System manager(s) and address:

In line 2, delete the phrase: "* * * (Civil Law) * * *" and substitute with: "* * * (Military Law) * * *"

N05813–3

SYSTEM NAME:

General Courts-Martial Records of Trial.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332.

* * * * *

N05814–1

System name:

Summary courts-martial and non-bad conduct discharge courts-martial—Navy and Marine Corps (50 FR 22814) May 29, 1985.

Changes:

System manager(s) and address:

In line 2, delete the phrase: "* * * (Civil Law) * * *" and substitute with: "* * * (Military Law) * * * *"

At the end of the entry, add the following phrase: "* * * and appropriate officers having supervisory authority over naval activities."

N05814-1

SYSTEM NAME:

Summary courts-martial and non-bad conduct discharge courts-martial—Navy and Marine Corps.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332 and appropriate officers having supervisory authority over naval activities.

* * * * *

NO5815-1

System name:

Special courts-martial resulting in bad conduct discharges or concerning commissioned officers (50 FR 22815) May 29, 1985.

Changes:

System manager(s) and address:

In line 2, delete the phrase: "* * * (Civil Law) * * *" and substitute with: "* * * (Military Law * * *"

NO5815-1

System name:

Special courts-martial resulting in bad conduct discharges or concerning commissioned officers.

* * * * *

Changes:

System manager(s) and address:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332.

* * * * *

NO5817-1

System name:

Courts-Martial Statistics (50 FR 22815) May 29, 1985.

Changes:

System manager(s) and address:

In line 2, delete the phrase: "* * * (Civil Law) * * *" and substitute with: "* * * (Military Law) * * *"

NO5817-1

System name:

Courts-Martial Statistics.

* * * * *

Changes:

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332.

NO5819-1

System name:

Article 96 Petitions (50 FR 22816) May 29, 1985.

Changes:

System manager(s) and address:

In line 2, delete the phrase: "* * * (Civil Law) * * *" and substitute with: "* * * (Military Law) * * *"

NO5819-1

SYSTEM NAME:

Article 69 Petitions.

* * * * *

Changes:

System manager(s) and address:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332.

* * * * *

NO5819-2

System name:

Article 73 Petitions for New Trial (50 FR 22817) May 29, 1985.

Changes:

System manager(s) and address:

In line 2, delete the phrase: "* * * (Civil Law) * * *" and substitute with: "* * * (Military Law) * * *"

NO5819-2

SYSTEM NAME:

Article 73 Petitions for New Trial.

* * * * *

Changes:

System manager(s) and address:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332.

* * * * *

N12950-5

System name:

Navy Civilian Personnel Data System (NCPDS) (50 FR 22866) May 29, 1985.

Changes:

System location:

In line 4, after the phrase: "* * * Personnel Command (NCPC). * * * add the phrase: "* * * Naval Military Personnel Command (NMPC) * * * *".

At the end of the entry, add the following: "Included in this notice are those records duplicated for retrievability at a site closer to where the employee works (e.g., in an administrative office or a supervisor's work area)."

Categories of individuals covered by the system:

Delete the entire entry and substitute with the following: "Department of the Navy civilian employees paid from appropriated and nonappropriated funds, and foreign national direct and indirect hire employees."

Categories of records in the system:

In line 8, after the word "basis", add the following phrase: "* * * or other compensation and allowances * * * *".

In line 19, delete the word "and", and change the word "reason" to "reasons".

In line 21, after the word employee add the phrase: "* * * and case files pertaining to EEO, MSPB, labor and employee relations, and incentive awards."

In line 22, after the word "the" delete the remainder of the entry and substitute with the following: "* * * NCPDS subsystems: the Navy Automated Civilian Manpower Information System (NACMIS), the Training Information Management System (TIMS), the Personnel Automated Data System (PADS), the Computerized Employee Management Program Administration and Research (CEMPAR), the OP-14/NCPC Customer Support Centers, the Executive Personnel Management Information System (EPMIS) and the NCPDS base level and Headquarters systems."

Authority for maintenance of the system:

Delete the entire entry and substitute with the following: "5 USC 301; 5 USC 4118; Executive Order 9397; 5 USC 2951; Executive Order 10450; 42 USC 2000e, 5 USC 3135, 5 USC 4301 et seq., 5 USC 4501 et seq., 5 USC 4705 and Subparts D, E, F and G of Title 5, USC, and 29 CFR Part 1613 et seq."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In paragraph 6, delete the phrase: "* * * card punch recording * * * " and substitute with: " * * * automated processing * * * ".

Delete paragraph 7 in its entirety, and substitute with the following: "To a duly appointed hearing examiner or arbitrator in connection with a grievance."

Add a new paragraph 11 as follows: "To representatives of the Federal Labor Relations Authority." In the existing paragraph 11, add the following phrase at the end of the entry: " * * * and its subsystems." Change existing paragraph 11 to paragraph 13.

Add a new paragraph 12 as follows: "To representatives of the Merit Systems Protection Board."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retrievability:

In line 1, after the phrase " * * * SSN * * * " add the following phrase: " * * * or similar substitute if there is no SSN * * * ". At the end of the entry, delete the sentence: "Manual records are retrieved by name."

SYSTEM NAME:

Navy Civilian Personnel Data System (NCPDS).

SYSTEM LOCATION:

Chief of Naval Operations (Codes 14 and 16), Department of the Navy and Designated Contractors; Navy Civilian Personnel Command (NCPC), Naval Military Personnel Command (NMPC), NCPC Field Divisions; operating civilian personnel officers and Navy commands and management offices; and the Navy Regional Data Automation Center (NARDAC) and its designated contractors. The addresses of the activities are furnished in the Department of the Navy Directory published in the Federal Register. Included in this notice are those records duplicated for retrievability at a site closer to where the employee works (e.g., in an administrative office or a supervisor's work area).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of the Navy civilian employees paid from appropriated and nonappropriated funds, and foreign national direct and indirect hire employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system comprises automated and non-automated records describing and identifying the employee (e.g., name, social security account number, sex, birth date, minority designator, citizenship, physical handicap code); the position occupied and the employee's qualifications; salary and salary basis; or other compensation and allowances; employee's status in relation to the position occupied and the organization to which assigned; tickler dates for impending changes in status; education and training records; previous military status; functional code; previous employment record; performance appraisal and other data needed for screening and selection of an employee; referral records; professional licenses and publications; reasons for position change or other action affecting the employee; and case files pertaining to EEO, MSPB, labor and employee relations, and incentive awards. The records are those found in the NCPDS subsystems: the Navy Automated Civilian Manpower Information System (NACMIS), the Training Information Management System (TIMS), the Personnel Automated Data System (PADS), the Computerized Employee Management Program Administration and Research (CEMPAR), the OP-14/NCPC Customer Support Centers, the Executive Personnel Management Information System (EPMIS) and the NCPDS base level and Headquarters systems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301; 5 USC 4118; Executive Order 9397; 5 USC 2951; Executive Order 10450; 42 USC 2000e, 5 USC 3135, 5 USC 4301 et seq., 5 USC 4501 et seq., 5 USC 4705 and Subparts D, E, F And G of Title 5, USC, and 29 CFR Part 1613 et seq.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To The Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office

To the Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as a legal representative of Executive Branch agencies.

To officials and employees of other departments and agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the screening and selection of candidates for vacant positions.

To representatives of the United States Department of Labor on matters relating to the inspection, survey, audit or evaluation of the Navy's apprentice training programs or on other such matters under the jurisdiction of the Labor Department.

To representatives of the Veterans Administration on matters relating to the inspection, survey, audit or evaluation of the Navy's apprentice and on-the-job training program.

To contractors or their employees for the purpose of automated processing of data from employee personnel actions and training documents, or data collection forms and other documents.

To a duly appointed hearing examiner or arbitrator in connection with a grievance.

To an appointed complaints examiner for the purpose of conducting a hearing in connection with an employee's formal Equal Employment Opportunity (EEO) complaint.

To officials and employees of schools and other institutions engaged to provide training.

To labor organizations recognized under 5 USC Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

To representatives of the Federal Labor Relations Authority.

To representatives of the Merit Systems Protection Board.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation also apply to this system and its subsystems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Information is retrieved by SSN, or other similar substitute if there is no SSN, position number, name, or by specific employee characteristics such as date of birth, grade, occupation,

employing organization, tickler dates; academic specialty level.

* * * * *

[FR Doc. 86-30596 Filed 12-26-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Eduction

State Student Incentive Grant Program

AGENCY: Department of Education.

ACTION: Notice of closing date for receipt of State applications for fiscal year 1986.

The Secretary gives notice of the closing date for receipt of State applications for Fiscal Year 1986 funds under the State Student Incentive Grant (SSID) Program. This program, through matching formula grants to States for student awards, provides a nationwide delivery system of grants for students with substantial financial need.

A State that desires to receive SSIG funds for any fiscal year must have an agreement with the Secretary as provided for under the authorizing law, and must submit an application through the State agency that administers its program of student grants.

The Secretary is authorized to accept applications from the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Marina Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands, provided they have executed the required agreement.

Authority for this program is contained in sections 415A through 415B of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070c-1070-3)

Closing Date for Transmittal of Applications

Applications for Fiscal Year 1986 SSIG funds must be mailed or hand-delivered by JanuarY 31, 1986.

Applications Delivered by Mail

Applications sent by mail must be addressed to the U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, SW., Washington, DC 20202 and marked for the attention of Dr. Neil C. Nelson, Chief, State Student Incentive Grant Program, Room 4026, ROB #3. The Department of Education requires proof of mailing. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (2) a legible dated U.S. Postal Servcie postmark; or (3) any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service. State Agencies should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, State Agencies should check with their local post offices. The Department of Education encourages State Agencies to use registered or at least first-class mail.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Department of Eduction, Office of Student Financial Assistance, 7th and D Streets, SW., Room 4026, GSA Regional Office Building #3, Washington, DC. Hand-delivered applications will be accepted between 8:00 a.m. and 4:30 p.m. daily (Washington, DC time), except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

The Secretary requires an annual submission of an application for receipt of SSIG funds. In preparing an application, each State Agency should be guided by the table of allotments provided in the application package.

Basic State allotments, to the extent needed by the States, are determined by formula and are not subject to negotiations. The States may also request a share of reallotments, in addition to their basic allotments, contingent upon the availability of such funds from allotments to any States unable to use all their basic allotments. In FY 1985, all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Republic Islands participated in the SSIG assistance delivery network.

Application Forms and Information

The required application form for receiving SSIG funds will be mailed to officials of appropriate State Agencies at least 30 days before the closing date. This form contains the basic allotment tables with the amount computed for individual States under the SSIG Program authorization, as well as instructions for requesting Federal funds. The amounts available to State Agencies are limited to the statutory allotment formula and the level of appropriations for the program.

Applications must be prepared and submitted in accordance with the program regulations cited in this notice and the instructions provided in the application package. However, the application package is only intended to aid applicants in applying for assistance. Nothing in the application package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond these imposed under the statute and regulations. The Secretary strongly urges that applicants not submit information that is not required.

Applicable Regulations

The following regulations are applicable to the SSIG Program:

(1) The State Student Incentive Grant Program regulations (34 CFR Part 692).

(2) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 76 (State-Administrated Programs), Part 77 (Definitions), and Part 78 (Education Appeal Board).

(3) The Federal-State Relationship Agreements regulations (34 CFR Part 604).

FOR FURTHER INFORMATION CONTACT: For further information contact Dr. Neil C. Nelson, Chief, State Student Incentive Grant Program, Office of Student Financial Assistance, U.S. Department of Eduction, Washington, DC 20202; telephone (202) 472-4265.

(20 U.S.C. 1070c-1070-2)

(Catalog of Federal Domestic Assistance Number 84.069, State Student Incentive Grant Program)

Dated: December 20, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85-30641 Filed 12-26-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council; U.S. Refinery Capability Task Group; Date Change for Meeting

The date of the December 17, 1985, tenth meeting of the U.S. Refinery Capability Task Group has been changed. The meeting will now be held on Tuesday, January 7, 1986, starting at 8:30 a.m., in the Lubbock Room of the Houston Airport Marriott Hotel, 18700 Kennedy Boulevard, Houston, Texas. Notice of this meeting first appeared in 50 FR 50658, Wednesday, December 11, 1985 (FR Doc. 85-29342).

Issued at Washington, D.C., December 18, 1985.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 85-30576 Filed 12-26-85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-C&E-86-21 OFP Case No. 50076-9142-20, 21-22]

Acceptance of Petition for Exemption and Availability of Certification by Municipal Light and Power

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: On December 6, 1985, Municipal Light and Power, Anchorage, Alaska, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent reliability of service exemption for a combined cycle electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8302 *et seq.*) ("FUA" or "the Act"). The proposed combustion gas turbine facility will be known as the George M. Sullivan Powerplant Units 11 and 12 [hereafter referred to as Sullivan 11 and/or Sullivan 12] and will be physically located within the boundries of the existing George M. Sullivan Plant No. 2 facility. An exemption is required for each unit. Title II of the FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant facility. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the reliability of service exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982) and are found at 10 CFR 503.40.

Sullivan 11 and Sullivan 12 as proposed, will be constructed in phases starting in the Spring of 1997. Each thermal unit will, when construction is complete, operate in a combined cycle with a heat recovery steam unit as a base load integrated system. The combustion gas turbine at Sullivan 11 and also at Sullivan 12 will each be nameplate rated at 80 MW (the two units total 160 MW), with the steam unit rated at 65 MW. The base load integrated system, when construction is complete, will meet forecast electrical demand for the Winter of 1999–2000 and beyond. § 503.40 states that section 212(f) of the Act provides for a permanent exemption necessary to maintain reliability of service, in addition, section 317 of Pub. L. 97-394 (U.S.C. 8322) reads as follows:

In the case of any new electric power plant located in Alaska for which a petition is accepted after the date of enactment of this Act, but before December 31, 1985, pursuant to section 212(f) of the Powerplant and Industrial Fuel Use Act of 1978, to use natural gas (as that term is defined in such act), as a primary energy source in such power plant, the petitioner shall be deemed to have made the demonstrations required by clauses (1) and (2) of such section and such exemption, subject to the other applicable provisions of such Act, shall be granted by the Secretary of Energy. Nothing in this section shall apply to any new electric power plant using natural gas produced from the Prudhoe Bay unit of Alaska.

Natural gas for Sullivan 11 and Sullivan 12 will be produced from various gas fields (Beaver Creek, Kenai and Beluga) located in the upper Cook Inlet area of Southcentral Alaska. This gas is, or will be delivered to the George M. Sullivan Powerplant via existing facilities or facilities currently under construction. Gas supplies are expected to be sufficient to service both proposed units in all modes of operation. Finally, Sullivan 11 and Sullivan 12 will *not* use any gas produced from the Prudhoe Bay Unit of Alaska. Accordingly, the proposed Sullivan 11 and Sullivan 12 facility is, when completed with the heat recovery boiler and turbine, a combined cycle electric powerplant in accordance with the definition of "electric powerplant" contained in 10 CFR 500.2.

A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing. The public file containing a copy of this Notice of Acceptance and Availability of Certification, as well as other documents and supporting materials on this proceeding, is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register**.

DATES: Written comments are due on or before February 10, 1986. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-045, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-86-21 should be printed on the outside of the evelope and the documentation contained therein.

FOR FURTHER INFORMATION CONTACT:

George C. Blackmore, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585, Telephone: (202) 252-1774

Seven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washinton, DC 20585, Telephone: (202) 252-6947

SUPPLEMENTARY INFORMATION:

Municipal Light and Power is owned and operated by the Municipality of Anchorage, Alaska, and has been in existence since 1932. Approximately 31,000 customers are served, wholly within the Municipality of Anchorage. Because Municipal Light and Power, as with other Alaskan electric utilities, is a small isolated system without the security of a regional or national grid, and more importantly, because of the length and severity of Alaskan winters, the need for system reliability is absolutely essential. Current generation capacity is 313 MW, including the purchase of 16 MW from the Eklutna Hydroelectric project administered by the Alaska Power Administration. The George M. Sullivan Powerplant is located 5.5 miles east of the downtown area of Anchorage on Municipal property shared with the Anchorage Municipal Water Treatment facility.

The proposed Sullivan 11 and Sullivan 12 units will be constructed at Plant No. 2 in phases. Construction will begin in the Spring of 1997 of Sullivan 11; Sullivan 12 construction will begin in the Spring of 1998. The complete plant addition is targeted to be on line by the Winter of 1999–2000.

Section 212(f) of the Act and 10 CFR 503.40 provide for a permanent exemption from the prohibitions of Title II of FUA for powerplant necessary to maintain reliability of service. In

accordance with the requirements of § 503.40(a), Municipal Light and Power has certified to ERA that:

1. Petitioner is not able to construct an alternate fuel fired unit in time to prevent an impairment of reliability of service;

2. Despite diligent good faith efforts, the petitioner is not able to make the demonstration necessary to obtain a permanent exemption for lack of alternate fuel supply, site limitations, environmental requirements, or State and local requirements;

3. No alternate power supply exists, as required under § 503.8; and

4. Use of mixtures is not feasible, as required under § 503.9.

Impairment of Municipal Light and Power's reliability of service was calculated as measured by the loss of load probability techniques, as required under the provisions of § 503.40(b).

In accordance with the evidentiary requirements of 503.40(c) (and in addition to the certifications discussed above),

Municipal Light and Power has included as part of its petition:

1. Exhibits containing the basis for the certifications described above;

2. Duly executed certifications required; and

3. An environmental impact analysis, as required under 10 CFR § 503.13.

In processing this exemption request for Sullivan 11 and exemption request for Sullivan 12, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 et seq; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980.

NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that Municipal Light and Power is entitled to the exemptions requested for Sullivan 11 and Sullivan 12. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

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

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-30577 Filed 12-26-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP86-221-000, et al.]

El Paso Natural Gas Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Company

[Docket No. CP86-221-000]

December 17, 1985.

Take notice that on December 5, 1985, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP86-221-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install and operate a meter station in Hidalgo County, New Mexico, in order to permit the direct sale and delivery of natural gas to Phelps Dodge Corporation (Phelps Dodge) under the certificate issued in Docket No. CP82-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

El Paso explains that Phelps Dodge, an existing customer of El Paso, requests natural gas service for its Hidalgo Smelter facility in Hidalgo County, New Mexico. It is stated that the Hidalgo Smelter is a copper smelting facility consuming residual oil, propane, diesel oil, electrical power and coal, which provides Phelps Dodge with a more fuel efficient and economic smelting process. El Paso, therefore, proposes to install a 2⅝-inch tap and valve assembly and dual 4½-inch standard orifice-type meters at a point on El Paso's existing 12¾-inch El Paso-Douglas line and 12¾-inch El Paso-Douglas loop line in Hidalgo County, New Mexico, in order to serve the Hidalgo Smelter facility. The estimated cost of the Hidalog Smelter Meter Station is $85,666.

It is stated that Phelps Dodge estimates the annual and maximum peak day deliveries required to serve its Hidalgo Smelter during the full third year of service would be 1,890,000 Mcf per year and 6,500 Mcf per day, respectively. It is further stated that the requested quantities of natural gas would be utilized by Phelps Dodge to displace partially certain fossil fuels presently utilized in its copper operations at the Hidalgo Smelter.

Comment date: January 31, 1986, in accordance with Standard Paragraph G at the end of this notice.

2. K N Energy, Inc.

[Docket No. CP86-219-000]

December 17, 1985.

Take notice that on December 3, 1985, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP86-219-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate three sales taps for the delivery of gas to domestic end-users in Ellis and Cheyenne Counties, Kansas, and Platte County, Nebraska, under the certificate issued in Docket Nos. CP83-140-000, CP83-140-001, and CP83-140-002 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

K N states that the proposed sales would not be prohibited by any of its existing tariffs, and that the additional taps would have no significant impact on K N's peak day and annual deliveries.

Comment date: January 31, 1986, in accordance with Standard Paragraph G at the end of this notice.

3. Panhandle Eastern Pipe Line Company

[Docket No. CP86-213-000]

December 17, 1985.

Take notice that on November 25, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-213-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authority to construct and operate an additional sales point for the use of Central Illinois Public Service Company (CIPSCO) under the certificate issued in Docket No. CP83-83 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle proposes to construct facilities to allow the addition of a new delivery point at Pleasant Hill, Illinois to CIPSCO. It is stated that the Pleasant Hill Station has an existing 4-inch meter run. It is further stated that CIPSCO would require up to 10,000 Mcf of gas per day at 400 lbs delivery pressure at

the Pleasant Hill Station and that CIPSCO has over the past few winters experienced severe pressure problems because of an increase in customers in the Pleasant Hill area. Panhandle therefore proposes to construct a second 4-inch meter run to alleviate the pressure problems. Panhandle states that at the Pleasant Hill delivery point North Illinois Gas Company, also an existing customer, would further transport the gas on behalf of CIPSCO for delivery into the CIPSCO system. Panhandle further states that there would be no change in total volumes delivered to CIPSCO. The estimated cost of the meter run is $82,000 which would be financed with funds on hand, borrowings under revolving credit arrangements or short-term financing, it is explained.

Comment date: January 31, 1986, in accordance with standard Paragraph G at the end of this notice.

4. Panhandle Eastern Pipe Line Company

[Docket No. CP86-222-000]

December 18, 1985.

Take notice that on December 5, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-222-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of certain high priority end-users, and for permission and approval to abandon such services on June 30, 1986, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle requests authority to implement certain transportation agreements among Panhandle, its local distribution companies (LDC) and certain high priority end-users with various execution dates. It is indicated that the transportation authorization requested is under the same terms as previously authorized by the Commission pursuant to § 157.209 of the Commission's Regulations. The following table lists the end-user and LDC's involved and the transportation quantity requested.

End-user	LDC	Transportation volumes (Mcf per day)
A.E. Staley Manufacturing Co.	Indiana Gas Co	8,000
Do	Illinois Power Co	7,000
Archer Daniels Midland Co	Union Electric Co	2,000
Do	Central Illinois Light Co	7,500
Eastern Illinois University	Central Illinois Public Service Co.	2,500
Marbison-Walker Refractories.	Direct	3,500
Manville Building Materials Corp.	do	4,000

It is explained that the transportation rate is based on Panhandle's currently effective Rate Schedule OST. Panhandle also requests authority to add point of receipt and delivery subject to certain reporting requirements, and authority to construct new points of receipt subject to the annual reporting requirements for construction activity pursuant to its blanket certificate in Docket No. CP83-83-000.

Comment date: January 8, 1986, in accordance with standard Paragraph F at the end of this notice.

5. Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.

[Docket No. CP86-178-000]

December 18, 1985.

Take notice that on November 1, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86-178-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Tenngasco Corporation, acting as agent for C.F. Industries, Inc., and for permission and approval to abandon the transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee proposes to transport gas for Tenngasco pursuant to a gas transportation agreement (agreement) between Tennessee and tenngasco Corporation, as agent for C.F. Industries, Inc., dated October 30, 1985. Tennessee states that it has agreed to receive up to 12,000 Mcf of natural gas per day on an interruptible basis for the account of Tenngasco from the various points of receipt. It is stated that Tennessee would, in turn, deliver a thermally equivalent quantity of gas, less volumes for Tennessee's fuel and uses, gas lost and unaccounted for and plant volume reduction (PVR) due to processing, to Tenngasco at various points of delivery.

Tennessee states that it would charge a rate for this transportation service, based upon Rate Schedule IT, of its PERC Gas Tariff, Sheet No. 22. The rates for transportation of PVR, if any, would also be based on Tennessee's Rate Schedule IT, it is stated. In addition, the rates for transportation of liquids, if any, would be established pursuant to the provisions of the Agreement, it is asserted.

It is indicated that the term of the agreement expires December 31, 1988. Tennessee requests abandonment authorzation, to be effective 11:59 p.m. CST, December 31, 1988, at which time transportation service rendered by Tennessee pursuant to the agreement would terminate.

It is claimed that the proposed transportation service would be in the public interest because it would assist C. F. Industires, Inc., in obtaining gas supplies at market-clearing prices, enabling it to maintain its business operations on a profitable basis.

Comment date: January 8, 1985, in accordance with Standard Paragraph F at the end of this notice.

6. United Gas Pipe Line Company

[Docket No. CP84-379-015]

December 18, 1985.

Take notice that on December 9, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP84-379-015 a petition to amend the order issued May 31, 1984, in Docket No. CP84-379-000, as amended, pursuant to Section 7 of the Natural Gas Act so as to authorize the extension of the term of its currently effective Discount Rate Schedule (DRS) from its current expiration date of December 31, 1985 to December 31, 1986, all as more fully set forth in the petition to amend which is on file and open to public inspection.

United indicates that on May 31, 1984, the Commission initially approved the DRS for a term beginning June 1, 1984 and ending December 31, 1984. It is stated that the success of and continuing need for the DRS prompted United to file for an extension of the DRS through December 31, 1985, and that the Commission approved this extension along with other changes on December 21, 1984.

In summary, United states that the DRS provides for all of United's present jurisdictional customers a discount rate for gas purchased from United above a certain volume (the threshold volume). It is indicated that there are no restrictions on the use to which the purchased gas would be put. For customers under DG and G rate schedules, the threshold volume would equal the volume purchased during the corresponding month of 1933, it is indicated. It is further stated that for any rate schedule DG or G customer for which United has contracted to supply a stated percentage

(less than 100 percent) of specified requirements of the customer, the threshold volume would equal such customer's specified requirements for each month in 1983 multiplied by the percentage stipulated to be supplied by United. It is stated that the discount rate would apply to those volumes in excess of the threshold volume and for certain other volumes that each rate schedule D or DG customer may designate (discount volumes). United explains that designated volumes are those that the customer may obtain even if the threshold volume is not met. United states that DG and G rate schedule customer may affirm by affidavit that the volumes could not be sold if purchased from United without the discount rate. These volumes would receive the discount rate whether or not the customer reaches the threshold volume, it is indicated.

It is stated that for customers under the PL-N rate schedule, the threshold volume would equal each customers's minimum bill volume as formerly set out on Sheet No. 22 of United's tariff computed in accordance with the minimum bill provisions of the PL-N rate schedule in effect as of March 1, 1984. It is indicated that although the minumum bill volume is an annual volume, pipeline customers which either have purchased, or expect to purchase, the minimum bill volume would designate as purchases under this rate schedule each month a portion of the gas to be purchased in that month. United states that for all months except December 1985, PL-N customers would have to designate the amount of DRS gas for any month before the first working day of that month. For December 1985, PL-N customers would designate discount volumes by January 1, 1986, it is stated.

The DRS rate would be determined monthly and it would be no higher than $3.09 per Mcf and no lower than the acutal weighted average cost of gas for the month in which gas would be delivered plus the variable costs incurred in providing the service plus the Gas Research Institute surcharge, if applicable. To implement any change in the monthly rate, United states that it would file an abbreviated Section 4 application at least five days before the beginning of the month and so notify its jurisdictional customers.

Comment date: January 8, 1985, in accordance with first subparagraph of Standard Paragraph F at the end of this notice.

7. Mid Louisiana Gas Company

[Docket No. CP86-214-000]

December 18, 1985.

Take notice that on November 26, 1985, Mid Louisiana Gas Company (Applicant), 300 Poydras Street, New Orleans, Louisiana 70130, filed in Docket No. CP86-214-000 an application, as supplemented December 6, 1985, pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing transportation of natural gas on behalf of others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it would comply with the conditions set forth in Subpart A of Part 284 of the Commission's Regulations.

Applicant further states that the interim rate it would charge would be its Rate Schedule T-1 tariff rate, currently 16.58 cents per Mcf plus 3 percent fuel use and loss. Applicant further states that it would file to restructure its rates prior to June 1, 1986.

Comment date: January 8, 1985, in accordance with Standard Paragraph F at the end of this notice.

8. Natural Gas Pipeline Company of American

[Docket No. CP85-57-003]

December 18, 1985

Take notice that on December 9, 1985, Natural Gas Pipeline Company of America (Petitioner), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP85-57-003 a petition to amend the order issued November 12, 1985, in Docket No. CP85-57-000, pursuant to section 7(c) of the Natural Gas Act so as to authorize an extension of the term in which Natural can utilize its Interruptible Optional Service (IOS), Rate Schedule IOS and Rate Schedule X-IOS, from December 31, 1985, until December 31, 1986, all as more fully described in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the order dated November 12, 1985, approved the settlement submitted to the Administrative Law Judge by Petitioner on August 29, 1985, and was subsequently certified to the Commission on September 17, 1985. It is stated that the settlement provided for a term ending December 31, 1985. Petitioner requests an extension of the term of the IOS until December 31, 1986, and that all other conditions in the approved settlement be the same.

Petitioner states that its IOS program was designed to assist Petitioner in balancing its sales with its supply, which supply, it claims, was developed to meet its existing customers' total entitlements. It is explained that the IOS program would help Petitioner meet competition in its traditional markets by making available IOS volumes to on-system customers and customers of on-system customers. It is claimed that the sale of IOS volumes would enhance Petitioner's ability to retain or regain load and thus avoid or limit take or pay liabilities by providing a vehicle for supply-demand balancing.

It is asserted that the major provisions of Petitioner's IOS program as currently authorized are as follows:

(1) Blanket authority for on-system sales for a limited period ending December 31, 1985. Within limitations described below, IOS gas would be available to on-system customers.

(2) Total IOS sales would be limited to the cumulative aggregate volume for the period commencing October 1, 1984, by which Petitioner's sales fell short of the entitlements of its customers.

(3) IOS sales would be made at rates between a floor and a ceiling. The floor is Petitioner's average gas costs per the Purchased Gas Adjustment (inclusive of deferred purchase gas cost adjustment), plus fuel, a 6-cent increment for out-of-pocket expenses and the GRI surcharge. A ceiling of the DMQ-1 or G-1 commodity rate, as applicable, would apply to jurisdictional sales only. The IOS rate for jurisdictional sales would be determined monthly and reflected on a revised tariff sheet posted five days prior to the beginning of a month.

(4) Petitioner would credit to Account 191 the gas cost component of revenues from IOS sales to on-system customers and would retain all other revenues from such sales. Petitioner would credit to Account 191 all revenues from sales to customers of on-system customers.

(5) IOS sales to customers of on-system customers would be fully subordinate to existing services and to requests by on-system customers for IOS gas. Petitioner's distribution company customers would be eligible to make IOS purchases in any month to the extent they had purchased a threshold volume that month. This threshold volume is based on the lower of a percentage of purchases by that customer for the corresponding month of the prior year. Such percentages are to be published in Petitioner's tariff prior to the beginning of each month and may not exceed 90 percent. IOS sales to end-users served by customers of Petitioner would be permitted only to the extent

the IOS sale displaces a non-traditional marketing arranegment such as an SMP or discount sale or an end-user transportation arrangement.

(6) IOS gas would not be offered to customers of on-system customer's at a price lower than that available to on-system customers. Petitioner would continue to deliver all IOS volumes through its on-system customer.

(7) The program provides for monthly reports and customer affidavits of eligibility.

Petitioner states that for the month of November 1985, and subsequent to Commission order dated November 12, 1985, Petitioner offered to its customers IOS volumes at five cents below its effective DMQ–1 and G–1 commodity rates for all volumes purchased in excess of a threshold percentage of either 90 percent of the customers current entitlements or 90 percent of the customers purchases for the corresponding month of calendar year 1984. It is asserted that although sales for November are not final as yet, a number of Petitioner's customers have purchased IOS volumes. It is estimated that approximately 7,200,000 Mcf of gas has been sold under the IOS Program during November, resulting in a savings to Petitioner's existing customers of over $360,000. Petitioner avers that it would be in the public interest to allow this program to continue for an additional one-year period to allow its customers to reduce their purchase gas costs and to continue to enable Petitioner to balance better its supply and demand.

In addition, Petitioner claims it is continuing to experience increased competition from spot supplies purchased by its traditional jurisdictional customers. Petitioner states that deliverability of gas supply under current contracts is well above current sales levels and that Petitioner should be given the opportunity to carry out programs that would allow it to deal with supply and demand imbalances and reduce potential take or pay by being able to compete effectively in the market place.

Petitioner asserts that its IOS Service is non-discriminatory since each of its existing on-system customers has an equal opportunity to participate once the threshold percentage has been attained.

Petitioner states its IOS service would also result in an economic benefit to its existing on-system customers who participate by allowing them to purchase gas volumes at a price lower than Petitioner's applicable commodity rate. Petitioner claims it would receive the benefit of reduced take-or-pay exposure with a resulting benefit of reduced gas casts to all of Petitioner's existing on-system customers.

Comment date: January 3, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rule of practice and procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–30581 Filed 12–26–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER86–204–000, et al.]

Pennsylvania Electric Co., et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the Commission:

1. Pennsylvania Electric Company

[Docket No. ER86–204–000]

December 17, 1985.

Take notice that on December 6, 1985, Pennsylvania Electric Company (Penelec) filed tariff changes increasing its rates for wholesale all requirements, partial requirements and wheeling service. Penelec also filed an initial transmission service agreement for the delivery of Power Authority of State of New York power as to which it requests a retroactive effective date of July 1, 1985. The rate increase request is in two phases. Penelec states that the changes reflect an annual increase in revenues of $4,696,000 for Phase A and $5,176,000 for Phase B. Penelec requests an effective date of February 4, 1986 for Phase A and February 5, 1986 for Phase B.

Comment date: December 31, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. PacifiCorp doing business as Pacific Power & Light Company

[Docket No. ES86–18–000]

December 19, 1985.

Take notice that on December 9, 1985, PacifiCorp d.b.a. Pacific Power & Light Company (Pacific) filed its application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order (1) authorizing its to issue and sell not more than 5,000,000 additional shares of its common stock pursuant to its Divided Reinvestment and Stock Purchase Plan and (2) exempting the issuance from competitive bidding pursuant to 18 CFR 34.2(b)(2).

Comment date: January 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Ohio Power Company, Appalachian Power Company, Wheeling Electric Company

[Docket No. ER86-188-000]

December 19, 1985.

Take notice that on December 16, 1985 American Electric Power Service Corporation tendered for filing on behalf of its affiliates Appalachian Power Company (Appalachian), Ohio Power Company (Ohio Power), and Wheeling Electric Company (Wheeling), sometimes collectively referred to as the AEP Parties, Modification No. 18 dated October 15, 1985 to the Operating Agreement dated June 1, 1971 (1971 Agreement) among Ohio Power, Wheeling, Appalachian, Monongahela Power Company (Monongahela), and West Penn Power Company (West Penn). Monongahela and West Penn are members of the Allegheny Power System (APS) and are sometimes collectively referred to as the APS Parties.

Section 1 of Modification No. 18 changes the demand rate for Weekly Short Term Power from "$1.25" to "up to $1.25" per kilowatt per week and similarly for Daily Short Term Power when the AEP Parties are the supply party. Section 2 changes the energy rate from "110%" to "up to 110%" of the out-of-pocket cost of supplying the energy when the AEP Parties are the supplying party. Section 3 adds a statement that the sum of the demand charge and the energy charge will not be less than 110% of the out-of-pocket cost of supplying the energy when the AEP Parties are the supplying party. THE APS Parties at this time are not revising their rates when they are the supplying party. AEP requests an effective date of December 1, 1985.

Copies of the filing were served upon the APS Parties, the Virginia State Corporation Commission, Public Service Commission of Ohio and Public Service Commission of West Virginia.

Comment date: January 3, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30579 Filed 12-26-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-750-000]

Transcontinental Gas Pipe Line Corp. and Columbia Gulf Transmission Co.; Renotice of Application

December 19, 1985.

In Docket No. CP85-750-000 Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001 (Applicants), requested specific certificate authorization to continue a transportation service pursuant to section 7(c) of the Natural Gas Act which was self-implemented under its Order No. 60 blanket certificate and was eligible for "grandfathered" treatment pursuant to § 284.105. This specific transaction could continue over the short term under the "grandfathered" provisions of Order No. 436 and can continue over the long term under the terms and conditions promulgated by Order No. 436. Transco and Columbia Gulf have, however, indicated that they desire the Commission to process this separate request under the standard section 7(c) procedures.

In view of the issuance of Order Nos. 436 and 436-A in Docket No. RM85-1-000, the application filed in the referenced docket is being renoticed.

Take notice that on August 1, 1985, Applicants filed in Docket No. CP85-750-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange and transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that both Transco and Columbia Gas Transmission Corporation (Columbia Gas), an affiliate of Columbia Gulf, purchase gas from South Lake Arthur wells (McDonell Estate well No. 1 and the State Lease 7712 well Nos. 1, 3, and 4 located in the South Lake Arthur field, Vermilion Parish, Louisiana). It is explained that some of the South Lake Arthur wells are connected to Transco's Lake Arthur lateral and that the remaining South Lake Arthur wells are connected to the Columbia Gulf system. It is stated that pursuant to the terms of a gas exchange agreement between them dated December 31, 1981 (the exchange agreement), as amended October 3, 1983, and July 14, 1984, Transco has agreed to receive for the account of Columbia Gulf at the point where gas enters Transco's system in the South Lake Arthur field, and Columbia Gulf has agreed to receive for the account of Transco at the point where gas enters Columbia Gulf's system in the South Lake Arthur field, quantities of gas up to a maximum of 25,000 Mcf per day.

Applicants state that they intend the quantities of gas received at South Lake Arthur field receipt points to be approximately equal. It is explained that the exchange agreement, as amended, provides that any imbalances in the quantities of natural gas received at the receipt points would be delivered by the owing party's delivering, or causing to be delivered, quantities of gas at the existing interconnections between Transco and Columbia Gulf located (1) in Terrebonne Parish, Louisiana, (2) at the outlet of Conoco Inc.'s Acadia plant in Acadia Parish, Louisiana, and (3) at any other mutually agreeable points. Applicants state that neither Transco nor Columbia Gulf shall charge a rate for providing the exchange service or for delivering any imbalance quantities as provided by the exchange agreement, as amended.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of practice and procedure, a hearing will be held

without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30580 Filed 12-26-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RM85-1-000 (Parts A-D); RP86-14; RP86-15]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp.; Petition for Emergency Clarification

December 20, 1985.

On December 16, 1985, Columbia Gas Transmission Corporation (Columbia) and Columbia Gulf Transmission Company (Columbia Gulf) jointly filed a petition for emergency clarification or Order No. 436.

In compliance with the order issued November 25, 1985, in Docket Nos. RP86-15 and RP86-14, 33 FERC ¶ 61,259 (1985), Columbia and Columbia Gulf, respectively, submitted revised tariff sheets on an expedited basis in such dockets on December 2, 1985. Columbia's GTS Rate Schedule and Columbia Gulf's GTS-1 and GTS-2 Rate Schedules provide for firm and interruptible transportation in conformity with Order No. 436 and the rules and regulations promulgated thereunder.[1] In particular, the rate schedules provide for non-discriminatory transportation on a "first-come/first-served" basis.

Columbia and Columbia Gulf assert that they desire to implement the "first-come/first-served" principle on their systems consistent with Order No. 436 and on an equitable basis. During the course of preparing the above rate schedules, however, they began to confront numerous operational and practical considerations surrounding this principle that they say are unanswered by Order No. 436. In particular, they claim that considerable uncertainty surrounds the various potential events which could either trigger the beginning or the end of an individual transportation service in connection with the implementation of the "first-come/first-served" allocation system.

These concerns, they state, are compounded for Columbia because it is a downstream pipeline largely dependent upon five nonaffiliated upstream interstate pipelines to deliver sales and transportation supplies to its system. The total daily entitlements of Columbia's customers presently equal approximately 7 MMDth. However, the maximum daily deliverability of Columbia Gulf to Columbia is approximately 2 MMDth. The remaining customer entitlements are delivered from Columbia's nonaffiliated pipeline suppliers, Appalachian purchases and production, and Columbia's storage. Because none of Columbia's non-affiliated uptream pipeline suppliers have to date formally indicated a willingness to provide non-discriminatory transportation on a self-implementing basis, sufficient capacity is not available upstream of the Columbia system to deliver the volumes of gas requested to be transported to Columbia for redelivery. Moreover, because Columbia appears to be the only interestate piepline in its market area formally providing nondiscriminatory transportation, it has recently been inundated with transportation requests. These circumstances have made inevitable the allocation of capacity under Categories 2 and 3 Columbia Gulf's GTS-1 and GTS-2 Rate Schedules.

Petitioners state that the Columbia Gulf pipeline is already full to capacity. As a result, Columbia Gulf was forced to "freeze" transportation on its system in mid-November 1985. New requests for transportation applicable to Categories 2 and 3 of Columbia Gulf's GTS-1 and GTS-2 Rate Schedules, requests for increased volumes (even if within contractual transportation volumes) and requests for changes in suppliers, receipt and delivery points have been denied. Since Columbia Gulf now and for the forseeable future is Columbia's only upstream pipeline supplier transportation gas on a self-implmenting basis, petitioners claim that Columbia and its customers need expedited approval of the proper allocation of capacity under Categories 2 and 3 of Columbia Gulf's GTS-1 and GTS-2 Rate Schedules.

The petition states that in the absence of clarification, Columbia and Columbia Gulf had no choice but to comply with the literal terms of Order No. 436 by applying the "first-come/first-served" principle to allocate capacity on Columbia Gulf based upon flowing transportation volumes at the time Columbia Gulf became full, "notwithstanding that this method is clearly inequitable to historical customers."

Columbia and Columbia Gulf believe that the available capacity on the Columbia Gulf system should be allocated on the basis of customer contract demands on Columbia's system. Moreover, allocating capacity based upon contract demands, they assert, would provide more flexibility and customer service of gas sources than does the present allocation system, which requires transportation customers to keep the same transportation volumes and receipt and delivery points or lose their place in the queue for allocating capacity.

Columbia and Columbia Gulf request the Commission to issue an emergency clarifying order that (i) the manner by which Columbia Gulf's capacity has been alllocated is lawful for periods prior to the date of such clarifying order; (ii) that Columbia Gulf's capacity should be allocated upon the basis of Columbia's customers' Contract Demands on a prospective basis after the date of such order; and (iii) that in the event the Commission does not agree that capacity in Columbia Gulf should prospectively be so allocated upon Contract Demands, the Commission should clarify that a change in suppliers, receipt or delivery points, or an increase in volumes transported within contractual transportation volumes will not be considered "new" service for "first-come/first-served" allocation purposes.

Copies of the petition were served by Columbia and Columbia Gulf on all parties by express mail. Due to the urgency of the situation, petitioners request that a shortened ten-day response period be provided.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures. All such motions or protests should be filed on or before January 3, 1986. 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

[1] 33 FERC ¶61,007 (1985), 50 FR 42408 (October 18, 1985).

must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30623 Filed 12-26-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-41020; FRL-2924-6]

Seventeenth Report of the Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments Regarding Priority List of Chemicals

Correction

In FR Doc. 85-27385, beginning on page 47603 in the issue of Tuesday, November 19, 1985, make the following corrections:

1. On page 47604, third column, fifth line from the bottom of the page, "Representative" should have read "Representatives".

2. On page 47605:

a. In the first column, fifteenth line from the bottom of the page, the word "assistance" was misspelled;

b. In the third column, second paragraph, eleventh line, "Pigment Green" should have read "Pigment Green 7".

3. On page 47608, third column, under the heading **References**, paragraph (4), the third line should have read: "of selected areas. Atmos. Environ. 15(9):1643-".

BILLING CODE 1505-01-M

[A-4-FRL-2944-4]

PSD Permit Modification for the Georgia Pacific Corporation; Palatka, FL

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Prevention of Significant Deterioration (PSD) construction permit issued to the Georgia Pacific Corporation in Palatka, Florida (PSD-FL-079) has been modified. The modification limits the opacity of emissions from Recovery Boiler No. 5 to 20% during normal operation and a maximum of 35% during malfunctions of the electrostatic precipitator. The modification also corrects a typographical error in the specific conditions regarding compliance test methods for Lime Kiln No. 5.

DATES: PSD permit PSD-FL-079 was issued on December 4, 1984, and the modifications and permit became effective on November 15, 1985.

ADDRESSES: Copies of the correspondence between EPA and the Georgia Pacific Corporation and the letter of modification are available for public inspection upon request at the following location: Environmental Protection Agency, Region IV, Air Programs Branch, Air, Pesticides, & Toxics Management Division, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Michael Brandon of the EPA Region IV Air Programs Branch at the Atlanta address given above; telephone 404/881-4901, (FTS) 257-4901.

SUPPLEMENTARY INFORMATION: On December 4, 1984, a Federal Prevention of Significant Deterioration permit (PSD-FL-079) was issued to the Georgia Pacific Corporation (G-P) to construct Recovery Boiler No. 5 and two smelt dissolving tanks, Combination Boiler No. 5, and Lime Kiln No. 5 at their kraft pulp mill in Palatka, Florida.

By letter dated January 8, 1985, G-P filed a petition for review, pursuant to 40 CFR 124.19(a), with the Administrator of the United States Environmental Protection Agency (EPA) concerning the above referenced permit. Specifically, G-P requested a revision to Specific Condition No. 9 on the proposed No. 5 Recovery Boiler, which provided that "visible emissions (VE) shall not exceed 20% opacity . . . ."

Subsequent to G-P's petition, several discussions between G-P and EPA personnel transpired. In addition, engineers from both EPA and the Florida Department of Environmental Regulation (FDER) conducted an on-site inspection of the facility at Palatka on May 16, 1985. As a result of these discussions and G-P's May 8, 1985, and September 9, 1985, proposals to withdraw the company's January 8, 1985, petition for review with the Administrator, EPA modified Specific Condition No. 9 for the No. 5 Recovery Boiler as follows:

9(a) Visible emissions (VE) shall not exceed 20% opacity, as determined by EPA method No. 9, except as provided in 9(b). A continuous emissions monitor for opacity shall be required (40 CFR 60.284).

9(b) If any maintenance or upset of the air pollution control system (APCS) occurs, the permittee shall immediately diagnose the cause of the upset and establish the course of action to repair the APCS. Repair of the APCS shall commence as expeditiously as possible, unless a component has to be ordered from a vendor. However, the permittee shall maintain a stock of components of the APCS that have a history of repetitive failures. The VE shall not exceed 35% opacity, as determined by EPA method No. 9, during maintenance or upset conditions only.

The following shall be required, but not limited to, as a source of action to repair the APCS during an upset condition: Assessment of the availability of the defective component(s) and the purchase/delivery time involved (in days), assessment of the time required to repair the APCS (in man-hours), and a commitment date to the Florida Department of Environmental Regulation for repairing the APCS. In addition, records shall be kept of each maintenance and/or upset condition where the opacity limit is exceeded in accordance with General Condition No. 5.

In consideration of modification of Specific Condition No. 9, Specific Condition No. 11 for the No. 5 Recovery Boiler was also modified as follows:

11(a) Immediately after construction has been completed, initial performance tests for PM, SO_2, TRS and VE shall be requird. Test procedures shall be EPA reference methods 1, 2, 3, 5 or 17, 6, 9, and 16 as published in 40 CFR Part 60, Appendix A, dated July 1, 1978. Minimum sampling volume and time shall be as defined in 40 CFR Part 60, Subpart BB.

11(b) As part of the initial performance tests for PM and VE on the No. 5 Recovery Boiler, the company shall also demonstrate compliance with Specific Conditions No. 5 and No. 9(b) by testing the APCS with all exhaust gases from the boiler going into half of the APCS representing maintenance or upset conditions (i.e., half of them system energized). During these tests, a maximum black liquor solids (BLS) feed rate shall be established in which compliance can be achieved with Specific Condition, No. 5 and No. 9(b) for each side of the APCS. This BLS feed rate shall then be the maximum feed rate during periods of APCS maintenance or upset conditions, unless compliance can be demonstrated with Specific Conditions No. 5 and No. 9(b) at a higher BLS feed rate under APCS maintenance or upset conditions.

The original PSD permit issued on December 4, 1984, and the revisions described above became effective on November 15, 1985. If construction does not commence within 18 months after this date, or if construction is

discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time, the permit shall expire and authorization to construct shall become invalid.

(Secs. 160–169 of the Clean Air Act (42 U.S.C. 7470–7479))

Dated: December 17, 1985.

Sanford W. Harvey, Jr.,

Acting Regional Administrator.

[FR Doc. 85–30630 Filed 12–26–85; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2944–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared December 9, 1985 through December 13, 1985 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **FEDERAL REGISTER** dated October 19, 1984 (49 FR 41108).

Draft EISs

ERP No. D–COE–F90007–MI, Rating E02, Keweenaw Waterway Navigation Channel, Polluted Dredged Material Confined Disproval Facility, Construction, MI.

Summary: EPA determined that the draft EIS was incomplete. Additional information is needed on the organic constituents of the sediments to be dredged from the waterway, the effects of these sediments on terrestrial wildlife, the design and monitoring system for the confined disposal facility to be constructed, the type and amount of habitat that would be lost, and the groundwater resources in the project area. This information is necessary to identify the impacts of the project and to assess their significance.

ERP No. D–FHW–F40283–IL, Rating LO, Federal Aid Primary Rt. 412/US 51 Improvement, Normal to Oglesby, 404 Permit, IL. Summary: EPA reviewed the DEIS and has no objection to the project. EPA encourages selection of an alternative which minimizes disruption and consumption of prime farmland.

ERP No. D–FWH–H401135–IA, Rating EC2, Greenhill Rd. Construction, IA–57 in Cedar Falls to Hackett Rd. Bypass in Waterloo, 404 Permit, IA. Summary: EPA is concerned that the proposed new roadway would create substantial noise impacts, and that noise abatement measures had not been adequately considered. EPA requests that noise abatement measures be reconsidered consistent with the requirements of Federal Highway Administration regulations and that the FEIS include criteria used to determine the cost-effectiveness of noise barriers.

Final EISs

ERP No. F–BLM–J70001–CO, Grand Junction Resource Area, Resource Mgmt. Plan, CO. Summary: EPA's concerns on the DEIS are generally resolved, except that EPA's concerns for water quality degradation and monitoring provisions of increased sedimentation and salinization will be addressed during development of activity management plans.

ERP No. F–BPA–L08044–ID, Fall R.—Lower Valley Transmission System Reinforcement, Stability and Reliability, ID. Summary: EPA made no formal comments. EPA's review of the FEIS finds the project to be satisfactory.

ERP No. F–CDB–C89023–NY, Rochester Science Park Development, Expansion and Replacement, CDBG, NY.

Summary: EPA has no objections to the project as proposed.

ERP No. F–COE–D32032–DE, Wilmington Harbor Federal Navigation Project, Dredged Material Disposal Area, Development and Designation, Christina R., DE.

Summary: EPA feels that the COE has responded to most EPA concerns in the FEIS. However, since the final mitigation plan which includes artificial reefs and wetlands creation, is not complete in the FEIS, EPA will reserve final comment until the mitigation plan is formally presented.

ERP No. F–FHW–F40239–MN, MN TH–33 Improvements, I–35 to TH–53, 404 Permits, MN. Summary: EPA's concerns have been adequately addressed in the FEIS. Because final water quality and wetland mitigation measures have not yet been agreed upon, EPA remains interested in the project.

ERP No. F–FHW–G40099–TX, US–287/Ennis Bypass Construction, US–287 to I–45, TX. Summary: EPA expressed no objections to the proposed action as described.

ERP No. F–MMS–A02214–00, 1986 Central and Western Gulf of Mexico OCS Oil and Gas Sale Nos. 104 and 105, Leasing, Offshore AL, MS, LA, and TX. Summary: EPA believes the FEIS is generally responsive to concerns raised in the DEIS. EPA is still concerned that the Minerals Management Service has not yet proposed any means to avoid ocean use conflicts at the proposed Gulf Ocean Incineration site in the Western Gulf lease sale area.

ERP No. F–USA–G11015–LA, Fort Polk Multipurpose Range Complex, Construction and Operation, 5th Infantry Division (Mechanized) Designation, LA.

Summary: EPA expressed no objections to the proposed action as described.

Amended Notice

The following review was completed during the week of November 4 through 8, 1985 and should have appeared in the **FEDERAL REGISTER** Notice published on November 22, 1985.

ERP No. FS–AFS–J65098–CO, Arapaho and Roosevelt Nat'l Forests and Pawnee Nat'l Grassland, Land and Resource Mgmt. Plan, Mineral Leasing Criteria, CO. Summary: EPA believes the amendment to the mineral leasing criteria to be environmentally acceptable subject to NEPA documentation of future mining activity.

Dated: December 23, 1985.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 85–30684 Filed 12–26–85; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2944–7]

Environmental Impact Statements; Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075. Availability of Environmental Impact Statements filed December 16, 1985 Through December 20, 1985 Pursuant to 40 CFR 1506.9.

EIS No. 850542, DSuppl, COE, TX, Galveston Multipurpose Deepwater Port and Crude Oil Distribution System Construction, Worst Case Oil Spill Analysis and Environmental Impacts of Bulk Commodities Activities, Permit, Galveston County, Due: February 10, 1986, Contact: C.R. Harbaugh (409) 766–3044.

EIS No. 850543, Final, FHW, TX, Beltway 8 Construction, US 59 North to I–10 East, Harris County, Due: January 27, 1986, Contact: John Inabient (512) 482–5516.

EIS No. 850544, Final, AFS, CA, Peppermint Mountain Resort Development Plan, Sequoia National Forest, Fresno, Tulare and Kern Cos., Due: January 27, 1986, Contact: Julie Allen (209) 784–1500.

EIS No. 850545, Draft, FHW, PA, PA–23/LR–1124/New Holland Avenue Relocation, US 30 to Walnut and

Chestnut Streets, Lancaster County. Contact: Manuel Marks (717) 782–4422.

EIS No. 850546, Draft, UPS, NY, Manhattan General Mail Facility Development, New York County, Due: February 20, 1986, Contact: Edward Wandelt (202) 268–3135.

EIS No. 850548, DSuppl, USN, NY, Stapleton-Fort Wadsworth Complex Surface Action Group Homeporting Facility, Development Plans Modification and Family Housing Alternatives, Richmond County, Due: February 12, 1986, Contact: T.W. Boone (215) 897–6270.

Amended Notices

EIS No. 850540, Draft, AFS, VT, NY, Green Mountain National Forest, Land and Resource Management Plan, Due: March 31, 1986, Published FR 12–20–85—Incorrect accession number.

EIS No. 850541, Final, COE, NY, Sheepshead Bay Navigation Channel Improvements, Kings County, Due: January 21, 1986, Published FR 12–20–85—Incorrect accession number.

Dated: December 23, 1985.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 85–30686 Filed 12–26–85; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2945–3]

Intent To Prepare an Environmental Impact Statement; Full Containment Facility; Cincinnati, OH

AGENCY: Environmental Protection Agency (EPA).

ACTION: Preparation of an environmental impact statement for the construction of a full containment facility in Cincinnati, Ohio.

Purpose: In accordance with section 102(2)(c) of the National Environmental Policy Act, EPA has identified a need to prepare an environmental impact statement and therefore publishes this Notice of Intent pursuant to 40 CFR 1501.7

FOR FURTHER INFORMATION CONTACT: Russell Kulp, PE, U.S. Environmental Protection Agency, 401 M Street, SW (PM–215–F), Washington, DC 20460, Telephone No: (202) 382–2172.

Summary

1. Proposed EPA Action

It is the intent of the EPA to construct a free standing full containment facility (FCF) of approximately 7500 square feet on the site of the Andrew W. Breidenbach Environmental Research Center. The site is located at 26 West St. Clair Street, Cincinnati, Hamilton County, Ohio. The FCF is proposed to accommodate the use and handling of hazardous and toxic material associated with a research and development program. The facility will be designed to physically confine and control the associated hazardous and toxic materials.

2. Alternatives

a. No action.

b. Remodel the sixth floor of the Andrew W. Breidenbach Environmental Research Center to accommodate the use and handling of hazardous and toxic material associated with a research and development program.

c. The proposed action. The construction of a free standing building situated on the site of the Andrew W. Breidenbach Environmental Research Center.

3. Issues Involved

a. Procedures for handling hazardous and toxic materials and measures to be used during emergency situations.

b. Additional traffic and transportation of hazardous and toxic materials increasing the probability for accidents and spills in a highly populated area.

c. Discharge of hazardous and toxic materials into the Metropolitian sewer systems.

d. Effect on the surrounding community of a serious accident in the FCF.

e. Discharge of hazardous and toxic material into the air and its effect on the surrounding community.

4. Scoping Process

The scope consists of the range of proposed EPA actions and their potential impact upon the surrounding community, to be considered in the Environmental Impact Statement (EIS). It is the intent that there shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant environmental issues related to the proposed action.

The scoping process shall consist of a public meeting to be held February 4, 1986, at 6:30 p.m., in the Andrew W. Breidenbach Environmental Research Center, 26 West St. Clair Street, Cincinnati, Ohio. At this meeting the public will be invited to present concerns they would like to see addressed in the EIS.

5. Timing

EPA expects to issue a draft EIS for public review and comment within approximately three (3) months.

6. Request for Copies of the Draft EIS

All interested parties are encouraged to submit their names and addresses to the person indicated above for inclusion on the distribution list for the draft EIS and related public notices.

Dated: December 23, 1985.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 85–30685 Filed 12–26–85; 8:45 am]

BILLING CODE 6560–50–M

[FRL–2944–5]

Chesapeake Bay Executive Council Meeting; Open Meeting

The Chesapeake Bay Executive Council established in accordance with the Chesapeake Bay Agreement of December 1983, will be held from 8:00 a.m. to 1:00 p.m. on January 16, 1986, at the Harrisburg Marriott, 4650 Lindle Road, Harrisburg, Pennsylvania. This notice is published pursuant to section 10(a)(2) of Pub. L. 92–463, "The Federal Advisory Committee Act."

The agenda of the quarterly council meeting will include, but is not limited to:

1. Approve minutes from October 17, 1985 meeting,

2. Citizen Advisory Committee—Quarterly Report to the Executive Council,

3. Report and recommendation from the Implementation Committee on requesting an EIS from the Navy on the use of organotins in the Bay,

4. Fiscal Year 1986 Implementation Grants—schedule, conditions, apportionment of funds,

5. Update on Phase II Implementation program,

6. Frequency of Executive Council meetings, and

7. Pennsylvania's Chesapeake Bay Initiatives.

Comments from the public will be welcomed at the end of the meeting as time permits. Questions about the meeting may be directed to Ms. Patricia Bonner, U.S. EPA, Chesapeake Bay Liaison Office, Annapolis City Marina, Suite 109–110, Annapolis, Maryland 21403. The telephone number is: Area 301/266–6873.

Charles S. Spooner,

Director, Chesapeake Bay Liaison Office.

[FR Doc. 85–30631 Filed 12–26–85; 8:45 am]

BILLING CODE 6560–50–M

[SAB-FRL-2944-6]

Science Advisory Board, Radiation Advisory Committee; Open Meeting—January 21-22, 1986

Under Pub. L. 92-463, notice is hereby given that a meeting of the Science Advisory Board's Radiation Advisory Committee will meet January 21-22, 1986, in the Second Floor Conference Room of the Environmental Protection Agency's La Plaza Building, 4220 South Maryland Parkway (Building C), Las Vegas, Nevada. The meeting will begin at 9:00 a.m. on January 21 and adjourn at approximately 1:00 p.m. on January 22.

The primary focus of the meeting will be the Agency's radon program, including the efforts of the Office of Drinking Water and the Office of Research and Development as well as the Office of Radiation Programs. The Committee will learn abut EPA's facilities in Las Vegas and be briefed on a computerized system for assessing environmental transport of radionuclides. The Committee will develop a tentative review schedule for 1986.

The meeting is open to the public. Any member of the public wishing to attend, obtain information, or submit written comments to the Committee should notify Mrs. Kathleen Conway, Executive Secretary, or Mrs. Dorothy Clark, Staff Secretary, (A101F) Radiation Advisory Committee, Science Advisory Board, by the close of business Friday, January 17, 1986. The telephone number is (202) 382-2552.

Dated: December 19, 1985.

Kathleen Conway,

Acting Director, Science Advisory Board.

[FR Doc. 85-30632 Filed 12-26-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No: 58-1201]

Periodic Reports Required of Savings Institutions; Sections A, B, C, D, E, F, G, H, I and K

Date: December 20, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted a revised information collection, "Periodic Reports Required of Savings Institutions Sections A, B, C, D, E, F, G, H, I and K", to the Office of Management and Budget for expeditied approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments: Comments on the information collection request are welcome and should be submitted within 10 days of publication of this notice in the **Federal Register.** Comments regarding the paperwork-burden aspects on the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board at the address given below.

Requests for copies of the propsed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Richard Pickering, Office of Policy and Economic Research, Phone: (202) 377-6770.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-30640 Filed 12-26-85; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Truck Detention at the Port of New York; Filing of Petition To Amend Rules

December 23, 1985.

Notice is hereby given that a petition has been filed by the New York Terminal Conference requesting the Commission to amend its rules pertaining to truck detention at the Port of New York (46 CFR Part 530). Specifically, petitioner requests that §§ 530.7(f) and 530.7(g) be amended by changing the penalty charge specified in each from $4.00 per 15 minutes to $8.00 per 15 minutes.

In order for the Commission to make a thorough evaluation of the petition, interested persons are requested to submit views, arguments or data on the petition no later than January 10, 1986. Responses shall be directed to the Acting Secretary, Federal Maritime Commission, Washington, DC 20573, in an *original and 15 copies.* Responses shall also be served on counsel for petitioner: Thomas D. Wilcox, Esq., 2011 Eye Street, NW., Suite 601, Washington, DC 20006.

Copies of the petition are available for examination at the Washington, DC, office of the Commission, 1100 L Street, NW., Room 11101.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-30567 Filed 12-26-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

December 20, 1985.

Background

Notice is hereby given of final approval of proposed information collection 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, D.C. 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 following report:

1. Report title: Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks

Agency form number: FR 2225

OMB Docket number: 7100-0216

Frequency: Semi-annually

Reporters: U.S. Branches and agencies of foreign banks

Small businesses are not affected

General description of the report:

The report is designed to collect worldwide capital data from foreign banks that participate on private-sector large-dollar wire transfer systems or that incur daylight overdrafts on Fedwire. The information would be used to monitor the respondents' compliance with the Board's voluntary program to reduce risks on large-dollar payment systems.

The collection is voluntary and information is given confidential treatment. 5 U.S.C. 552(b)(4).

The Board published its proposal to collect information on worldwide capital of foreign banks in October. 50 FR 41742 (Oct. 15, 1985). After examining all of the comments received, that Board has

modified the information collection request in the following ways:

(1) Information will be requested only on a semi-annual basis, rather than quarterly, as originally proposed;

(2) Respondent will submit reports at the end of March and September, rather than February and August as originally proposed, except that the initial report will be due by February 28, 1986, so that information will be available when the daylight overdraft monitoring program begins on March 27.

By order of the Board of Governors of the Federal Reserve System, December 20, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-30553 Filed 12-26-85; 8:45 am]

BILLING CODE 6210-01-M

Huntington Bancshares Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 10, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Huntington Bancshares Incorporated, Columbus, Ohio; to engage *de novo* through its subsidiary, The Huntington Company, Columbus, Ohio, in providing securities brokerage services, related securities credit activities, pursuant to the Board's Regulation T (12 CFR Part 220), and incidental activities such as offering custodial services, individual retirement accounts, and cash management services, pursuant to § 225.25(b)(15) of Regulation Y.

Board of Governors of the Federal Reserve System, December 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-30739 Filed 12-26-85; 8:45 am

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Federal Telecommunications Standards

AGENCY: Information Resources Management Service, General Services Administration.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on a Federal Telecommunications Standard (FED-STD) proposed for adoption: FED-STD 1065 "Telecommunications: Facsimile Coding Schemes And Coding Control Functions For Group 5 Facsimile Apparatus."

DATE: Comments are due on or before March 27, 1986.

ADDRESS: Send comments to National Communications Systems, Office of Technology and Standards, Washington, DC 20305-2010.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Bodson, National Communications System, Telephone (202) 692-2124.

SUPPLEMENTARY INFORMATION: 1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of Federal telecommunications standards for NCS interoperability and the computer communication interface.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the needs and views of Federal agencies, industry, the public, and State and local governments.

3. Request for copies of the Proposed Draft FED-STD 1065 should be directed to the National Communications System, Office of Technology and Standards, Washington, DC 20305-2010.

Dated: November 26, 1985.

Francis A. McDonough,

Deputy Commissioner, Information Resources Management Service.

[FR Doc. 85-30341 Filed 12-26-85; 8:45 am]

BILLING CODE 6820-25-M

Federal Telecommunications Standards

AGENCY: Information Resources Management Service, General Services Administration.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on a Federal Telecommunications Standard (FED-STD) proposed for adoption: FED-STD 1070, "Telecommunications: Standard Optical Fiber Waveguide Material Classes and Optional Sizes for On-Premises Installation."

DATE: Comments are due on or before March 27, 1986.

ADDRESS: Send comments to National Communications System, Office of Technology and Standards, Washington, DC 20305-2010.

FOR FURTHER INFORMATION CONTACT: Mr. Frank McClelland, National Communications System, telephone (202) 692-2124.

SUPPLEMENTARY INFORMATION: 1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of Federal telecommunications standards for NCS

interoperability and the computer-communication interface.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the needs and views of Federal agencies, industry, the public, and State and local governments.

3. Request for copies of the Proposed Draft FED-STD 1070 should be directed to the National Communications System, Office of Technology and Standards, Washington, DC 20305-2010.

Dated: November 22, 1985.

Francis A. McDonough,

Deputy Commissioner, Information Resources Management Service.

[FR Doc. 85-30342 Filed 12-26-85; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on December 20, 1985.

Social Security Administration

Subject: Report by Former Representative Payee, Extension—(0960-0112)
Respondents: State or Local Governments
OMB Desk Officer: Judy A. McIntosh

Public Health Service

Centers for Disease Control

Subject: Cost of Water Fluoridation Evaluation, New.
Respondents: State or Local Governments

National Institutes of Health

Subject: Yale University's Health and Aging Project Substudy ¿3 "Adjustment to Widowhood"—Extension (0925-0246)
Respondents: Individuals or housholds
OMB Desk Officer: Bruce Artim

Health Care Financing Administration

Subject: Information Collection Requirements in HCFA-Pub. 14-3 Carrier Manual Sections 2070.2, 3060.2.D, 4110.2 and 4110.4 Physician/Supplier Background Information—Existing Collection
Respondents: Businesses or other for-profit
Subject: Medicare Interim Payment Update Report, Reinstatement—(0938-0180)
Respondents: Businesses or other for-profit
Subject: Departmental Clinical Laboratory Survey Report Form, Extension—(0938-0032)
Respondents: State or Local Governments
OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

Office of Inspector General

Subject: Program Inspection on Accuracy of Social Security Numbers in Aid to Families with Dependent Children/Medicaid Cases—New
Respondents: Individuals or Households
OMB Desk Officer: Judy A. McIntosh

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, Attn.: (name of OMB Desk Officer).

Dated: December 20, 1985.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85-30578 Filed 12-26-85; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 79N-0113; DESI 2847]

Drugs for Human Use; Certain Parenteral Multivitamin Products; Withdrawal of Approval of Pertinent Parts of a New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of portions of the new drug application that provide for M.V.I. Injectable marketed by USVA Pharmaceutical Corp. The withdrawal is based on lack of substantial evidence that the product is effective. A reformation has been approved.

EFFECTIVE DATE: January 27, 1986.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the DESI number 2847 and directed to the Division of Drug Labeling Compliance (HFN-310), Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drugs and Biologics (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8041.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 17, 1984 (49 FR 36446), FDA announced the conditions under which an effective parenteral multivitamin formulation may be marketed. The notice, published as part of the Drug Efficacy Study Implementation, also offered an opportunity for a hearing on a proposal to withdraw approval of portions of new drug applications (NDA's) for certain formulations. The proposal was based on the lack of substantial evidence of effectiveness as required by section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), 21 CFR 300.50, and 21 CFR 314.111 (now 21 CFR 314.126). In response to that notice, USV Pharmaceutical Corp. requested a hearing for M.V.I. Injectable.

USV has since withdrawn its hearing request. Accordingly, FDA is now withdrawing approval of parts of the following NDA:

NDA 8-809; those parts that provide for M.V.I. Injectable containing ascorbic acid, vitamin A, ergocaliciferol, thiamine hydrochloride, riboflavin, niacinamide, pyridoixine hydrochloride, dexpanthenol, and dl-alpha tocopherol acetate; USV Laboratories Division, USV Pharmaceutical Corp., Tarrytown, NY 10591.

This notice applies to all portions of NDA 8-809 except those that provide for M.V.I.-12, which was formulated in accordance with the September 1984 notice.

Any drug product that is identical, related, or similar to M.V.I. Injectable and is not the subject of an approved new drug application or of a pending hearing request is covered by the new drug application for this product and is subject to this notice (21 CFR 310.6) Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address above).

The Director of the Center for Drugs and Biologics, under the Federal Food,

Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under the authority delegated to him (21 CFR 5.82) finds that, on the basis of new information before him with respect to the product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of those parts of NDA 8–809 that provide for the original formulation of M.V.I. Injectable described above and all the amendments and supplements that provide for that product is withdrawn effective January 27, 1986. Shipment in interstate commerce of the product above or any identical, related, or similar product that is not subject to an approved new drug application or of a pending hearing request will then be unlawful.

Dated: December 20, 1985.

Harry M. Meyer, Jr.,

Director, Center for Drugs and Biologics.

[FR Doc. 85–30550 Filed 12–26–85; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[BDMS–37–N]

ICD–9–CM Coordination and Maintenance Committee; Meeting

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

ACTION: Notice of public meeting.

SUMMARY: This notice announces the second meeting of the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM) Coordination and Maintenance Committee.

DATE: The meeting will be held on Wednesday, January 22, 1986 and Thursday, January 23, 1986 beginning at 9:30 a.m. to 4:00 p.m. e.s.t.

ADDRESS: The meeting will be held in Room GC7–GD7 West High Rise Building, Social Security Administration Headquarters, 6401 Security Boulevard, Baltimore, Maryland.

FOR FURTHER INFORMATION CONTACT: Lisa Levine, (301) 597–0610.

SUPPLEMENTARY INFORMATION: The ICD–9–CM is the clinical modification of the World Health Organization's International Classification of Diseases, Ninth Revision. It is the coding system required for use by hospitals and other health care facilities in reporting both diagnoses and surgical procedures for Medicare, Medicaid and all other health-related HHS programs. The work of the ICD–9–CM Coordination and Maintenance Committee will allow this coding system to continue to be an appropriate reporting tool for use by Federal programs.

The Committee is composed entirely of representatives from various Federal agencies interested in the International Classification of Diseases (ICD) and its modification, updating, and use for Federal programs. It is Co-Chaired by the National Center for Health Statistics and the Health Care Financing Administration.

At the second meeting of the ICD–9–CM Committee, members will discuss requests received for updating ICD–9–CM, Volume 3 procedures. These requests include proposals for developing additional ICD–9–CM codes for new technologies such as lithotripters, cardio-vertor defibrillators, and magnetic resonance imaging. The meeting is open to the public and attendance, proposal submittals and participation by interested parties are encouraged.

Dated: December 20, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 85–30574 Filed 12–26–85; 8:45 am]

BILLING CODE 4120–01–M

National Institutes of Health

National Institute of Neurological and Communicative Disorders and Stroke; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the committees of the National Institute of Neurological and Communicative Disorders and Stroke.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of meetings, rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive Secretary or Program Director indicated.

Name of Committee: Subcommittee on Convulsive, Developmental, and Neuromuscular Disorders, Scientific Programs Advisory Committee.

Date: January 9, 1986.

Place: National Institutes of Health, 7550 Wisconsin Avenue, Federal Building, Room B119, Bethesda, Maryland 20892.

Open: 9:00 a.m.–1:00 p.m.

Agenda: To discuss the need for development in various areas of scientific interest to the Convulsive, Developmental, and Neuromuscular Disorders Program (CDNDP) and the National Institute of Neurological and Communicative Disorders and Stroke.

Closed: 1:00 p.m.–5:00 p.m.

Closure reason: To discuss applications that are pending review in CDNDP in various areas of scientific interest to CDNDP.

Program Director: Dr. Floyd J. Brinley, Jr., Federal Building, Room 812A, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496–6541.

Name of Committee: National Advisory Neurological and Communicative Disorders and Stroke Council and Its Planning Subcommittee.

Dates: January 29–31, 1986.

Place: National Institutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

Open: January 29, 1:00 p.m.–3:00 p.m. (Planning Subcommittee). January 30, 9:00 a.m.–1:00 p.m. (Council).

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: January 29, 3:00 p.m.–5:00 p.m. (Planning Subcommittee). January 30, 1:00 p.m.–4:00 p.m. (Council). January 31, 8:30 a.m.–adjournment (Council).

Closure reason: For review of grant applications.

Executive secretary: John C. Dalton, Ph.D., Director, NINCDS–EAP, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496–9248.

Name of Committee: Communicative Disorders Review Committee.

Dates: February 20–21, 1986.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: February 20, 8:00 a.m.–8:30 a.m.

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: February 20, 8:30 a.m.–recess, February 21, 8:00 a.m.–adjournment.

Closure reason: To review grant applications.

Executive secretary: Dr. Marilyn Semmes, Federal Building, Room 9C–14, National

Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

Name of Committee: Neurological Disorders Program Project Review B Committee.

Dates: March 6-8, 1986.

Place: Holiday Inn, Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Open: March 6, 8:30 a.m.-9:00 a.m.

Closed: March 6, 9:00 a.m.-recess. March 7, 8:30 a.m.-recess. March 8, 8:00 a.m.-adjournment.

Closure reason: To review grant applications.

Acting executive secretary: Dr. A Beau White, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: December 23, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85-30613 Filed 12-26-85; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Meetings of the Board of Regents and the Extramural Programs Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on February 6-7, 1986, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meeting of the Extramural Programs Subcommittee of the Board of Regents on the preceding day February 5, from 3:00 to 5:00 p.m. in the 5th-floor Conference Room of the Lister Hill Center Building. The meeting of the Board will be open to the public from 9:00 a.m. to 4:30 p.m. on February 6 and from 9:00 a.m. to 11:00 a.m. on February 7 for administrative reports and program discussions. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the entire meeting of the Extramural Programs Subcommittee on February 5 will be closed to the public, and the regular Board meeting on February 7 will be closed from approximately 11:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material and personal information concerning individuals associated with the would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301-496-6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: December 12, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85-30600 Filed 12-26-85; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for January 1986, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program informaiton may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	January 1986 meetings	Time	Location
Behavioral and Neurosciences-1 Ms. Janet Cuca, Rm. A13, Tel. 301-496-5352	16-17	8:30	Holiday Inn, Georgetown, DC.
Behavioral and Neurosciences-3, Ms. Janet Cuca Rm. A13, Tel. 301-496-5352	23	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Biomedical Sciences-2, Dr. Daniel Eskinazi Rm. A10, Tel. 301-496-1067	30-31	9:00	Room 8, Bldg. 31C, Bethesda, MD.
Biomedical Sciences-3, Dr. Charles Baker, Rm. A10, Tel. 301-496-7150	27-28	8:30	Holiday Inn, Bethesda, MD.
Biomedical Sciences-4, Dr. Charles Baker, Rm. A10, Tel. 301-496-7150	14-15	8:30	Holiday Inn, Bethesda, MD.
Biomedical Sciences-5, Dr. W. Elbert Wilson, Rm. A25, Tel. 301-496-7600	15-17	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Biomedical Sciences-5, Dr. W. Elbert Wilson, Rm. A25, Tel. 301-496-7600	22-24	8:30	Ramada Inn, Bethesda, MD.
Biomedical Sciences-6, Dr. Nicholas Mazarella, Rm. A10, Tel. 301-496-3117	27-29	8:30	Holiday Inn, Bethesda, MD.
Clinical Sciences-1, Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510	15-17	8:30	Sheraton Inn, Silver Spring, MD.
Clinical Sciences-2, Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477	27-28	8:30	Room 4, Bldg. 31A, Bethesda, MD.
Clinical Sciences-3, Dr. Lynwood Jones, Jr., Rm. A19, Tel. 301-496-7510	23-24	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences-4, Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477	16-17	8:30	Room 8, Bldg. 31C, Bethesda, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: December 12, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–30610 Filed 12–26–85; 8:45 am]

BILLING CODE 4140–01–M

National Eye Institute; National Advisory Eye Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, January 27–28, 1986, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9:00 a.m. until approximately 12:00 noon on Monday, January 27. Following opening remarks by the Director, National Eye Institute, there will be presentations by the staff of the Institute including budget and average grant costs.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately 12:00 noon until recess on Monday, January 27, and from 9:00 a.m. to adjournment on Tuesday, January 28, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Kay Valeda, Committee Management Officer, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4903, will provide summaries of meetings and rosters of committee members.

Dr. Ronald G. Geller, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4903, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs, Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

Dated: December 12, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–30609 Filed 12–26–85; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meetings of the National Heart, Lung, and Blood Advisory Council and Its Research Subcommittee and Manpower Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, February 13–14, 1986, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892. In addition, the Research Subcommittee and the Manpower Subcommittee of the above Council will meet on February 12, 1986, at 1:00 p.m. and 8:00 p.m. respectively, in Building 31, Conference Room 9.

The Council meeting will be open to the public on February 13 from 9:00 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the Council meeting will be closed to the public from approximately 3:30 p.m. on February 13 to adjournment on February 14 for the review, discussion, and evaluation of individual grant applications. The meetings of the Research Subcommittee and the Manpower Subcommittee of the above Council on February 12 will be closed from 1:00 p.m. and 8:00 p.m. respectively, to adjournment for the review, discussion, and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiries Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21 National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of the Council members.

Dr. Samuel H. Joseloff, Executive Secretary of the Council, Westwood Building, Room 7A–15, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–7548, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837,, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 12, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85–30603 Filed 12–26–85; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National High Blood Pressure Education Coordinating Committee sponsored by the National Heart, Lung, and Blood Institute, on January 17, 1986, 9 a.m. to 4 p.m., Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland 20814, (301) 657–1234.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in The National Blood Pressure Education Program. Attendance by the public will be limited to space available.

For the detailed program information, agenda, list of participants and meeting summary, contact: Dr. Edward G. Roccella, Coordinator, Health Education Branch, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A18, Bethesda, Maryland 20892, (301) 496–1051.

Dated: Dec. 11, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–30612 Filed 12–26–85; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Meeting; National Advisory General Medical Sciences Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Science, National Institutes of Health, on January 23 and 24, 1986, Building 31, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public on January 23, 1986, from 8:30 a.m. to 11:00 a.m. for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552(c)(4) 552(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 23 from 11:00 a.m. to 6:00 p.m., and on January 24, 1986, from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892, Telephone: 301, 496–7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, Room 926, Bethesda, Maryland 20205, Telephone: 301, 496–7891 will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13–821, Physiology and Biomedical Engineering; 13–859, Pharmacology-Toxicology Research; 13–862, Genetics Research; 13–863, Cellular and Molecular Basis of disease Research; and 13–880, Minority Access to Research Careers [MARC])

Dated: December 12, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–30611 Filed 12–26–85; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological and Communicative Disorders and Stroke; Meeting of the Neurological Disorders Program Project Review A Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Neurological Disorders Program Project Review A Committee, National Institutes of Health, February 9–11, 1986, at The Holiday Inn at Union Square, 480 Sutter, San Francisco, California 94108.

The meeting will be open to the public from 8:30 a.m. until 9:30 a.m. on February 9, 1986 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 2b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:30 a.m. on February 9 to adjournment on February 11, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Leon Jack Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14, Bethesda, MD 20205 (Tel. No. 301/496–9223) will furnish summaries of the meeting, the roster of committee members and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: December 12, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–30604 Filed 12–26–85; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meetings; National Advisory Allergy and Infectious Diseases Council; Allergy and Immunology Subcommittee; Microbiology and Infectious Diseases Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on January 23–24, 1986, at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland 20892.

The meeting will be open to the public on January 23 from approximately 9:00 a.m. to 9:30 a.m., for opening remarks of the Institute Director and again from 1:30 p.m. to approximately 5:00 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program discussions will be on Sexually Transmitted Diseases (other than AIDS). On January 24 the meeting will be open to the public from approximately 8:30 a.m. to 9:30 a.m. for the reports of the Director of the Microbiology and Infectious Diseases Program and the Director of the Immunology, Allergic and Immunologic Diseases Program.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting of the NAAIDC Allergy and Immunology Subcommittee and of the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on January 23. The meeting of the full Council will be closed from approximately 9:30 a.m. until adjournment on January 24, for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Gwendolyn Trible, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Council members as requested.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496–7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: December 12, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85–30605 Filed 12–26–85; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Meeting; National Advisory Child Health and Human Development Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, January 27–28, 1986, in Building 31, Conference

Room 6, National Institutes of Health, Bethesda, Maryland, and the meeting of the Subcommittee on Planning on January 27 from 8:30 a.m. to 9:30 a.m. in Building 31, Room 2A03.

The Council meeting will be open to the public on January 27 from 9:30 a.m. until 5:00 p.m. The agenda includes a report by the Acting Director, NICHD, and a presentation by the Reproductive Sciences Branch, Center for Population Research. The meeting will be open on January 28 immediately following the review of applications if any policy issues are raised which need further discussion. The Subcommittee meeting will be open on January 27 from 8:30 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 28 from 8:30 a.m. to completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland 20205, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health)

Dated: December 12, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–30606 Filed 12–26–85; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Meeting; National Advisory Dental Research Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on January 27–28, 1986, Conference Room 7, Building 31C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public form 9:00 a.m. to recess on January 27 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on January 28 from 9:00 a.m. to adjourment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personsal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Marie U. Nylen, Executive Secretary National Advisory Dental Research Council, and Associate Director, Extramural Programs, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 503, Bethesda, Maryland 20892 (telephone 301 496–7723), will furnish roster of committee members, a summary of the meeting, and other information pertaining of the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Support Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122—Disorders of Structure, Function, and Behavior; Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845—Dental Research Institutes; National Institutes of Health)

Dated: December 12, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85–30607 Filed 12–26–85; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Meeting; National Advisory Environmental Health Sciences Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, January 30–31, 1986, at the National Institute of Environmental Health Sciences, Building 101 Conference Room, South Campus, Research Triangle Park, North Carolina.

This meeting will be open to the public on January 30 from 9 a.m. to approximately 12 noon for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public January 30, from approximately 1:00 p.m. to adjournment on January 31, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert Mayfield, Extramural Program, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541–7628, FTS 629–7628, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: December 12, 1985.

Betty J. Beveridge,

Committee Management Office, NIH.

[FR Doc. 85–30608 Filed 12–26–85; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the General Clinical Research Centers Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the General Clinical Research Centers (GCRC) Committee, Division of Research Resources (DRR), February 10–11, 1986, Conference Room 6, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

This meeting will be open to the public on February 10 from 9:00 a.m. to approximately 11:00 a.m. during which time there will be comments by the Director, DRR; an update on the GCRC Program; and reports on the Clinical Associate Physician Program; the diffusion of the CLINFO System; possible new technologies for GCRCs; and clinical research data management. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code a Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public February 10 from

approximately 11:00 a.m. to recess and from approximately 8:00 a.m. to adjournment on February 11 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B-10, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Review Committee, Bldg. 31, Room 5B51, National Institutes of Health, Bethesda, Maryland 20892, (301) 946-6595, will furnish program information.

(Catalog of Federal Domestic Assistance Program No. 13.333, Clinical Research, National Institutes of Health)

Dated: December 12, 1985.

Betty J. Beveridge,

NIH Committee Management Office.

[FR Doc. 85-30601 Filed 12-26-85; 8:45 am]

BILLING CODE 4140-01-M

Cancer Control Intervention Contract Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Intervention Contract Review Committee, National Cancer Institute, National Institutes of Health, January 30-31, 1986, Building 31, Conference Room 4, Bethesda, Maryland 20892.

This meeting will be open to the public on January 30, from 8:30 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 30, from approximately 9:30 a.m. until recess, and January 31, from 8:30 a.m. to adjournment for the review, discussion and evaluation of contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Courtney Michael Kerwin, Executive Secretary, Cancer Control Intervention Contract Review Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20892 (301/496-7030) will furnish substantive program information.

Dated: December 12, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85-30602 Filed 12-26-85; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Blood Diseases and Resources Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, February 24-25, 1986, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. The Committee will meet in Building 31, Conference Room 8, C Wing.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on February 24, and from 9:00 a.m. to adjournment on February 25, to discuss the status of the Blood Diseases and Resources program needs and opportunities. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Fann Harding, Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, Room 5A-08, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-1817, will furnish substantive program information.

December 20, 1985.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85-30592 Filed 12-26-85; 8:45 am]

BILLING CODE 4140-01-M

National Diabetes Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Diabetes Advisory Board and its subcommittees on January 16, 1986, 8:30 a.m. to adjournment, at the Hyatt Regency Bethesda, 1 Bethesda Metro Center, Bethesda, Maryland 20814. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range plan to combat diabetes mellitus. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, Federal Building, Room 616, Bethesda, Maryland 20892, (301) 496-6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: December 20, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85-30593 Filed 12-26-85; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Environmental Impact Statement on North Key Largo (Florida) Habitat Conservation Plan and Endangered Species Act Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Availability of scoping document.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (FWS) has completed a scoping document as part of the preparation of an Environmental Impact Statement (EIS) of the North Key Largo (Florida) Habitat Conservation Plan (HCP) and proposed Endangered Species Act Section 10(a) permit. The HCP is being prepared by the North Key Largo Habitat Conservation Plan Study Committee in conjunction with the

preparation by Monroe County, Florida of a Comprehensive Plan for development of the County. The FWS is working closely with the County and the Florida Department of Community Affairs (DCA) in preparation of the EIS. On May 16 and October 23, 1985, the FWS held scoping meetings to receive comments from the public. The scoping document is based upon comments received at those meetings an upon writtten comments received by the FWS.

DATES: The scoping document is available as of December 27, 1985.

ADDRESS: Copies of the scoping document may be obtained from the Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley at the above address (904/791-2580).

SUPPLEMENTARY INFORMATION:

Description of the Proposed Action

The FWS may issue a permit pursuant to section 10(a) of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539(a), that would authorize the take of listed species incidental to development and other activities in North Key Largo, Florida. Section 10(a) of the Endangered Species Act was amended in 1982 to authorize the issuance of permits to take endangered species as an incident to otherwise lawful activities provided that the permit application is supported by a habitat conservation plan that will further the long term conservation of the species. The proposed issuance of the incidental take permit may have a signficant effect on the quality of the human environment and thus will be the subject of an EIS prepared pursuant to section 102(2)(C) of the National Environment Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C).

Monroe County, Florida, where North Key Largo is located, is in the process of preparing a Comprehensive Plan for development of the County under the Florida Area of Critical State Concern process, Florida Statutes, Chapter 380. Any successful HCP for North Key Largo must be consistent with the requirements of the Monroe County Comprehensive Plan. In addition, Congress has allocated $98,000, to be matched with non-Federal funds, for the development of an HCP for North Key Largo. The FWS has subsequently entered into a grant agreement with the DCA under which the County, in cooperation with the DCA, will prepare an HCP for North Key Largo. In preparing the HCP, the County and its staff will work with the North Key Largo Habitat Conservation Plan Study Committee to explore the possibilities for allowing reasonable levels of development on North Key Largo, while meeting the goals of section 10(a), which include ensuring the long term conservation of any affected listed species. Pursuant to the FWS-DCA grant agreement and in accordance with 40 CFR Part 1506, the FWS will be working closely with the County to prepare an EIS on the possible incidental take permit.

Scoping Process

On May 18, 1985, FWS held a scoping meeting as part of the process of preparing the EIS. The meeting was attended by 33 persons and 3 written comments were received. A draft scoping document was prepared, based upon information received at the public meeting and written comments. Copies were sent to all participants in the May 18, 1985, meeting as well as all persons who have attended the HCP meetings. A second scoping meeting was held on October 23, 1985. Twenty-five persons attended, and one written comment was received. The comment period closed on November 15, 1985. Appropriate information and comments were incorporated in the final scoping document, which is now available (see above).

The environmental review of this proposed action is being conducted in accordance with the requirements of NEPA, the regulations of the Council on Environmental Quality, 40 CFR Parts 1500-1508, other applicable Federal regulations, and FWS procedures for compliance with these regulations.

(Notice Availability of scoping document for Environmental Impact Statement on North Key Habitat Conservation Plan)

Dated: December 18, 1985.

Daniel B. Allen,

Acting Regional Director, FWS, Alanta, Georgia.

[FR Doc. 85-30558 Filed 12-26-85; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[CA-17695]

Realty Action; Exchange of Public Lands in San Diego County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described public lands located in San Diego County, California, have been examined, and through the development of land use planning decisions based on public input, resource considerations, regulations, and Bureau policies, it has been determined that these public lands are suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

San Bernardino Meridian, California

T. 17 S., R. 1 E.,
Sec. 20, NE¼, N½SE¼, SE¼SE¼,
Sec. 21, N½, N½S½;
Sec. 29, W½, W½ SE¼.
Containing 840 acres.

All minerals in these public lands will be included in the exchange.

In exchange for these lands the United States will acquire land or interests in land throughout California from the Trust for Public Land, 82 Second Street, San Francisco, California 94105. The lands or interests in lands are in three different locations. The value of the lands or interests in lands to be exchanged are approximately equal and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands. The lands or interests in lands to be acquired are as follows, listed in order of descending priority for acquisition. The lands listed first will be acquired first, and so on, until the values of public and private land are equalized:

1. Eagle Lake Conservation and Public Access Easements

The United States will acquire interests in these lands, located along the southeast shore of Eagle Lake, in Lassen County, California. The interests to be acquired are conservation and public access easements. The area involved is the longest shoreline of undeveloped private land remaining at Eagle Lake, which is the second largest natural freshwater lake entirely within California. The conservation easement would prevent any subdivision of the land, and would protect in perpetuity the predominantly natural, scenic, agricultural, open space and aesthetic attributes of the land. The public access easement would allow public pedestrian access to and over the entire property (except 80 acres of residential area), with the right of the public to hunt and fish on the land. The easements described above will be acquired on the following private lands:

Mount Diablo Meridian, California

T. 32 N., R. 11 E.,
Sec. 11, lots 1,2,3,8, E½SE¼, SW¼SE¼;

Sec. 12, lots 1,2,3,4, NW¼NW¼, SW¼ SE¼, S½SW¼;
Sec. 13, lots 1,2,3, W½NE¼, NW¼, E½SW¼, W½SE¼;
Sec. 14, lots 3,4,5, NE¼NE¼, S½NE¼, NW¼SE¼;
Sec. 24, NW¼NE¼, NE¼NW¼.
T. 32 N., R. 12 E.,
Sec. 7, tracts 39, 40;
Sec. 18, tracts 42, 43.
Containing 1578.91 acres, more or less.

2. Western Otay Mountain WSA Inholding

The United States will acquire fee title (including all minerals) to the following private land, located within the Western Otay Mountain Wilderness Study Area, in San Diego County, California:

San Bernardino Meridian, California

T. 18 S., R. 1 E.,
Sec. 10, S½NE¼, NE¼SE¼;
Sec. 11, NW¼SW¼.
Containing 160 acres.

3. Cleveland National Forest Inholdings

The United States will acquire fee title (including all minerals) to various parcels of private land located within the Cleveland National Forest, in San Diego County, California. These lands will later be transferred from the Bureau of Land Management to the U.S. Forest Service. The lands to be acquired are as follows:

San Bernardino Meridian, California

T. 15 S., R. 4 E.,
Tract 50;
Tract 55, excluding that portion lying within Calif. State Highway Interstate 8;
Tract 56, excluding that portion lying within Calif. State Highway Interstate 8;
Tract 57, excluding that portion lying within Calif. State Highway Interstate 8;
Tract 58, excluding that portion lying within Calif. State Highway Interstate 8;
Tract 59, Tract 60;
Tract 61, excluding that portion lying north of the southerly boundary of Calif. State Highway Interstate 8.
T. 16 S., R. 4 E.,
Sec. 5, lot 4.
Containing approximately 1,137 acres.

The purpose of this exchange is to acquire non-Federal lands that have significant multiple-use values, including recreational, wildlife, wilderness, scenic, and endangered species values that far outweigh values found on the Federal lands to be exchanged. The exchange is consistent with the Bureau of Land Management Susanville District's Willow Creek Management Framework Plan, and the California Desert District's Escondido Management Framework Plan. These public lands have been identified for disposal in the BLM's Southern California Metropolitan Projects Area's Management Action Summary. The exchange is consistent with the management objectives of the Cleveland National Forest. This exchange has been discussed with Lassen County, San Diego County, and various State of California agencies. The public interest will be well served by making this exchange.

There will be reserved to the United States in the public lands to be exchanged, a right-of-way thereon for ditches and canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

The publication of this notice in the **Federal Register** segregates the public lands described herein from all other forms of appropriation and entry under the public laws, including the mining laws, for a period of two years from the date of publication. The exchange is expected to be completed before the end of that period.

Detailed information concerning the exchange, including the environmental analysis, is available for review at the Bureau of Land Management's Susanville District Office, 705 Hall Street, Susanville, CA 96130 and at the California Desert District Office, 1695 Spruce Street, Riverside, CA 92507.

DATE: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Deputy State Director, Division of Operations, California State Office of the Bureau of Land Management.

ADDRESSES: Comments should be sent to: Deputy State Director (CA-943.1), Bureau of Land Management, 2800 Cottage Way, Room E-2841, Sacramento, California 95825. (Reference exchange number CA-17695). Objections will be evaluated by the California State Director of the Bureau of Land Management, who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become a final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Peter Humm or Jacqueline Gratton, Susanville District Office, at (916) 257-5381.

Dated: December 19, 1985.

Bruce P. Conrad,

Deputy State Director, Division of Operations.

[FR Doc. 85-30562 Filed 12-26-85; 8:45 am]

BILLING CODE 4310-40-M

DEPARTMENT OF THE INTERIOR

Filing of Plats of Survey; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands have been officially filed in the Oregon State Office, Portland, Oregon on November 29, 1985.

Willamette Meridian

OR T. 20 S., R. 10 W.;
OR T. 21 S., R. 32½ E.

The above two plats represent dependent resurveys and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 N. E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 17, 1985.

Leland D. Morrison,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-30561 Filed 12-26-85; 8:45 am]

BILLING CODE 4310-33-M

Filing of Plats of Survey; Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands have been officially filed in the Oregon State Office, Portland, Oregon on the dates hereinafter stated:

Willamette Meridian

OR T. 21 S., R. 8 W.;
OR T. 26 S., R. 14 E.;
WA T. 7 N., R. 13 E.
Officially filed, October 22, 1985.
OR T. 13 S., R. 6 W.;
OR T. 9 S., R. 39 E.
Officially filed, November 13, 1985.

All of the above-listed plats represent dependent resurveys, subdivisions, and a supplemental plat.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 N.E. Multnomah, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 17, 1985.

Leland D. Morrison,

Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc. 85-30569 Filed 12-26-85; 8:45 am]

BILLING CODE 4310-33-M

Filing of Plat of Survey; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described land will be officially filed at 8:30 a.m., February 4, 1986, in the Oregon State Office, Portland, Oregon.

Willamette Meridian

T. 12 N., R. 6 E.,
Sec. 37 Lot 1

The area described aggregates 2.9 acres.

Section 37 is situated between sections one and twelve. The lands are located within Lewis County, Washington about one and one half miles northwest of the town of Randle. Access is by a private logging road off of U.S. Highway No. 12.

The terrain is mountainous. Elevations range from 1,840 to 3,600 feet above sea level. The soil is composed of loam, sand, and rock with a variety of timber and undergrowth.

Section 37 is administered by the Gifford Pinchot National Forest and is open to such forms of disposition as may bylaw be made of the national forest land.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 NE Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 17, 1985.

Leland D. Morrison,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-30570 Filed 12-26-85; 8:45 am]

BILLING CODE 4310-33-M

Carson City District Office; Public Hearing

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearing.

SUMMARY: The Carson City District Office will conduct a hearing regarding the routine use of helicopter to gather wild horses and burros, and motorized vehicles to transport them, in accordance with Pub. L. 94-579, Sec. 404, during the present fiscal year.

DATE: January 17, 1986; 10:00 a.m.

ADDRESS: 1535 Hot Springs Road, Suite 300, Carson City, Nevada.

FOR FURTHER INFORMATION CONTACT: Steve Weiss, Environmental Protection Specialist, 1535 Hot Springs Road, Suite 300, Carson City, NV 89701, (702) 882-1631

Thomas J. Owen,

District Manager.

[FR Doc. 85-30560 Filed 12-26-85; 8:45 am]

BILLING CODE 4310-HC-M

Medford District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Bureau of Land Management, Medford District Advisory Council will be held January 30, 1986.

On January 30, the meeting will begin at 1:00 p.m., in the Oregon Room of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon. The agenda for the meeting will include:

A presentation by members of the Medford District's task force on public involvement; a discussion by staff members on the District's FY 1986 budget, plans and programs; and the District's 1986 timber sale program.

The meeting of the advisory council is open to the public. Interested persons may make oral statements to the board following conclusion of its other agenda items on January 30, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford Oregon 97504, by January 30, 1986. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the district office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Date Signed: December 18, 1985.

Hugh R. Shera,

District Manager.

[FR Doc. 85-30568 Filed 12-26-85; 8:45 am]

BILLING CODE 4310-33-M

[W-87233]

Wyoming; Proposed Withdrawal and Opportunity for Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 20 acres of public land for the Sugarloaf Petroglyph and Pine Spring Cultural Site in Sweetwater County, Wyoming. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATE: Comments and requests for a public meeting should be received by March 27, 1986.

ADDRESS: Comments and meeting requests should be sent to: Wyoming State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Tamara J. Gertsch, Wyoming State Office, 307-772-2072.

On December 2, 1985, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the nondiscretionary public land laws, including the mining laws, subject to valid existing rights:

Sixth Principal Meridian, Wyoming

T. 14 N., R. 107 W.,
Sec. 27, E½NW¼SE¼NW¼.
T. 14 N., R. 109 W.,
Sec. 19, S½SW¼SW¼SE¼;
Sec. 30, NW¼NW¼NE¼.

The area described contains 20 acres in Sweetwater County.

The purpose of the proposed withdrawal is to segregate the above described lands from appropriation under the nondiscretionary public land laws and the mining laws, but not the mineral leasing laws, to conserve the significant scientific, artistic, educational, and archeological values of the Sugarloaf Petroglyh and Pine Spring Cultural Site.

Effective on the date of publication, these lands are segregated from all forms of appropriation under the public land laws, including the mining laws. The lands remain open to mineral leasing subject to concurrences by the Department of the Interior. The lands will remain open to surface uses which are compatible with the project until the withdrawal is final and until construction is started. The segregative effect of this pending application will terminate 2 years from the date of this publication unless final withdrawal action is taken or the application is terminated prior to that date. Notice of any action will be published in the **Federal Register.**

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 may present their views in writing to the State Director, Wyoming State Office.

Pursuant to section 204(h) of the Federal Land Policy and Management

Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on this proposed action must submit a written request for a hearing to the Wyoming State Director within 90 days from the date of this publication.

If it is determined that a public hearing should be held, notice of the time and place of the hearing will be published in the **Federal Register** at least 30 days prior to the hearing. The hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual, Section 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. The authorized officer will also undertake negotiations with the applicant agency to assure that the area sought is the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, and to reach an agreement on the concurrent management of the land and its resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on this application will be published in the **Federal Register.**

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

Dated: December 16, 1985.

Hillary A. Oden,

State Director.

[FR Doc. 85-30559 Filed 12-26-85; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Outer Continental Shelf; Development Operations Coordination Document; Union Oil Company of California

AGENCY: Minerals Management Service, Interiors.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0204, Block 38, 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 December 19, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The 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: December 20, 1985.

J. Rogers Pearcy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-30557 Filed 12-26-85; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Processes and Effects Subcommittee and Living Resources Subcommittee of the Scientific Committee Outer Continental Shelf (OCS) Advisory Board; Notice and Agenda of Meeting

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. Appendix I, and the Office of Management and Budget Circular A-63, Revised.

The Scientific Committee of the OCS Advisory Board will convene a joint meeting of its Environmental Processes and Effects Subcommittee and its Living Resources Subcommittee on Friday, January 17, 1986, in the Galvez Room at the New Orleans Marriott, 555 Canal Street, New Orleans, Louisiana 70140. The Subcommittees will meet during the period 9:00 a.m. to 3:00 p.m.

The Agenda for the meeting will include the following subjects:

- The National Academy of Science's (NAS) Review of the Environmental Studies Program; and
- Development of a List of Topics for the NAS Review.

This meeting is open to the public. Approximately 15 visitors can be accommodated on a first come/first served basis. All inquiries concerning this meeting should be addressed to:

Dr. Don Aurand, Chief, Branch of Environmental Studies, Offshore Environmental Assessment Division (644), Minerals Management Service, U.S. Department of the Interior, 18th & C Streets, NW., Washington, DC 20240; telephone: (202) 343-7744.

Dated: December 20, 1985.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 85-30524 Filed 12-26-85; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Agriculture Cooperative Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: December 23, 1985.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC. 20423. The Notices are

in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Dairyman, Inc.

(2) 10140 Linn Station Road, Louisville, KY 40223.

(3) Eatonton, GA; Franklinton, LA; Louisville, KY and Bristol, VA.

(4) Mr. Jim Stapleton, 10140 Linn Station Road, Louisville, KY 40223.

James H. Bayne,

Secretary.

[FR Doc. 85-30618 Filed 12-26-85; 8:45 am]

BILLING CODE 7035-01-M

Agricultural Cooperative Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: December 23, 1985.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Southern States Cooperative, Inc.

(2) P.O. Box 26234, 6606 West Broad Street, Richmond, VA 23260.

(3) 6606 West Broad, P.O. Box 26234, Richmond, VA 23260.

(4) Mr. Garry L. Horn, P.O. Box 26234, Richmond, VA 23260.

James H. Bayne,

Secretary

[FR Doc. 30678 Filed 12-26-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 50)]

Missouri Pacific Railroad Co. Abandonment in Salina and McPherson Counties, KS; Notice of Findings

The Commission has found that the public convenience and necessity permit the Missouri Pacific Railroad Company to abandon its 21.8-mile line of railroad between Trigo (milepost 499.3) and Marquette (milepost 521.1), in Salina and McPherson Counties, KS.

A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 85-30620 Filed 12-26-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30753]

Guilford Transportation Industries, et al.; Exemption; Issuance of Securities

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the Delaware and Hudson Railway Company from the prior approval requirements of 49 U.S.C. 11361 to permit it to supplement its First Mortgage Trust Indenture with the State Bank of Albany. Corresponding notes and guarantees are not subject to the Commission's regulation under 49 U.S.C. 11301.

DATES: This exemption and decision will be effective on December 10, 1985. Petitions to reopen must be filed by December 30, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30753 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representative: James E. Howard, Kirkpatrick & Lockhart, Exchange Place, 53 State Street, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room, 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: December 6, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Commissioner Lamboley dissented in part with a separate expression. Commissioner Simmons did not participate in the disposition of this proceeding.

James H. Bayne,

Secretary.

[FR Doc. 85-30617 Filed 12-26-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of Established 1986 Aggregate Production Quotas.

SUMMARY: This notice establishes 1986 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act.

DATE: This order is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, DC 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration (DEA) by § 0.100 of Title 28 of the Code of Federal Regulations.

On Tuesday, October 1, 1985, a notice of the proposed 1986 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (50 FR 40070). All interested parties were invited to comment on or object to those proposed aggregate production quotas on or before October 31, 1985.

Hoffmann-LaRoche, Inc. of Nutley, New Jersey, Ciba-Geigy Corporation of Summit, New Jersey and MD Pharmaceutical, Inc. of Santa Ana, California, through their counsel, submitted comments relative to the proposed quotas.

Relative to alphaprodine, Hoffmann-LaRoche, Inc. commented that the proposed quota was inadequate to meet their expected 1986 needs. Based upon sales higher than estimated for 1985 and in expectation of a continuing trend of increased sales during 1986, Hoffmann-LaRoche requested that the aggregate production quota for alphaprodine be increased. At this time, DEA has determined that no increase is necessary; however, DEA will reconsider these comments when the established quotas are reviewed in early 1986. Relative to methylphenidate, Ciba-Geigy Corporation and MD Pharmaceutical, Inc., through their counsel, commented that the proposed 1986 aggregate production quota will be insufficient to meet 1986 needs. MD Pharmaceutical requested that the 1986 aggregate production quota for methylphenidate be increased sufficiently to permit for viable competition for generic methylphenidate. Ciba-Geigy requested that the proposed aggregate production quota be increased to some amount in excess of their individual manufacturing needs. Both companies requested a hearing on the proposed 1986 aggregate production quota for methylphenidate. In order to ensure that these firms manufacturing methylphenidate may remain in production during the pendency of the consideration of the matter for hearing, a final initial aggregate production quota will be established for this interim period. This quota will be the amount which was initially proposed, and will be subject to revision upon further consideration and possible hearing. No other comments were received.

Pursuant to sections 3(c)(3) and 3(e)(2)(b) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S. Code 826) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the 1986 aggregate production quotas for Schedules I and II controlled substances, expressed as grams of anhydrous acid or base, be established as follows:

Basic Class and established 1986 quotas:

Schedule I:	
Alfentanil	7,500
2,5-Dimethoxyamphetamine	10,500,000
Tetrahydrocannabionols	30,000
Schedule II:	
Alphaprodine	35,000
Amobarbital	1,743,000
Amphetamine	496,000
Cocaine	800,000
Codeine (for sale)	53,844,000
Codeine (for conversion)	3,657,000
Desoxyephedrine	1,300,000

1,178,000 grams for the production of levodesoxyephedrine for use in a noncontrolled, nonprescription product, and 122,000 grams for the production of methamphetamine.

Dextropropoxyphene	75,379,000
Dihydrocodeine	1,094,000
Diphenoxylate	600,000
Ecgonine (for conversion)	650,000
Fentanyl	5,000
Hydrocodone	1,788,000
Hydromorphone	201,000
Levorphanol	19,600
Meperidine	11,000,000
Methadone	1,459,000
Methadone Intermediate (4-Cyano-2-dimethyl-amino-4,4-diphenylbutane)	1,824,000
Methylphenidate	1,295,000
Mixed Alkaloids of Opium	10,000
Morphine (for sale)	1,407,000
Morphine (for conversion)	57,575,000
Opium (tinctures, extracts, etc. expressed in terms of USP powered opium)	1,705,000
Oxycodone (for sale)	1,966,000
Oxycodone (for conversion)	5,300
Oxymorphone	3,500
Pentobarbital	12,00,000
Phenmetrazine	0
Phenylacetone	1,135,000
Secobarbital	2,064,000
Sufentanil	600
Thebaine	7,941,000

DEA will review the above established quotas early in 1986 to take into consideration actual 1985 sales and actual December 31, 1985 inventories as well as other information which might be available to DEA. At that time, DEA will again consider those comments received in response to the proposal of October 1, 1985.

Dated: December 9, 1985.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 85-30642 Filed 12-26-85; 8:45 am

BILLING CODE 4410-09-M

Controlled Substances; Proposed 1986 Aggregate Production Quota for Methamphetamine (for conversion)

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of a Proposed 1986 Aggregate Production Quota.

SUMMARY: This notice proposes a 1986 aggregate production quota for methamphetamine (for conversion), a Schedule II controlled substance.

DATE: Comments or objections must be received on or before January 27, 1985.

ADDRESS: Send comments or objections in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attn: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act, (21 U.S.C. Code 826), requires that the Attorney General establish on an annual basis aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

An application has been made for a manufacturing quota for the Schedule II substance methamphetamine (for conversion). Methamphetamine will be

used to manufacture a Schedule III controlled substance.

The Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S. Code 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes the 1986 aggregate production quota for methamphetamine (for conversion) expressed in grams of anhydrous base.

Basic class	Proposed 1986 aggregate production quota (grams)
Methamphetamine (for conversion)	1,936,000

All interested persons are invited to submit comments or objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative, and must be received by January 27, 1986. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall cause such hearing to be convened pursuant to the provisions of Title 21 of the Code of Federal Regulations, § 1303.31(a).

Pursuant to sections (3)(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S. Code 601, et seq. The establishment of annual production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominantely upon major manufacturers of the affected controlled substances.

Dated: December 9, 1985.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 85-30643 Filed 12-26-85; 8:45 am]

BILLING CODE 4410-09-M

National Institute of Justice

Sponsored Research Programs; Publication of 1986 Program Plan

The National Institute of Justice announces the publication of its Program Plan for 1986, *Sponsored Research Programs.*

It outlines the Institute's criminal justice research agenda for which funds will be awarded, and provides application instructions and forms.

For a copy of the *Sponsored Research Programs,* write: National Institute of Justice/National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850, Attn: Program Plan or call: (800) 851-3420.

In Maryland and the Metropolitan Washington area, call: (301) 251-5500.

Dated: December 16, 1985.

James K. Stewart,

Director, National Institute of Justice.

[FR Doc. 85-30634 Filed 12-26-85; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

Correction

In the document beginning on page 51182 in the issue of Friday, December 13, 1985, make the following correction:

On page 51184, the file line was omitted and should have appeared as follows:

[FR Doc. 85-29402 Filed 12-12-85; 8:45 am]

BILLING CODE 1505-01-M

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions, Notice of New Publication Procedures

Correction

In the document appearing on page 51185 in the issue of Friday, December 13, 1985, make the following correction:

In the third column, the file line at the end of the document was inaccurate and should have read as follows:

[FR Doc. 85-28851 Filed 12-5-85; 8:45 am]

BILLING CODE 1505-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85-76]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's, supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by January 6, 1986. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Carl Steinmetz, NASA Agency Clearance Officer, Code NIM, NASA Headquarters, Washington, DC 20546; Michael Weinstein, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carl Steinmetz, NASA Agency Clearance Officer, (202) 453-1090.

Reports

Title: Tape Use Survey.
OMB Number: 2700-0012.
Type of Request: Revision.
Frequency of Report: On occasion.
Type of Respondent: Businesses or other for-profit, non-profit institutions, small-businesses or organizations.
Annual Responses: 580.
Annual Burden Hours: 174.

Abstract-Need/Uses: NASA produces audio and video tapes to report status on its programs and research underway. These tapes are mailed to TV and radio stations throughout the country for use as public service programming or as news features. The "post-card" report is

used to measure the effectiveness of the tapes and provides the date and time they were aired.

L.W. Vogel,

Director, Logistics Management and Information Programs Division.

[FR Doc. 85-30536 Filed 12-26-85; 8:45 am]

BILLING CODE 7510-01-M

[Notice 85-78]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Task Force on the Role of Man in Geostationary Orbit (GEO).

DATE AND TIME: January 20, 1986, 9 a.m. to 5 p.m.

ADDRESS: Fairchild Corporate Offices, 499 S. Capitol Street, SW, Suite 502, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-8335).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Task Force on the Role of Man in Geostationary Orbit was established under the NASA Advisory Council to provide counsel to NASA on the respective roles of manned and unmanned operations in geostationary orbit. It will also aid NASA in its efforts to understand the requirements for further space infrastructure. The Task Force, chaired by Dale Myers, has a total of 10 members. Visitors will be admitted to the meeting room up to its capacity, which is approximately 20 persons, including Task Force members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Open

Agenda:

January 20, 1986

9 a.m.—Discussion of Possible Scenarios.

5 p.m.—Adjourn.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 85-30538 Filed 12-26-85; 8:45 am]

BILLING CODE 7510-01-M

[Notice 85-77]

NASA Advisory Council (NAC), Space Applications Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronatutics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Applications Advisory Committee (SAAC).

DATE AND TIME: January 13, 1986, 1:30 p.m.-5 p.m., January 14, 1986, 8 a.m.-5 p.m., January 15, 1986, 8:30 a.m.-1 p.m.

ADDRESS: Jet Propulsion Laboratory (JPL), 4800 Oak Grove Drive, Room Nos. as noted in the agenda below, Pasadena, California 91101.

FOR FURTHER INFORMATION CONTACT: Dr. Dudley G. McConnell, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202) 453-1420.

SUPPLEMENTARY INFORMATION: The NAC Space Applications Advisory Committee consults with and advises the Council and NASA on plans for, work in progress on, and accomplishments of NASA's Space Applications programs. The Committee is chaired by Artur Mager and is composed of 34 members. The Committee operates both through a number of informal Subcommittees and as a whole. The agenda which follows includes all Committee and Subcommittee sessions. Each of the sessions will be open to the public up to the seating capacity of each room.

Type of meeting: Open.

Agenda:

Full Committee

January 14, 1986—Room 180-101

8 a.m. Opening Remarks.

8:15 a.m. Review of Agenda, Subcommittee Assignments, Approve Minutes.

8:30 a.m. Fiscal Year 1986/Fiscal Year 1987 Budget Impacts and Planning.

8:45 a.m. Full Committee Recess for Subcommittee Meetings.

January 15, 1986—Room 180-101

11 a.m. Full Committee Reconvenes for Subcommittee Reports.

12 Noon Full Committee Adjourns.

1 p.m. Meeting of Subcommittee Chairpersons to Outlilne Meeting Report to NASA.

Information Systems Subcommittee

January 13, 1986—Room 180-802

1:30 p.m. Review Subcommittee Activities and Plans for the Coming Year.

4:30 p.m. Adjourn.

January 14, 1986—Room 180-400

9 a.m. Teleconference Discussion by the Information Systems Office on Near-Term Planning of the Space and Applications Information Systems, and Earth Observing Information Systems.

10:30 a.m. Longer-Term Planning.

1 p.m. Review of JPL Information System Activities, including Advanced Digital Synthetic Aperture Radar Processor, Hypercube, Pilots, and so forth.

4:30 p.m. Adjourn.

January 15, 1986—Room 180-400

8:30 a.m. Formulate Report to NASA.

11 a.m. Adjourn to Reconvene with the Full Committee.

Remote Sensing Subcommittee

January 13, 1986—Room 180-400

1:30 p.m. Review of JPL Remote Sensing Research and Development (R&D).

Opening Remarks

Atmospheric Trace Molecules Observed by Spectroscopy (ATMOS) Spacelab-3 Results

Geology Research Program

Shuttle Imaging Radar Program

Imaging Spectrometer Program

Ocean Research Program

Scatterometer Development

Ocean Topography Experiment (TOPEX) Program Planning

Commercial Ocean Color Imager (OCI) Planning

5 p.m. Adjourn.

January 14, 1986—Room 180-101

9 a.m. Review of Policy Paper on NASA R&D Support for Private Operational Systems.

1:30 p.m. Review and Comment on NASA's Objectives for Earth Science and Applications.

January 15, 1986—Room 180-101

8:30 a.m. Final Editing of Policy Paper.

9:30 a.m. Formulated Recommendations and Earth Science and Applications Objectives.

11 a.m. Adjourn for Meeting of Full Committee.

Communications Subcommittee

January 14, 1986—Room 180-802

9 a.m. Briefing on Results of Recent Mobile Experimenters Meeting.

10 a.m. Review of Mobile Program at JPL.
1 p.m. Communications Program Update.
2 p.m. Discussion of Elements of the NASA Communications Program Plan.
5 p.m. Adjourn.

January 15, 1989—Room 180–802

8:30 a.m. Formulate Report to NASA.
11 a.m. Adjourn for Full Committee Meeting.

Microgravity Subcommittee

January 14, 1986—Room 180–501

9 a.m. Report of Spacelab Results.
Mercury Iodide Crystal Growth
Solution Crystal Growth
Drop Dynamic Module Results
Intensity and Spectra of Measured "g" Levels
Remarks on the Spacelab-3 Mission
1 p.m. Review "Nuggets" of Achievements.
4:30 p.m. Adjourn.

January 15, 1986—Room 180–501

8:30 a.m. Plan Report to NASA on Achievements.
11 a.m. Adjourn for Full Committee Meeting.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

December 20, 1985.

[FR Doc. 85–30537 Filed 12–26–85; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before January 27, 1985.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202–786–0233) or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202–395–7316).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202–786–0233) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agnecy form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Extension

Title: Division of Education Programs Review and Evaluation Process Letters and Forms
Form Number: ———
Frequency of Collection: Collections occur once or twice yearly, according to individual program application deadlines. (Once per application)
Respondents: Academic scholars—teachers, administrators
Use: Used by staff and reviewers to process applications submitted to the Endowment
Estimated Number of Respondents: 150
Estimated Hours for Respondents to Provide Information: 4

Title: Division of Education Programs Summary Report on Institute Participants (ES)
Form Number: ———
Frequency of Collection: Collections occur once or twice yearly, according to individual program application deadlines. (Once per application)
Repondents: Academic scholars—teachers, administrators.
Use: Provides NEH with statistical and other data on the participant composition of funded institutes for college and university teachers. This information is needed for program evaluation and planning
Estimated Number of Respondents: 25
Estimated Hours for Respondents to Provide Information: 4

Title: Division of Education Programs Summary Report on Institute Participants (EH)
Form Number: ———
Frequency of Collection: Collections occur once or twice yearly, according to individual program application deadlines. (Once per application)
Respondents: Academic scholars—teachers, administrators.
Use: Provides NEH with statistical and other data on the participant composition of funded institutes for college and university teachers. This information is needed for program evaluation and planning
Estimated Number of Respondents: 15
Estimated Hours for Respondents to Provide Information: 4

Title: Division of Education Programs Application Instructions
Form Number: ———
Frequency of Collection: Collections occur once or twice yearly, according to individual program application deadlines. (Once per application)
Respondents: Academic scholars—teachers, administrators.
Use: These application instructions provide direction for preparing narrative and budgetary parts of applications for grant funds and request additional information regarding grants recently received by applicant
Estimated Number of Respondents: 275
Estimated Hours for Respondents to Provide Information: 4

Title: Division of Education Programs Application Instructions
Form Number: ———
Frequency of Collection: Collections occur once or twice yearly, according to individual program application deadlines. (Once per application)
Respondents: Academic scholars—teachers, administrators.
Use: The guidelines and application instructions provide directions for preparing narrative and budgetary parts of application for grant funds
Estimated Number of Respondents: 25
Estimated Hours for Respondents to Provide Information: 4

Susan Metts,

Acting Director of Administration.

[FR Doc. 85–30624 Filed 12–26–85; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Availability of Final Generic Technical Position in High-Level Waste Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of the "Generic Technical

Position on Design Information Needs in the Site Characterization Plan."

ADDRESSES: This document is available for public inspection and coping at the U.S. Nuclear Regulatory Commission, Public Document Room, 1717 H Street, NW., Washington, DC 20555, Telephone 202/634-3273.

FOR FURTHER INFORMATION CONTACT: David Tiktinsky, Engineering Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 427-4649.

SUPPLEMENTARY INFORMATION: The Nuclear Waste Policy Act (NWPA) of 1982 (Pub. L. 97-425) and the Commission regulation 10 CFR Part 60 promote interaction between the Department of Energy (DOE) and the NRC prior to submittal of a license application for a geologic repository. These interactions are to fully inform the DOE about the level of information that be must provided in a license application to allow a licensing decision to be made by the NRC.

The principal mechanism for providing guidance to the DOE is completion by the NRC staff of Site Characterization Analysis (SCA's) which document staff reviews of the DOE Site Characterization Plans (SCP's) submitted according to the NWPA and 10 CFR Part 60. Additional means have been developed to supplement the guidance provided in the SCA's. These include staff technical positions on both generic and site specific issues. Generic Technical Positions (GTP's) establish the staff's position on broad technical issues that would be applicable to any site. Site Technical Positions (STP's) establish the staff's position on a site specific technical issue. A number of GTP's will be developed by the staff to establish lists of generic issues or information requirements for sites being investigated by the DOE.

On April 12, 1985, the Nuclear Regulatory Commission published for comment a draft version of the "Generic Technical Position on Design Information Needs in the Site Characterization Plan" (50 FR 14479). Changes and clarifications have been made in the final Generic Technical Position as a result of comments received. Copies of comments may be examined in the U.S. Nuclear Regulatory Commission Public Document Room,—1717 H Street NW., Washington, DC.

Section 113(b) of the NWPA requires the DOE to include in its plan for site characterization a conceptual geologic repository design that takes into account likely site-specific requirements. This GTP provides guidance to the DOE on what type and level of design information the NRC staff considers necessary for inclusion in the Site Characterization Plans to enable the NRC to fulfill its NWPA responsibilities. The GTP identifies the information that is needed by the NRC pertaining to the aspects of the design and the site that contribute to meeting the performance objectives and design criteria of 10 CFR Part 60. The design information in the Site Characterization Plans needs to be presented in sufficient detail to allow the NRC to make a determination about the completeness and relevancy of planned site characterization activities. This GTP summarizes guidance which has been given to the DOE through technical correspondence, documented technical meetings, and other mechanisms provided by the NRC/DOE Procedural Agreement (48 FR 38701, dated 8/25/83).

Dated at Silver Spring, Maryland, this 19 day of Dec 1985.

For the Nuclear Regulatory Commission.

Hubert J. Miller,

Chief, Repository Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 85-30679 Filed 12-26-85; 8:45 am]

BILLING CODE 01-7590-M

Availability of Final Generic Technical Position in High-Level Waste Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of the "Generic Technical Position on In Situ Testing During Site Characterization for High-Level Nuclear Waste Repositories."

ADDRESSES: This document is available for public inspection and copying at the U.S. Nuclear Regulatory Commission, Public Document Room, 1717 M Street, NW, Washington, DC 20555, telephone 202/634-3273.

FOR FURTHER INFORMATION CONTACT: Dr. Mysore Nataraja, Section Leader, Engineering Branch, Division of Waste Management, U.S Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/427-4319.

SUPPLEMENTARY INFORMATION: The Nuclear Waste Policy Act of 1982 (NWPA) (Pub. L. 97-425) and the Commission regulation 10 CFR Part 60 promote interaction between the Department of Energy (DOE) and NRC prior to submittal of a license application for a geologic repository. These interactions are to fully inform DOE about the level of information that must be provided in a license application to allow a licensing decision to be made by NRC.

The principal mechanism for providing guidance to the DOE is completion by the NRC staff of Site Characterization Analyses (SCA) which document staff reviews of DOE Site Characterization Plans (SCP) submitted according to the NWPA and 10 CFR Part 60. Additional means have been developed to supplement the guidance provided in the SCA's. These include staff technical positions on both generic and site specific issues. Generic Technical Positions (GTP) establish the staff's position on broad technical issues that would be applicable to any site. Site Technical Positions establish the staff's position on a site specific technical issue. A number of GTP's will be developed by the staff to establish lists of generic issues or information requirements for sites being investigated by DOE.

On October 10, 1984, the NRC published for comment a draft version of the "Generic Technical Position on In Situ Testing During Site Characterization for High-Level Nuclear Waste Repositories" (49 FR 39763). Public comment on the draft version was received from ten groups and individuals. Changes and clarifications have been made in the final GTP as a result of comments received. Copies of comments may be examined in the U.S. Nuclear Regulatory Commission Public Document Room—1717 H Street, NW, Washington, DC 20555.

Section 113(b) of NWPA requires the DOE to include plans for on-site testing in its plans for site characterization. This GTP provides guidance to DOE on the kind of in situ testing the staff considers necessary for inclusion in the SCP's to enable the NRC to fulfill its NWPA responsibilities. Before submitting a license application, sufficient in situ testing at depth on the host rock, coupled with surface based and laboratory investigations, must be performed to support determinations on whether or not technical criteria of 10 CFR 60 have been met. The intent of the GTP is to provide guidance to the DOE that is applicable throughout the site characterization period. In situ testing is essential to assess the suitability of a geologic repository site for hosting high-level nuclear waste and to provide realistic input parameters fore the repository design. The GTP summarizes guidance which has been given to DOE through technical correspondence, documented techincal meetings, and other mechanisms provided by the

NRC/DOE Procedural Agreement (48 FR 38701, dated August 25, 1983). The plans for in situ exploration and testing program must be addressed in the SCP's for each site.

Dated at Silver Spring, Maryland, this 20 day of December 1985.

For the Nuclear Regulatory Commission.

Hubert J. Miller,

Chief, Repository Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 85-30680 Filed 12-26-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendmen ts to facility Operating License Nos. NPF-10 and NPF-15, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riversie, California and The City of Anaheim, California (the licensees), for operation of the San Onofre Nuclear Generating Station, Units 2 and 3 located in San Diego County, California.

The amendments would revise the technical specifications relating to the allowable range for the moderator temperature coefficient (reference PCN-213). The proposed amendments were requested by the licensee's letters of November 27, and December 10, 1985.

Before issuance of the proposed license amendments, the Commission will hae made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendments involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facilities in accordance with the proposed amendments would not (1) invole significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain example (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. Example (vi) relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan; for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. The proposed change is similar to this example of 48 FR 14870.

The proposed change revises Technical Specification 3/4.1.1.3, "Moderator Temperature Coefficient". Technical Specification 3/4.1.1.3 defines limitations on moderator temperature coefficient (MTC) to ensure that the assumptions used in the accident and transient analyses remain valid through each fuel cycle. The surveillance requirements for measurement of the MTC during each fuel cycle are performed to confirm the MTC value since this coefficient changes slowly due principally to the reduction in reactor coolant system (RCS) boron concentration associated with fuel burnup. The confirmation that the measured MTC value is within its limit provides assurances that the coefficient will be maintained within acceptable values throughout each fuel cycle.

Technical Specification 3/4.1.1.3 currently states that the moderator temperature coefficient shall be less negative than -2.5×10^{-4} delta k/k °F at rated thermal power. This limit is based on transient analysis of overcooling events, in which a more negative MTC results in a more severe transient. The MTC normally becomes more negative during an operating cycle, primarily because boron is progressively removed from the moderator to compensate for fuel burnup. However, recent mid-cycle measurements of MTC at San Onofre Unit 2 have indicated that the MTC is becoming more negative faster than predicted. This is predicted to result in the existing technical specification limit being exceeded before the end of the cycle. The licensees have re-examined the transient analysis used to set the lower MTC limit and have found that the analysis was in error. Specifically, the reactivity uncertainty associated with CEA worth was included twice in the analysis, rather than once. Correction of this error results in a change in the lower limit on MTC from -2.5×10^{-4} to -3.0×10^{-4} delta k/k °F at rated power. Consequently, SCE has proposed to change TS 3.4.1.1.3 to reflect the revised lower limit.

The proposed change is similar to Example (vi) of 48 FR 14870 in that the change in limiting Moderator Temperature Coefficient is a reduction in a margin of safety, but the results of the change are within the guidelines of the Standard Review Plan (SRP), Section 4.3, "Nuclear Design." This change does not make changes in analytical methods or results of analyses previously found to be acceptable by the NRC and used to demonstrate conformance with the regulations. Furthermore, a re-evaluation of the most limiting transient shows that the present safety analyses remain valid and bounding. Thus, the proposed change to relax the Technical Specification MTC limit is compensated for by the removal of an erroneous CEA rod worth uncertainty and does not change the overall conclusion of the present safety analyses.

Because the proposed change is similar to Example (vi) of 48 FR 14870, the NRC staff proposes to determine that the change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch.

By January 27, 1986 the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing

Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment requests involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800 Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petitioner and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the applications for amendments which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672.

Dated at Bethesda, Maryland, this 20th day of December 1985.

For the Nuclear Regulatory Commission.

George W. Knighton,

Director, PWR Project Directorate No. 7, Division of PWR Licensing–B.

[FR Doc. 85-30082 Filed 12-26-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Nuclear Regulatory Commission; Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on January 9–11, 1986, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the **Federal Register** on December 16, 1985.

Thursday, January 9, 1986

8:30 A.M.–9:00 A.M.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

9:00 A.M.–10:30 A.M. Recent Operating Events at Nuclear Facilities (Open/Closed)—The members will hear and discuss the reports of its subcommittee and representatives of the NRC Staff regarding recent incidents and accidents at nuclear power plants.

Portions of this session will be closed as needed to discuss Proprietary Information and detailed security arrangements applicable to the project being discussed.

10:45 A.M.–11:45 A.M.: Security Provisions at Nuclear Power Plants (Open)—The members will hear reports on and discuss proposed revisions to the NRC regulations to preclude sabotage of nuclear facilities by "inside" personnel.

11:45 A.M.–12:15 P.M.: Future Activities (Open)—The members will discuss anticipated subcommittee activities and items proposed for consideration by the full Committee.

1:15 P.M.–3:15 P.M.: NRC Reactor Safety Research Program (Closed)—The members will discuss proposed ACRS comments and recommendations regarding the proposed NRC Safety Research Program for Fiscal Year 1987.

This portion of the meeting will be closed to discuss information the

premature release of which is likely to significantly frustrate the agency in the performance of its statutory function.

3:30 P.M.–4:30 P.M.: General Electric Standard Safety Analysis Report (GESSAR II) (Open/Closed)—The members will discuss proposed comments and recommendations regarding the request for an FDA for this type of standardized plant.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

4:30 P.M.–6:00 P.M.: ACRS Subcommittee Activities (Open)—Chairmen and members of designated ACRS subcommittees will discuss the status of activities regarding safety-related regulatory matters, including the handling and disposal of radioactive wastes, characteristics of standard plant designs, and ACRS procedures and practices for the conduct of ACRS activities.

Friday, January 10, 1986.

8:30 A.M.–9:30 A.M.: Activities of the Office of Nuclear Reactor Regulation (Open)—The members will hear a report regarding the activities of the NRC Office of Nuclear Reactor Regulation.

9:30 A.M.–10:45 A.M.: Davis-Besse Nuclear Power Station, Unit 1 (Open)—The members will hear and discuss a report by representatives of the NRC Staff regarding the status of the review for restart of the Davis-Besse Nuclear Power Station following a loss of all feedwater incident. Representatives of the licensee will participate, as appropriate.

11:00 A.M.–12:00 Noon and 1:00 P.M.–1:45 P.M.: Reorganization of TVA Nuclear Activities (Open)—The members will hear a report by representatives of the NRC Staff regarding the status of the reorganization of TVA nuclear power activities. Representatives of the Applicant will participate, as appropriate.

1:45 P.M.–3:15 P.M.: Reactor Pressure Vessel Integrity (Open)—The members will hear and discuss reports of a consultant and an ACRS Fellow regarding the pressurized thermal shock of reactor pressure vessels.

3:30 P.M.–4:15 P.M.: General Electric Standard Safety Analysis Report (GESSAR II) (Open/Closed)—The members will discuss proposed ACRS comments and recommendations regarding the request for an FDA for this type of standardized nuclear plant.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility.

4:15 P.M.–6:00 P.M.: NRC Safety Research Program (Closed)—The members will continue the discussion of the proposed NRC safety research program for FY 1987.

This portion of the meeting will be closed to discuss information the release of which is likely to significantly frustrate the agency in the performance of its statutory functions.

6:00 P.M.–6:30 P.M.: ACRS Subcommittee Activities (Open)—The members will hear reports of and discuss the activities of designated subcommittees with respect to safety-related matters, including the pre- and post-operational inspections of nuclear power facilities and the resolution of allegations with respect to nuclear power plant design and construction.

Saturday, January 11, 1986

8:30 A.M.–12:30 P.M. and 1:30 P.M.–3:30 P.M.: Preparation of ACRS Reports to the NRC and the U.S. Congress (Open/Closed)—The members will prepare reports to the Nuclear Regulatory Commission and the U.S. Congress regarding topics considered during this meeting and items considered during the 308th ACRS meeting with respect to the General Electric Standard Safety Analysis Report (GESSAR II), the state of nuclear power plant safety, proposed operation of the Palo Verde Nuclear Generating Station, and the Indian Point Nuclear Generating Station.

Portions of this session will be closed, as necessary, to discuss Proprietary Information or detailed security information applicable to the project being discussed and to discuss information the premature release of which would be likely to significantly frustrate the ability of the agency to perform its statutory function.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1985 (50 FR 191). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), detailed security information (5 U.S.C. 552b(c)(3)), and information the release of which would significantly frustrate the agency in the performance of its statutory function (5 U.S.C. 552b(c)(9)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m.

Dated: December 20, 1985.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 85–30563 Filed 12–26–85; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Safeguards and Security; Meeting

The ACRS Subcommittee on Safeguards and Security will hold a meeting on January 7, 1986, Room 1167, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, January 7, 1986—3:00 p.m. Until 5:30 p.m.

The Subcommittee will review and discuss SECY–85–381, "Inside Safeguards Rules," and related issues.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; Written statements will be accepted and made available to the Committee; Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring

to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. John Schiffgens (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: December 19, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–30564 Filed 12–26–85; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Combined Subcommittees on Waste Management and Reactor Radiological Effects; Meeting

The ACRS Subcommittees on Waste Management and Reactor Radiological Effects will hold a combined meeting on January 15, 16, and 17, 1986, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, January 15, 1986—8:30 a.m. until the conclusion of business

Thursday, January 16, 1986—8:30 a.m. until the conclusion of business

Friday, January 17, 1986—8:30 a.m. until the conclusion of business

The Subcommittees will review: (1) EPA's Low-Level Waste Standards (currently being developed), (2) Proposed Revision of 10 CFR 20, Standards for Protection Against Radiation, including the supporting AIF/NESP effort, (3) other topics in support of NMSS/WM High-Level Waste Management Program, (4) the organization, role, and activities of the Committee on Interagency Radiation Research and Policy Coordination (CIRRPC), and (5) waste management and radiation protection research.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to resent oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Owen S. Merrill (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: December 19, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–30565 Filed 12–26–85; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.153, "Criteria for Power, Instrumentation, and Control Portions of Safety Systems," describes a method acceptable to the NRC staff for complying with the Commission's regulations with respect to the design, reliability, qualification, and testability of the power, instrumentation, and control portions of safety systems of nuclear power plants. This guide endorses, with certain exceptions and modifications, IEEE Std 603–1980, "Criteria for Safety Systems for Nuclear Power Generating Stations."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Documents Room, 1717 H Street NW., Washington, DC. Copies of active guides may be purchased at the current Government Printing Office price. Information on current prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082, telephone (202) 275–2060 or (202) 275–2171.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 19th day of December 1985.

For the Nuclear Regulatory Commission.

Denwood F. Ross,

Deputy Director, Office of Nuclear Regulatory Research.

[FR Doc. 85–30681 Filed 12–26–85; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Agreement of Government Procurement; Value of Special Drawing Rights

Under the authority delegated to the United States Trade Representative by section 1–104 of Executive Order 12260, I hereby determine that, effective on January 1, 1986, the dollar equivalent of 150,000 Special Drawing Right units referred to in the Agreement on Government Procurement is $149,000.

The Trade Representative may modify this determination as appropriate.

Alan Woods,

Acting United States Trade Representative.

[FR Doc. 85-30723 Filed 12-26-85; 8:45 am]

BILLING CODE 3190-01-M

PRESIDENT'S ECONOMIC POLICY ADVISORY BOARD

Meeting; January 23, 1986

The President's Economic Policy Advisory Board will meet on January 23, 1986, at the White House, Washington, D.C. from, 9:00 a.m. to 1:00 p.m. The purpose of this meeting is to review and discuss:

Economic Outlook for 1986
The Budget Process
Debt Problems—International and Domestic

All agenda items concern matters listed in section 552b(c) of Title 5, United States Code, specifically sub-paragraphs (1), (4), (8) and (9) thereof, and will be closed to the public.

For further information, please contact the Office of Policy Development, the White House, at (202) 456-6515.

John A. Svahn,

Assistant to the President for Policy Development.

[FR Doc. 85-30754 Filed 12-26-85; 8:45 am]

BILLING CODE 3195-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, and Information Services, Washington, DC 20549.

Extension

Rule 6c-7 [17 CFR 270.6c-7], File No. 270-269

Rule 11a-2 [17 CFR 270.11a-2], File No. 270-267

Rule 204-3 [17 CFR 275.204-3], File No. 270-42

Rule 0-2 [17 CFR 275.0-2], File No. 270-214

Form 4-R [17 CFR 279.4], File No. 270-214

Form 5-R [17 CFR 279.5], File No. 270-214

Form 6-R [17 CFR 279.6], File No. 270-214

Form 7-R [17 CFR 279.7], File No. 270-214

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval the following: under the Investment Company Act of 1940, Rule 6c-7, Texas ORP Exemptive Relief, and Rule 11a-2, Offers of Exchange Not Requiring Commission Approval, and, under the Investment Advisers Act of 1940: Rule 204-3, Written Disclosure Statements; Rule 0-2, Consent to Service of Process to be Furnished by Non-resident Investment Advisers and by Non-resident General Partners or Managing Agents of Investment Advisers; and Forms 4-R, 5-R, 6-R, and 7-R, Irrevocable Appointments of Agent for Service of Process, Pleadings and Other Papers, by Individual Non-resident Investment Advisers, and Non-resident General Partners of Investment Advisers, Respectively.

Comments should be submitted to OMB Desk Officer: Sheri Fox, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

John Wheeler,

Secretary.

December 18, 1985.

[FR Doc. 85-30693 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549.

Extension of Approval
Form 10-K
No. 270-48

Notice is hereby given that pursuant to the Paperwork Reduction Action of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Form 10-K (17 CFR 249.310) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) which requires corporations which issue publicly-traded securities to file with the Commission material information concerning their financial condition and business operations. The number of affected entities are approximately 8,799 a year.

Submit comments to OMB Desk Officer: Ms. Sheri Fox, (202) 395-3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, DC 20503.

John Wheeler,

Secretary.

December 20, 1985.

[FR Doc. 85-30700 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549.

Extension of Approval
Regulation A and Forms 1-A, 2-A, 3-A, 4-A, 5-A, 6-A, and 7-A.
No. 270-110

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Regulation A (17 CFR 230.251-264, and Forms 1-A, 2-A, 3-A, 4-A, 5-A, 6-A, and 7-A (17 CFR 239.90-96) which provides a general exemption from the registration provisions of the Securities Act of 1933 and may be used by certain issuers to raise up to $1.5 million during any 12 month period. The number of affected entities are approximately 176 per year.

Submit comments to OMB Desk Office: Ms. Sheri Fox, (202) 395-3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, DC 20503.

John Wheeler,

Secretary.

December 20, 1985.

[FR Doc. 85-30702 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-14530]

Application and Opportunity for Hearing; Chesebrough-Pond's Inc.

December 19, 1985.

Notice is hereby given that Chesebrough-Pond's Inc., a New York corporation (the "Company"), has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Citibank, N.A. ("Citibank") under (i) the indenture of the Company dated as of July 15, 1980 (the "1980 Indenture") and (ii) the indenture of Chesebrough-Pond's

Finance Corporation, a Connecticut corporation ("Finance Corporation"), dated as of May 15, 1985 (the "May 1985 Indenture") and the trusteeship of Citibank under the indenture of the Company dated as of October 10, 1985 (the "October 1985 Indenture") is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as trustee under the 1980 or May 1985 Indenture. The 1980 and May 1985 Indentures were heretofore qualified under the Act.

In support of its application the Company alleges that:

1. The Company has outstanding as of November 22, 1985 $100,000,000 aggregate principal amount of its 10½% Notes due 1991 (the "10½% Notes") issued under the October 1985 Indenture between the Company and Citibank. Inasmuch as the 10½% Notes were offered and sold outside the United States, its territories and possessions to non-U.S. persons, the 10½% Notes were not registered under the Securities Act of 1933, as amended (the "Securities Act"), and the October 1985 Indenture was not qualified under the Act.

2. The Company has outstanding as of November 22, 1985 $69,200,000 aggregate principal amount of its 10⅝% Notes due July 15, 1990 (the "10⅝% Notes") issued under the 1980 Indenture between the Company and Morgan Guaranty Trust Company of New York ("Morgan Guaranty"). Morgan Guaranty was subsequently succeeded by Citibank as successor trustee under the 1980 Indenture. the 10⅝% Notes were registered under the Securities Act (File No. 2-68426), and the 1980 Indenture was qualified under the Act (File No. not available).

3. Finance Corporation has outstanding as of November 22, 1985 $50,000,000 aggregate principal amount of its Extendible Notes due May 15, 2000 (the "Extendible Notes") issued under the May 1985 Indenture among Finance Corporation, Citibank and the Company, as Guarantor. The Extendible Notes were registered under the Securities Act (File No. 2-91351), and the May 1985 Indenture was qualified under the Act (File No. not available).

4. Portions of the 1980 and May 1985 Indentures substantially conform to section 310(b)(1) of the Act which, with exceptions, prohibits service by a trustee under two indentures of one obligor, unless an order under section 310(b)(1)(ii) of the Act is obtained.

5. Execution of the October 1985 Indenture may involve Citibank in a conflict of interest within the meaning of section 7.08 of the 1980 Indenture and section 608 of the May 1985 Indenture since the October 1985 Indenture has not been qualified under the Act and is not the subject of any other proceeding of the Commission.

6. The Company's obligations with respect to the 10⅝% Notes, the Extendible Notes and the 10½% Notes are wholly unsecured and rank on parity with each other. The only material differences between the provisions of the 1980 and May 1985 Indentures and the October 1985 Indenture, and between the rights of holders of the 10⅝% Notes and the Extendible Notes and the holders of the 10½% Notes, relate to the fact that the Company is the Guarantor with respect to the Extendible Notes but is the primary obligor under the 1980 and October 1985 Indentures, and also relate to the aggregate principal amounts, dates of issue, events of default, maturity and interest payment dates, interest rates, redemption provisions, sinking fund provisions, Trustee's reports, restrictions on transferability provisions relating to the non-United States offering of the 10½% Notes, and other provisions of a similar nature. Any such differences and any other differences in the provisions of the 1980 and May 1985 Indentures and the October 1985 Indenture are unlikely to cause any conflict of interest among the respective trusteeships of Citibank under said Indentures.

7. The Company is not in default under the 1980, May 1985 or October 1985 Indenture.

8. The Company has waived (a) notice of hearing, (b) hearing on the issues of its application and (c) all rights to specify procedures under the Commission's Rules of Practice with respect to the application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after January 14, 1986, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Act. Any interested person may, not later than January 13, 1986 at 5:30 p.m., Eastern Standard Time, in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-30703 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-14459]

Application and Opportunity for Hearing; Commercial Credit Company

December 19, 1985.

Notice is hereby given that Commercial Credit Company (the "Applicant") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the successor trusteeship of J. Henry Schroder Bank & Trust Company ("Schroder") under an indenture dated February 15, 1972 (File No. 22-7023) of the Applicant, which was qualified under the Act, and the proposed successor trusteeship of Schroder under another indenture dated October 15, 1976 (File No. 22-9004) qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting as successor trustee under either of the Applicant's indentures.

Section 310(b) of the Act provides in part that, if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, that with certain exceptions, a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under such qualified indenture and such

other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. The Applicant had outstanding as of November 7, 1985 $75,000,000 of its 7¾% Notes due February 15, 1992 (the "7¾% Notes") issued under an indenture dated as of February 15, 1972 (the "1972 Indenture"), between the Applicant and Bankers Trust Company, as trustee ("Bankers Trust") which was qualified under the Act. The 7¾% Notes were registered under the Securities Act of 1933.

2. The Applicant had outstanding as of November 7, 1985 $100,000,000 of its 8.35% Notes due October 15, 1986 (the "8.35% Notes") issued under an indenture dated as of October 15, 1976 (the "1976 Indenture") between the Applicant and The First National Bank of Chicago, as trustee ("First Chicago") which was qualified under the Act. The 8.35% Notes were registered under the Securities Act of 1933. The 1972 Indenture and the 1976 Indenture each contain the provisions required by section 310(b)(1)(ii) of the Act. (Section 9.04 of Indentures.)

3. On February 28, 1985 Schroder was appointed successor trustee to Bankers Trust under the 1972 Indenture.

4. The Applicant desires to appoint Schroder to act as successor trustee under the 1976 Indenture.

5. The Applicant is not in default under either of the Indentures.

6. The Applicant's obligations under the indentures and the notes issued thereunder are wholly unsecured and rank *pari passu inter se*. There are no material differences between the 1972 Indenture and the 1976 Indenture. There are only variations as to aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates and redemption provisions.

7. In the opinion of the Applicant, the provisions of the aforementioned indentures are not so likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any holder of any of the notes issued under such indentures to disqualify Schroder from acting as successor trustee under either the 1972 or the 1976 Indenture.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practices of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all person are referred to said application, File No. 22-14459, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than January 13, 1986, submit to the Commission his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporate Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-30704 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14860; File No. 812-6159]

Application and Opportunity for Hearing; Equitable Variable Life Insurance Company, et al.

December 18, 1985.

Notice is Hereby given that Equitable Variable Life Insurance Company ("EVLICO"), Separate Account FP of EVLICO ("Account FP"), Separate Account I of EVLICO ("Account I"), Integrity Life Insurance ("Integrity"), The Hudson River Fund, Inc. (the "Fund"), Equitable Investment Management Corporation ("EIMC"), The Equitable Life Assurance Society of the United States ("Equitable"), 1285 Avenue of The Americas, New York, New York 10014, and certain life insurance companies and their separate accounts investing in the Fund (together, "Applicants") filed an application, on July 23, 1985, and amendments thereto, on November 8, and December 13, 1985, for an order of the Securities and Exchange Commission ("Commission"), pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicants from the provisions of sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e-2(b)(15), 6e-3(T)(b)(15), 6e-3(T)(c)(1) and 6e-3(T)(c)(2), to the extent necessary, as described in the application, (1) to permit shares of the Fund to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies, (2) to permit allocation of amounts provided for investment under certain flexible premium variable life insurance contracts ("Contracts") issued by Account FP to EVLICO's general account, and (3) to permit a disability waiver insurance rider as an incidental insurance benefit.

The Fund is an open-ended management company of the series type organized under Maryland law. EIMC and Integrity are co-advisers to the Fund. Applicants state that the Fund currently serves as the underlying investment medium for single and scheduled premium variable life insurance contracts issued by Account I, and is expected to serve as the underlying investment medium for flexible premium variable life insurance contracts issued by Account FP. Both Account I and Account FP are separate accounts of EVLICO and are registered under the Act as unit investment trusts.

(1) Mixed and Shared Funding

The Fund proposes to offer its shares to other separate accounts which issue either variable annuity contracts or scheduled or flexible premium variable life insurance contracts (together, "variable life"). These separate accounts will be separate accounts of other affiliated or unaffiliated insurance companies ("Participating Insurance Companies"). (The use of a common management company as the investment medium of both variable annuities and variable life insurance is referred to herein as "mixed funding". The use of a common management company as the investment medium for separate accounts of unaffiliated insurance company is referred to herein as "shared funding.")

Rules 6e-2 and 6e-3(T) under the Act provide certain exemptions from the Act in order to permit insurance company separate accounts to issue variable life insurance. Rule 6e(2)(b)(15), however, precludes mixed and shared funding, and Rule 6e-3(T)(b)(15) precludes shared funding. Applicants propose that the requested relief extend to a class consisting of life insurers and variable life separate accounts investing in the Fund (and principal underwriters and depositors of such separate accounts) which would otherwise be precluded from investing in the Fund by virtue of the Fund offering its shares to variables annuity separate accounts or unaffiliated separate accounts.

Applicants assert that granting the request for relief to engage in mixed and

shared funding will benefit variable contractowners by: (1) Eliminating a significant portion of the costs of establishing and administering separate funds; (2) allowing for the development of larger pools or assets resulting in greater cost efficiencies; and (3) encouraging more insurance companies to offer variable contracts, which should result in increased competition and lower contract charges. Applicants state that the Fund will not be managed to favor or disfavor any particular insurer or type of insurance product.

(a) Disqualification

Applicants request relief from section 9(a) and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) to the extent necessary to permit mixed and shared funding; *i.e.*,

Applicants propose that the relief granted by paragraphs (b)(15) of Rule 6e-2 and Rule 6e-(T) from section 9(a) be extended to a class of insurance companies and variable life separate accounts which may use to Fund as an investment medium to fund variable life insurance contracts, subject to the conditions regarding conflicts set out in the appication and summarized *infra*. In support of this request for relief, Applicants assert that the same policies that led the Commission to limit the provisions of section 9(a) to those employees of the insurance company engaged in managing the separate account are applicable to insurance companies and their separate accounts that are funded by a fund offering mixed and shared funding. Thus, Applicants argue that there is no regulatory purpose to apply the provisions of section 9(a) to the many employees of the insurance companies whose separate accounts may utilize the Fund as a funding medium for variable life insurance contracts. Moreover, Applicants submit that applying the requirements of section 9(a) in such cases would increase the costs of monitoring for compliance with that section, which would reduce the net rates of return realized by contractowners.

(b) Voting

Applicants request relief from sections 13(a), 15(a) and 15(b) of the act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder to the extent necessry to permit mixed and shared funding *i.e.*, Applicants propose that the relief granted by paragraphs (b)(15) of Rule 6e-2 and 6e-3(T) from sections 13(a), 15(a), and 15(b) be extended to a class of insurance companies and variabe life separate accounts which may use the Fund as an investment medium to fund variable life contracts, subject to the conditions regarding conflicts set out in the application and summarized *infra*.

In support of this request for relief, Applicants state that all variable annuity and variable life contractowners will be provided pass-through voting rights with respect to Fund shares. Because paragraphs (b)(15) of both Rule 6e-2 and Rule 6e-3(T) permit the insurance company to disregard these voting instructions in certain limited circumstances, Applicants acknowledge that this may cause an irreconcilable conflict to develop among the separate accounts. Applicants propose to resolve these potential conflicts through certain undertakings it proposes as conditions to receipt of exemptive relief set out *infra*. Thus, according to Applicants, if a particular insurance company's disregard of voting instructions conflicted with a majority of contractowners' voting instructions, or precluded a majority vote, the insurer may be required, at the Fund's election, to withdraw its separate account's investments in the Fund.

(c) Conditions

Applicants state that they will comply with certain conditions set forth in the application, which are summarized as follows: (1) A majorty of the board of directors of the Fund ("board") shall consist of persons who are not interested persons of the Fund, as defined by the Act. (2) The board will monitor the Fund for the existence of any material irreconcilable conflict between the interests of the contractowners of all separate accounts investing in the Fund. An irreconcilable material conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any series are being managed; (e) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners; or (f) a decision by an insurer to disregard the voting instructions of contractowners. (3) Participating Insurance Companies will report any potential or existing conflicts to the Fund's board. Participating Insurance Companies will be responsible for assisting the board in carrying out its responsibilities by providing the board with all information reasonably necessry for the board to consider any issues raised. The responsibility to report such information and conflicts and to assist the board will be a contractual obligation of all insurers investing in the Fund under their agreements governing participation in the Fund. (4) If it is determined by a majority of the board of the Fund, or a majority of its disinterested directors, that a material irreconcilable conflict exists, the relevant insurance companies shall, at their expense, take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, which steps could include: (a), withdrawing the assets allocable to some or all of the separate accounts from the Fund or any series and reinvesting such assets in a different investment medium, including another series of the Fund, or submitting the question of whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any particular group (*i.e.*, annuity contractowners, life insurance contractowners, or variable contractowners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (b), establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard contractowner voting instructions and that decision represents a minority position or would preclude a majority vote, the insurer may be required, at the Fund's election to withdraw its separate account's investment in the Fund, and no charge or penalty will be imposed against a separate account as a result of such a withdrawal. The responsibility to take remedial action in the event of a board determination of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in the Fund, and these responsibilities will be carried out with a view only to the interests of contractowners. For purposes of this condition 4, a majority of the disinterested members of the board shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Fund be required to establish a new funding medium for any variable contract. No Participating Insurance Company shall be required by this condition 4 to establish a new

funding medium for any variable contract if an offer to do so has declined by vote of a majority of affected contractowners. (5) The board's determination of the existence of an irreconcilable material conflict and its implications shall be made know promptly to all Participating Insurance Companies. (6) Participating Insurance Companies shall provide pass-through voting privileges to all variable contractowners so long as the Commission continues to interpret the Act to require pass-through voting privileges for variable contractowners. Participating Insurance Companies shall be responsible for assuring that each of their separate accounts participating in the Fund calculates voting privileges in a manner consistent with other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the Fund shall be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in the Fund. (7) All reports received by the board of potential or existing conflicts, determining the existence of a conflict, notifying Participating Insurance Companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

(2) General Account

Applicants request an exemption from Rule 6e–3(T)(c)(1) to the extent necessary to permit the allocation of premiums and transfers of cash value under the Contracts to EVLICO's general account. Applicants represent that no charges are deducted from cash value held in the general account that are not also deducted from cash value held in the separate account unless the contractowner directs a deduction to be allocated only to the general account. Applicants assert that such exemption is consistent with prior administration of Rule 6e–2 in the context of allocations of loans to general accounts of insurance companies under scheduled premium variable life insurance contracts. Applicants further assert that such exemption is consistent with Commission practice in declaring effective registration statements for variable annuity contracts providing for allocations to general accounts. Applicants have been advised and understand that any Commission order granting exemptive relief in this regard will not constitute a judgment of the Commission as to the impropriety of registration or nonregistration of either interests in the General Account as securities under the Securities Act of 1933 or the General Account as an investment company under the Act.

(3) Definition of "Incidental Insurance Benefits"

Applicants request exemption from Rule 6e–3(T)(c)(2) to the extent that the disability waiver of premium insurance ("Rider") may be deemed not to meet the definition of "incidental insurance benefits" in that rule, with the result that charges therefor may be deemed to be "sales load" by implication of Rule 6e3(T)(c)(4)(vii). The Rider provides that, in the event of disability of the insured, as defined therein, EVLICO will waive the Monthly Deduction (covering the cost of insurance, the costs of any benefits provided by riders and the monthly administrative charge under a Contract) during the period of disability. The Monthly Deduction can vary with the investment experience of Account FP in certain respects. Nevertheless, Applicants state that the benefit, *i.e.*, the waiver of the Monthly Deduction, is a fixed benefit in its most significant respect and is incidental in nature. Moreover, Applicants state that it is within the Commission's intent in adopting Rule 6e–3(T) that payments for the benefit not be deemed "sale load."

(4) General

Applicants represent that if and to the extent that Rules 6e–2 and 6e–3(T) are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the Act, or the rules promulgated thereunder, that materially differ from any exemptive order issued by the Commission in connection with this Application, then the appropriate Applicants shall take all steps as mat be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

Notice is further given that any interested person wishing to request a hearing on the application may, no later than January 13, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices or orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–30697 Filed 12–26–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14861; (File No.812–6241)]

The Hudson River Fund, Inc.; Application Permitting Applicant To Implement a Deferred Compensation Plan for Its Directors

December 19, 1985.

Notice is hereby given that The Hudson River Fund, Inc. ("Applicant") 787 Seventh Avenue, New York, NY 10019, filed an application on October 31, 1985, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") exempting Applicant from the provisions of sections 13(a)(2), 18(f)(1), 22(f) and 22(g) of the Act and an order pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, to the extent necessary to permit Applicant to implement a Deferred Compensation Plan (the "Plan") for its directors. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of their provisions.

According to the application, Applicant is registered under the Act as a diversified, open-end management investment company that presently consist of two operating portfolios: a common stock portfolio and a money market portfolio. Applicant states that it issues separate series of capital stock that represent a separate investment in either the common stock portfolio or the money market portfolio. Applicant further states that the investment policy of the common stock portfolio is to purchase primarily common stock and other equity-type instruments with the objective of long-term growth of capital and increasing income, and that the investment policy of the money market portfolio is to purchase high quality, shorter-term money market instruments with the objective of preserving assets, maintaining liquidity and obtaining a high level of current income.

Applicant represents that it will offer and sell its shares to separate accounts of Equitable Variable Life Insurance Company ("Equitable Variable"), a New York stock life insurance company that is wholly-owned by The Equitable Life Assurance Society of the United States ("Equitable"), a New York mutual life insurance company. Applicant also represents that it will sell its shares to other insurance companies some of which are expected to be affiliates of Equitable Variable, such as Integrity Life Insurance Company ("Integrity"), an Arizona life insurance company also wholly-owned by Equitable.

Applicant represents that currently none of its Board of Directors ("Directors") is an "interested person," as defined in section 2(a)(19) of the Act, of Applicant, Equitable Variable, Integrity, Equitable, or any of Equitable's other subsidiaries. Applicant states that each Director will receive from Applicant an annual retainer fee of $10,000 and fees of $1,000 per board meeting (four are regularly scheduled annually) and $600 per committee meeting attended, with the meeting fee paid to the Director acting as the meeting chairman to be increased by 50%.

Applicant represents that the purpose of the Plan is to permit any Director to voluntarily elect to defer the receipt of all, or a portion of, the fees he or she is due for services as a Director of Applicant. A Director may wish to defer fees in order to put off the payment of income taxes thereon, to avoid a loss or reduction of social security benefits, or for other reasons.

According to the application, Directors electing to defer fees will enter into a deferred compensation agreement with Applicant and an account will be established and fees will be credited for each Director with whom Applicant has entered into an agreement ("Account"). In addition, Applicant states that it will, from time to time, credit to each Account balance interest in an amount equal to the interest rate credited to fixed income accounts under Equitable's investment plan for employees, managers, and agents ("Equitable's Investment Plan"). Further, Applicant states that it has reserved the right to prospectively change the rate of interest credited to Account balances. Payments of deferred fees and credited interest are to commence on a date specified by the Director, which may be the earlier of retirement from the Board or the attainment of a designated age.

Applicant states that the amount credited to an Account, including deferred fees and accrued interest, will represent an unsecured obligation of Applicant to the Director, payable solely from Applicant's general assets. Applicant represents that it will not purchase any of its shares for any Account, nor create any specified fund or segregate any of its assets for purposes of the Plan and the Directors will have the status of general creditors.

Applicant submits that neither the Plan, nor any deferred compensation agreement or Account, will create a trust or fiduciary relationship between Applicant and any Director, nor will those arrangements constitute a security interest of any kind in any of Applicant's assets. Applicant further submits that no provisions of the Plan requires Applicant to retain a Director on its Board or to pay a Director any level of fee income. Furthermore, Applicant states that the interest rate for fixed income accounts under Equitable's Investment Plan will merely be used as a reference Applicant believes to be fair in crediting interest to Account balances.

Applicant contends that the proposed deferred compensation agreements are contractual arrangements, not in the nature of securities, and do not give rise to any of the concerns of Congress that led to the enactment of sections 13(a)(2) or 18(f)(1) of the Act. In this regard, Applicant states that it will not borrow from its Directors for securities speculation; the agreements will not disturb the perception of an investment company as a mutual enterprize with mutuality of risk; nor will they provide an opportunity for manipulation of expenses and profits; and control of Applicant will not be affected. Applicant further represents that in view of the widespread use of deferred compensation arrangements today and the immaterial amounts expected to be involved relative to Applicant's size, the Plan will not confuse investors, make it difficult for them to value Applicant's shares or convey a false impression of safety.

As to its request for exemptive relief from section 22(f) of the Act, Applicant represents that the deferred compensation agreements will plainly set forth applicable restrictions against the assignment, communication and encumbrance of any amount credited to an account under the Plan. These restrictions, Applicant states, are designed to benefit Directors and would not adversely affect their interests or the interests of any shareholder of Applicant.

With respect to section 22(g) of the Act, Applicant asserts that the deferred compensation agreements will not be issued for services, but for Applicant not having to pay Director's fees on a current basis. Applicant notes that the deferred fees would, in any event, be due to the Director independent of the Plan, and that the Directors' compensation arrangements, including the right to defer fees under the Plan, will be described in Applicant's proxy statements pursuant to the Commission's disclosure requirements.

Applicant submits, with respect to section 17(d) of the Act and Rule 17d–1 thereunder, that the deferred compensation agreements do not possess profit sharing characteristics as contemplated by Rule 17d–1, and that participating Directors will be deferring fees they are otherwise entitled to receive on a current basis. In support of its requested order, Applicant points out that the amounts deferred will remain as its assets until paid to the Director; there will be no segregation of any monies or assets for purposes of the Plan; and Directors will not share in any increase or decrease in the value amounts retained by Applicant or otherwise participate in its investment experience. Applicant states that except for accrued interest to be paid on account balances, Directors will receive the same fixed amount they would have received if fees were paid on a current, rather than a deferral basis. Applicant asserts that the deferred of Directors' fees will have a negligible effect on its assets, liabilities and net income per share and that, under the Plan, the Directors essentially will be in the same position as if their fees were paid on a current basis. In Applicant's view, its participation in the Plan would not be different from or less advantageous than that of the Directors in all the circumstances.

Finally, Applicant believes that it will be in a better position to attract and retain qualified Directors if it is able to offer them the opportunity to defer receipt of their fees, and believes that the benefits to its shareholders will outweigh any benefit that may be realized by a Director under the Plan. Applicant submits that the requested order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 13, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should

be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-30706 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14859; File No. 812-6133]

Application and Opportunity for Hearing; Keystone Provident Life Insurance Co., et al.

December 18, 1985.

Notice is hereby given that Keystone Provident Life Insurance Company ("Company"), Keystone Provident Variable Account I ("Account") and Keystone Provident Financial Services Corporation (together, "Applicant"), 99 High Street, Boston, Massachusetts 02110, filed an application on June 7, 1985, and amendments thereto on October 9, November 27 and December 13, 1985, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicants from the provisions of sections 2(a)(32), 2(a)(35), 9(a), 12(b), 13(a), 15(a), 5(b), 22(c), 26(a)(1), 26(a)(2), 27(a)(1), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rules 12b-1, 22c-1 and 6e-2 (b)(1), (b)(12), (b)(13)(i), (b)(13)(iii), (b)(13)(iv), (b)(15), (c)(1) and (c)(4) thereunder, to the extent necessary, as described in the application, to permit them to offer certain single premium variable life insurance contracts. Interested persons are referred to the application on file with the Commission for a statement of Applicants' representations, which are summarized below, and to the Act and rules thereunder for a statement of the relevant provisions.

The Company, a stock life insurance company organized under the laws of Rhode Island, is sponor of the Account. The Account is a separate account of the Company registered under the Act as a unit investment trust and was established for the purpose of funding certain single premium variable life insurance contracts ("Contracts"). Applicants propose that the Account fund the Contracts through investments in certain eligible open-ended management investment companies. ("Eligible Funds") which are part of the Keystone complex of mutual funds.

1. Open Account

Applicants request relief from sections 26(a)(1), 26(a)(2) and 27(c)(2) of the Act and Rule 6e-2(b)(13)(iii) thereunder to the extent necessary to permit the Account to hold shares of the Eligible Funds under an open account arrangement and without a trust indenture. In support of its request for relief, Applicants note that the Commission has codified this same relief for separate accounts offering variable annuities and flexible premium variable life insurance contracts and has proposed to do so for separate accounts offering scheduled premium variable life insurance contracts. Applicants further assert that there is no need for the Account's assets to be held pursuant to a trust indenture or similar instrument and that such relief would result in administrative ease and cost savings.

2. Mixed Funding

Applicants request an exemption from sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rule 6e-2(b)(15) thereunder to the extent necessary to permit the Account and other separate accounts of the Company or insurance companies affiliated therewith to invest in shares of the Eligible Funds, notwithstanding that the Eligible Funds also offer their shares to separate accounts issuing variable annuity contracts. Applicants assert that this arrangement ("mixed funding") will result in significant cost savings (e.g., from not having to establish and manage separate investment companies to fund both the Contracts and variable annuity contract) and will not compromise the regulatory purposes of the above-cited sections.

Applicants state that they consent to the following conditions to the order granting the exemption, which are summarized as follows: (1) The majority of each Eligible Fund's board of directors shall be persons who are not interested persons of the Eligible Fund, as defined in the Act, (2) each Eligible Funds' board of directors will monitor whether, from the standpoint of variable life insurance contractowners or variable annuity contractowners, mixed funding would create an irreconcilable material conflict for reasons such as those discussed in the application, (3) the Company and any affiliated insurance company whose separate account invests in an Eligible Fund shall monitor each Eligible Fund and shall promptly provide each board of directors with information regarding any potential or existing irreconcilable material conflict, among other information (such as when contractowner voting instructions are disregarded), and shall assist the board in carrying out its responsibilities, (4) if it is determined by either an Eligible Fund's board of directors, a majority of its disinterested directors, or by the company whose separate account invests in the Eligible Fund that an irreconcilable material conflict has occured, the relevant company, at its expense and to the extent reasonably practicable (as determined by a majority of the disinterested directors) shall take whatever steps are necessary to eliminate the conflict, including (a) establishing a new registered management investment company or separate account, and (b) segregating assets attributable to the Contracts from the assets attributable to variable annuity contracts (or submitting the question of such segregation to a vote of all affected contractowners). Applicants further state that no Eligible Fund shall be required to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of the holders of all variable contracts materially adversely affected by the irreconcilable material conflict.

3. Cost of Insurance Charge

Applicants request relief from sections 26(a) and 27(c)(2) of the Act and Rules 6e-2 (b)(13)(i) and (b)(13)(iii) thereunder to the extent necessary to deduct a cost of insurance charge on a monthly basis from cash values of the Contracts. Applicants represent that this charge is based on the 1980 Commissioners Standard Ordinary Mortality ("CSO") Table, Blended Table B, and that, in using this table, the cost of insurance charges will never be greater than charges based on the 1958 CSO table. Applicants assert that their request for relief is consistent with amendments to Rule 6e-2 proposed in Investment Company Act Release No. 14421 (March 15, 1985).

4. Policy Maintenance Charge

Applicants request relief from sections 26(a) and 27(c)(2) of the Act and Rule 6e-2 (b)(13)(iii) thereunder to the extent necessary to deduct premium taxes from the cash values of the Contracts as part of the Policy Maintenance Charge. Applicants propose that the Company advance premium taxes due upon payment of the single premium and amortize this expense by deducting amounts from cash values over 15 years. Applicants represent that those deductions will

accumulate to an amount not greater than the premium tax levied. Applicants believe this is advantageous to contractowners because more funds can initially participate in the investment experience of the Account.

Applicants also request relief from sections 26(a) and 27(c)(2) of the Act and Rule 6e-2(b)(13)(iii) thereunder to the extent necessary to deduct from cash values to portion of the Policy Maintenance Charge attributable to the Guaranteed Minimum Death Benefit charge. The Contracts provide for a guaranteed minimum death benefit regardless of the investment performance of the Account and that no additional premiums are required to keep the Contract in force. Applicants state that the Guaranteed Minimum Death Benefit Charge amounts to a maximum of $.80 per year and is reduced after 15 years and for issue ages under 40. Applicants represent, however, that for issue age above 45 the amount per $1000 of death benefit be will increased by 3.2% for each issue age. In addition, Applicants request relief from Section 12(b) of the Act and Rule 12b-1 thereunder to the extent that profits from the Guaranteed Minimum Death Benefit Charge may be used to finance distribution of the Contracts and shares of the Eligible Funds. In support of this request for exemption, Applicants assert that this charge is an insurance charge appropriately deducted from cash values. In addition, they make certain representations in connection therewith, which they assert are those required to be made in connection with similar relief granted to separate accounts offering flexible premium variable life insurance contracts, and proposed amendments to Rule 6e-2. Thus, Applicants represent that the Guaranteed Minimum Death Benefit Charge is reasonable in relation to the risks assumed under the Contracts. Applicants further represent that the Company has concluded that there is a reasonable likelihood that such distribution financing arrangement of the Account will benefit the Account and contractowners. This representation is based on the assumption that explicit sales load may not be sufficient to cover expected costs, and that surplus arising from the Guaranteed Minimum Death Benefit charge and from other sources may be used for distribution. Applicants also represent that a memorandum has been prepared in connection with the analysis of the Guaranteed Minimum Death Charge. The Company undertakes to keep and make available to the Commission on request such memorandum. The Company also represents that the memorandum will also set forth the basis for the representation regarding the benefits to the Account and contractowners. Finally, Applicants represent that the Account will invest only in management investment companies that have undertaken to have a board of directors, a majority of whom are not interested persons of the Company, formulate and approve any subsequent plan under Rule 12b-1 to finance distribution expenses.

5. Mortality and Expense Risk Charge

Applicants request relief from and sections 26(a) and 27(c)(2) and Rule 6e-2 (b)(13)(iii) thereunder to the extent necessary to deduct the Mortality Expense Risk Change which is equal, on annual basis, to .60 of the net assets in each sub-account. Applicants also request relief from section 12(b) and Rule 12b-1 thereunder to the extent that profits from the Mortality and Expense Risk Charge may be used to fund distribution of the Contracts and the Eligible Mutual Fund Shares. In support of this request for exemption, Applicants make certain representations in connection therewith, which they assert are those required to be made in connection with similar relief granted to separate accounts offering flexible premium variable life insurance contracts, and proposed amendments to Rule 6e-2. Thus, Applicants represent that the charge is reasonable in relation to the risks assumed under the Contracts and that it has analyzed the charge taking into consideration such factors as other current administrative charge levels, potential adverse mortality, the manner in which the charges are imposed, the markets in which the Contracts will be offered, and the anticipated number of Contracts and lapse rates. Applicants further represent that the Company has concluded that there is a reasonable likelihood that the distribution financing arrangement of the Account will benefit the Account and contractowners. This representation is based on the assumption that explicit sales load may not be sufficient to cover expected costs, and that surplus arising from the Mortality and Expense Risk Charge and from other sources may be used for distribution. Applicants also represent that a memorandum has been prepared in connection with the analysis of the Mortality and Expense Risk Charge. The Company undertakes to keep and make available to the Commission on request such memorandum. The Company also represents that the memorandum will also set forth the basis for the representation regarding the benefits to the Account and contractowners. Finally, Applicants represent that the Account will invest only in management investment companies that have undertaken to have a board of directors, a majority of whom are not interested persons of the Company, formulate and approve any subsequent plan under Rule 12b-1 to finance distribution expenses.

6. Sales Load

Applicants request relief from the provisions of sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(a)(1), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rules 22c-1, 6e-2 (b)(1), (b)(12), (b)(13)(i), (b)(13)(iii), (b)(13)(iv) and (c)(4) thereunder to the extent necessary to deduct the sales load from cash values over 108 months in equal monthly installments, although if surrender occurs before this period is completed, the balance will be deducted thereupon. Applicants assert that contractowners benefit from the deferral of the sales load, and in no event will the sales load exceed 6.264% of the single premium. Applicants assert that the relief request is consistent with prior grants of exemptive relief permitting the deduction of contingent deferred sales loads, although the sales load under the Contracts is not contingent, and with relief granted to separate accounts offering flexible premium variable life insurance, and proposed amendments to Rule 6e-2.

7. General Account

Applicants request an exemption from Rule 6e-2(c)(1) to the extent necessary to permit the allocation of the single premium and transfers of cash value under the Contracts to the Company's general account. Applicants assert that such exemption is consistent with prior administration of Rule 6e-2 in the context of allocations of loans to general accounts of insurance companies under scheduled premium variable life insurance contracts. Applicants represent that only the monthly deduction and sales load will be deducted from values in the general account and that no other fees or charges are deducted therefrom. Applicants further assert that such exemption is consistent with Commission practice in declaring effective registration statements for variable annuity contracts providing for allocations to general accounts. Applicants have been advised and understand that any Commission order granting exemptive relief in this regard will not constitute a judgment of the Commission as to the propriety or

impropriety of registration or nonregistration of either interests in the general account as securities under the Securities Act of 1933 or the general account as an investment company under the Act.

8. General

Applicants represent that if and to the extent that Rule 6e-2 is amended to provide exemptive relief from any provision of the Act or the rules promulgated thereunder with respect to the relief requests contained herein, including mixed funding, on terms different from Proposed Rule 6e-2, then Applicants, the Eligible Funds, or both, shall take such steps as are necessary to comply with the amended rule.

Notice is further given that any interested person wish to request a hearing on the application may, no later than January 13, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-30694 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23953; 70-7189]

Metropolitan Edison Co. and York Haven Power Co.; Proposed Capital Contribution

December 18, 1985.

Metropolitan Edison Company ("Met-Ed") and its wholly-owned subsidiary, York Haven Power Company ("YHP"), both of 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19605, have filed a declaration pursuant to section 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 thereunder. They request authorization for Met-Ed to make cash capital contributions to YHP in an aggregate amount up to $1,750,000 through December 31, 1987. The top registered holding company parent of Met-Ed is General Public Utilities Corporation.

YHP is the licensee under Part I of the Federal Power Act of 1935 of the York Haven hydroelectric power project located on the Susquehanna River. By order dated August 14, 1980, the Federal Energy Regulatory Commission ("FERC") granted YHP a new license to the FERC for approval (1) a recreation plan, describing utilization, design and development of the project's recreational facilities, and (2) a debris management study to determine the magnitude and appropriate means for disposing of river-borne debris. The FERC has approved YHP's proposed recreation plan, which provides, among other things, for YHP to construct boat launching facilities at the project. Met-Ed and YHP estimate that approximately $700,000 will be required to complete construction of these facilities. Expenditures in connection with the required debris management study are estimated at approximately $450,000.

In addition, it has become necessary to enlarge the project's administration building, originally constructed in 1904, to accommodate expanded staff and administrative activities at the project site. YHP has commenced engineering work for a building addition, the cost of which is estimated at approximately $350,000. YHP also intends to undertake an in-depth feasibility study of alternative schemes for redeveloping and improving the project's capacity and output. The cost of that study is estimated at approximately $250,000.

Pursuant to a Power Supply Agreement dated April 30, 1974, as amended, Met-Ed and YHP have agreed that Met-Ed shall purchase the total power and energy generated by YHP at the York Haven hydroelectic project on a rate based upon YHP's costs and expenses in generating and transmitting that power and energy plus an additional amount representing a rate of return on the net investment. Thus, to enable YHP to carry out the activities described above, it will be necessary for Met-Ed to make cash capital contributions to YHP, since YHP's internal cash generation under the Power Supply Agreement will not be sufficient to provide the necessary funds. No federal or state commission, other than this Commission has jurisdiction with respect to the proposed transaction.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 13, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy of Met-Ed at the address specified above. Proof of service (by affidavit or, in the case of an attorney-at-law, be certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any notice or order issued in this matter. After said date the application, as amended or as it may be amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-30705 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23952; 70-7191]

New England Electric System; Proposed Stock Split by Issuance of Additional Shares of Common Stock

December 18, 1985.

New England Electric System ("NEES"), a registered holding company, 25 Research Drive, Westborough, Massachusetts 01582, has filed a declaration pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act").

NEES is a voluntary association created in Massachusetts by an Agreement and Declaration of Trust dated January 2, 1926. At a meeting held on November 26, 1985, NEES's board of directors voted, subject to receipt of all necessary regulatory approvals, to effect a two-for-one stock split through the issuance of one additional common share, par value $1.00 (the "Additional Shares"), to its shareholders of record at the close of business on January 24, 1986, for each share owned. It is expected that the Additional Shares will be issued on or about February 21, 1986. On the record date NEES expects to have approximately 26,600,000 common shares issued and outstanding, with 75,000,000 currently authorized; the proposed issuance of the Additional Shares would thus not increase the number of common shares issued and outstanding above the number authorized.

According to the declaration, during the past few years the price of NEES's common shares has increased significantly to a level above the industry average. On November 19, 1985,

the closing price for NEES's common shares was $46.50 per share. Currently, more than 95% of the electric utility stocks listed on the New York Stock Exchange trade at prices below that of NEES's common shares. Although issuance of the Additional Shares will not alter the proportionate ownership interest of any shareholder, it will lower the price of NEES's common shares, which NEES anticipates will provide a number of benefits. Specifically, NEES expects that the marketability of its common shares will be increased through increases in both trading volume and the number of its shareholders. In addition, the ability of individual shareholders to buy and sell NEES's common shares is expected to be enhanced by reducing the price of a round lot (100 shares) of the common shares, allowing shareholders greater diversification and reduced odd-lot brokerage costs. Furthermore, because of the favorable attitude with which NEES believes investors typically view splits, NEES anticipates that the proposed split would increase public awareness of the company.

NEES computes the price at which it sells shares pursuant to the New England Electric System Dividend Reinvestment and Common Share Purchase Plan, the New England Electric System Thrift Plan II, and the NEES Goals Program based upon the price reported in the Wall Street Journal for its common shares. Because "when issued" trading with respect to the Additional Shares is expected to begin on the New York Stock Exchange on or about January 24, 1986, the price for NEES's common shares reported in the Wall Street Journal during that period will not reflect the share split. To compensate for this situation, NEES intends to adjust the price for shares it sells to the above-mentioned plans during that period to reflect the fact that these shares will be issued after the record date and, therefore, will not be entitled to receive any of the Additional Common Shares when they are issued.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 8, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on NEES at the address specified above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any notice or order issued in this matter. After said date the application, as amended or as it may be amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-30698 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. SIPA-128; File No. SIPC 85-1]

Securities Investor Protection Corp.; Proposed Bylaw Change Relating to SIPC Fund Assessments on SIPC Members

Pursuant to Section 3(e)(1) of the Securities Investor Protection Act of 1970, 15 U.S.C. 78ccc(e)(1), notice is hereby given that on December 2, 1985 the Securities Investor Protection Corporation ("SIPC") filed with the Securities and Exchange Commission a proposed bylaw change. The Commission is publishing this notice to solicit comments on the proposed bylaw change from interested persons.

I. Description of Proposed Bylaw Change

The proposed bylaw change would amend Section 1(a) of Article 6 of SIPC's bylaw regarding SIPC Fund assessments on SIPC members.[1] The bylaw provides that if SIPC determines that the SIPC Fund [2] totals or is reasonably likely to total less than (i) $250 million, the amount of each member's assessment shall be 1/8 of 1 percent of such member's gross revenues from the securities business, (ii) $150 million, the amount of each member's assessment shall be ¼ of 1 percent of such member's gross revenues from the securities business and (iii) $100 million, the amount of each member's assessment shall be ½ of 1 percent of such member's gross revenues from the securities business. Regardless of whether or not assessments based on a percentage of gross revenues from the securities business are in effect during any calendar year, the minimum amount of each member's assessment would be $100 per annum.

Under the present SIPC bylaw, SIPC members are currently paying assessments at the rate of ¼ of 1 percent of their respective gross revenues from the securities business with a minimum assessment of $25 per annum.

The SIPC Board of Directors took two other actions affecting assessments. The SIPC Board voted to (i) obtain a $500 million line of credit with a consortium of banks and (ii) discontinue the current ¼ of 1 percent assessment on member's gross revenues from the securities business on April 1, 1986 contingent on the line of credit being in place. Thus, under the proposed bylaw change a minimum assessment of $100 per annum would be in effect after April 1, 1986.

SIPC indicated that the SIPC Fund currently exceeds $300 million. SIPC expects that, absent any extraordinary costs, the fund will total approximately $325 million by April 1, 1986. SIPC indicates that it would have as of that date resources exceeding $800 million which could be tapped before any need to draw on the statutory $1 billion line of credit with the U.S. Treasury Department. SIPC indicated that the proposed bylaw provides for the automatic imposition of assessments on gross revenues at the rate of ⅛ of 1 percent in the event the fund drops below $250 million or in the event the SIPC Board determines the fund is "reasonably likely" to drop below that level. SIPC indicated that this and the other provisions of the proposed bylaw give SIPC considerable flexibility in maintaining the fund at a level adequate to carry out SIPC's primary goal of enhancing and maintaining investor confidence in the securities markets.

SIPC indicated that the SIPC Board's actions described above were based principally on the *Report To The Board of Directors Of The Securities Investor Protection Corporation By The Special Task Force To Consider Questions Relating To The SIPC Fund And Assessments*, and on the data gathered and analyzed by the task force. The task force was composed of representatives of SIPC members, self-regulatory organizations, securities industry associations, U.S. government agencies, and the SIPC staff.

II. Need for Public Comment

Section 3(e)(1) of the Securities Investor Protection Act of 1970 ("SIPA") provides that SIPC must file with the Commission a copy of proposed bylaw changes. That section further provides that bylaw changes shall take effect 30 days after filing, unless the Commission either (i) disapproves the change as contrary to the public interest or the purposes of SIPA, or (ii) finds that the change involves a matter of such

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[1] All broker-dealers registered under section 15(b) of the Securities Exchange Act of 1934, with some minor exceptions, are SIPC members.

[2] The SIPC Fund consists of cash and amounts invested in U.S. government or agency securities.

significant public interest that public comment should be obtained. Thus, under Section 3(e)(1) of the SIPA, a proposed bylaw change does not have to be noticed for public comment. However, under Section 3(e)(1)(B) of SIPA, the Commission can find that "such proposed bylaw change involves a matter of such significant public interest that public comment should be obtained", in which case, the Commission may, after notifying SIPC in writing of such finding, require that the proposed bylaw change be considered by the same procedures as a proposed rule change including, among other things, publication in the Federal Register and opportunity for public comment. Since the SIPC Fund is built from assessments on its members and the interest earned on the fund and since that fund is used for the protection of customers of members liquidated under SIPA to maintain investor confidence in the securities markets, the Commission finds that the proposed bylaw change involves a matter of significant public interest, seeks comment thereon, advised SIPC of the Commission's finding, and requires the procedures applicable to proposed SIPC rule changes in Section 3(e)(2) of SIPA to be followed.

III. Date of Effectiveness of the Proposed Bylaw Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register**, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SIPC consents, the Commission will:

(A) By order approve such proposed bylaw change, or

(B) Institute proceedings to determine whether the proposed bylaw change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed bylaw change that are filed with the Commission, and all written communications relating to the proposed bylaw change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. All submissions should refer to the file number in the caption above and should be submitted on or before January 15, 1986.

By the Commission.

Dated: December 24, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-30382 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22734; File No. SR-MSE-85-11]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inco. Relating to the Automatic Execution System (MAX)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 4, 1985, the Midwest Stock Exchange, Incorporated, filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of four changes to the rules regarding the use of Midwest's Automatic Execution System (MAX) in order to facilitate the routing and execution of transactions in a portfolio of equity securities ("portfolio execution"). The four changes, which apply only to portfolio executions are as follows:

1. Orders sent may be principal orders.

2. The time frame between the time a market order is entered into MAX and the time it is automatically executed ("order exposure time") will be reduced from 15 seconds (see SR-MSE-85-5) to 0 seconds.

3. Participation by a specialist in a portfolio execution is voluntary for principal orders or agency orders above 1099 shares.

4. A portfolio execution over MAX may not commence before 9:30 a.m. (CST) or conclude after 2:45 p.m. (CST).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement for the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to change certain rules regarding the use of the MAX System in order to provide member organizations with an easy, efficient method of order entry and execution with timely reports for portfolio executions.

The first change will allow principal orders to be sent over MAX for portfolio executions. Currently, only agency orders are allowed to be sent over MAX.

Many member firms utilize portfolio executions to hedge against index options and futures and for arbitrage activities for their proprietary accounts. This change will enable member firms to execute more efficiently a portfolio for the firm's own account as well as for customers.

The second change reduces the order exposure time from 15 seconds to zero seconds. Firms requesting to use MAX for portfolio executions have stated that executions must take place as quickly as possible. The need for a timely execution is significantly more important to the customer and the firm in this type of transaction than the possibility that a better fill may be obtained in a particular issue in a portfolio by exposing the order for 15 seconds.

The third change clarifies that specialist participation in a portfolio execution is voluntary for principal orders or agency orders above 1099 shares. This is consistent with the current MAX requirements. Successful portfolio executions require the cooperation of numerous parties to the transaction. Portfolio executions over MAX beyond the existing MAX requirements will only be executed in accordance with arrangements agreed

upon in advance by the specialist and the order sending firm.

The fourth change precludes the use of the MAX System for portfolio executions before 9:30 a.m. and after 2:45 p.m. (CST). This restriction will avoid creating any problems at the opening or closing in periods of heavy volume.

A limited number of portfolio executions have taken place using the MAX System under the preceding parameters upon agreement by all parties involved on a pilot basis. Such utilization of the System will continue on a pilot basis until the Commission approves this filing. It is anticipated that further enhancements to the System may be developed as experience shows where efficiencies can be improved. Where appropriate, such enhancements will also be submitted for Commission approval.

Implementation of the proposed changes is consistent with those provisions of Sections 6(b)(5) and 11A(a)(1) of the Act which encourages the use of data processing and communications techniques which create more efficient and effective facilitation of transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written date, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Pubic Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file name in the caption above and should be submitted by January 17, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 20, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-30708 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22730; SR-MSRB-85-20]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

Introduction

The Municipal Securities Rulemaking Board ("MSRB") on October 8, 1985 submitted copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend MSRB rule G-34 on CUSIP numbers, and provide an interpretation of the application of rule G-12(c) and rule G-12(f) on inter-dealer confirmations to a when-issued transaction that takes place during the time when application for CUSIP numbers for a new issue is pending.

Rule G-34 requires a municipal securities dealer acting as an underwriter of a new issue of municipal securities to apply to the MSRB or its designee (currently the CUSIP Service Bureau) for CUSIP numbers for the issue. The CUSIP number serves as the universal identification of a security issue. In the case of competitive issues, the issuer customarily applies for CUSIP number assignment prior to the award of the issue. In negotiated issues, however, the underwriter is usually responsible for the application.

If application for a CUSIP number is delayed, as is permitted under the current rules, trading on a when-issued basis, particularly in the case of a negotiated issue, can commence before a CUSIP number is assigned. This does not present an immediate problem because there is currently no system for automated clearance of when-issued trading. Such automated clearance, however, is scheduled to take effect in early 1986 and CUSIP numbers must be assigned to an issue in order to submit transactions to the automated system.

The proposed rule change would require a dealer serving as an underwriter in a negotiated issue to apply for a CUSIP number in sufficient time to ensure assignment of a number on or prior to the day on which the contract to purchase is executed. An underwriter for a competitive issue would be required to apply for a number on the date of the award. In addition, a broker or dealer acting as a financial advisor in connection with a competitive sale would be required to ensure that an application for a CUSIP number is made in sufficient time to allow for assignment of a number prior to the date of award. Requiring underwriters to obtain a number at the earliest possible date will facilitate automated trading in when-issued securities.

Rule G-12(c) requires that physical confirmations of when-issued transactions be sent out within two business days of the trade date. Rule G-12(f) requires trades to be submitted for comparison in an automated comparison system operated by a registered securities clearing agency if certain conditions are met. Rule G-12(a) provides that trades submitted for comparison in the automated system need not be confirmed physically under rule G-12(c).

The MRSB has received inquiries from dealers concerning the requirements of rules G-12 (c) and (f) once the automated comparison system for when-issued trades becomes operational. The issue raised is whether when-issued trades should be compared using the physical is whether when-issued trades should be compared using the physical confirmation process set forth in rule G-12(c) if the trades cannot be submitted immediately into the automated comparison system due to lack of CUSIP numbers.

The MSRB in response is providing an interpretation, stating that a when-issued transaction in a new issue for which no CUSIP number will be

assigned is not eligible for automated comparison and must be compared by the use of physical confirmations. The MSRB is interpreting rule G–12(f) to require that, if a request for a CUSIP number is pending, the trade should be submitted into the automated system on an "as of" basis once the CUSIP number is assigned.

Notice of the proposed rule changes was given in Securities Exchange Act Release No. 22605, published in the **Federal Register** (50 FR 47482; November 18, 1985) ("November 18 release"). A complete description of the amendments is contained in that release.

Comments

In response to the November 18 release, the Commission received three comment letters.[1] All three commentators supported the proposed rule change. One commentator agreed with the MSRB that expansion of an automated comparison system to when-issued trading of municipal securities would provide considerable cost savings and bring greater efficiency to the clearing process. This commentator also believe that any inconvenience to dealers resulting from the amendment would be out-weighed by lower clearance costs and reduction in the number of "fails" that will result from application of the automated system to when-issued trades. Another commentator believed that the amendment would have the same benefit to an automated confirmation system (used for confirmation and affirmation of all municipal issues with a CUSIP number and book-entry settlement of customer transactions in depository eligible municipal issues) as it would for an automated comparison system and therefore endorsed the proposed amendment. A third commentator believed the amendment is necessary to facilitate trading in when-issued securities, but suggested that exceptions be made in rare instances when underwriters have insufficient information to request a CUSIP number.

The Commission finds that the proposed rule changes is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular, the requirements of Section 15B and the rules and regulations thereunder. The Commission supports the proposed rule change and its goal of facilitating automated trading in when-issued municipal securities.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: December 19, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–30710 Filed 12–26–85; 8:45 am]

BILLING CODE 8010–01–M

[1] Letters from Richard Porzio, Dirctor & ID Product Manager, The Depository Trust Company (November 20, 1985); James D. McLaughlin, Government Relations Counsel, American Bankers, Association (December 11, 1985); Richard L. DeCair, Executive Director, Dealer Bank Association (December 11, 1985) to John Wheeler, Secretary, SEC.

[Release No. 34–22735; File No. SR–NASD–85–35]

Self-Regulatory Organizations; Temporary Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc., relating to Modifications of the Computer Assisted Execution System

Pursuant to section 19 (b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 19, 1985, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The following is the full text of a rule change by the National Association of Securities Dealers, Inc. relating to modification of the facilities description of the Computer Assisted Execution System ("CAES") for transactions in listed and NASDAQ/NMS securities approved by the Commission in SR–NASD–81–1. The rule change shall be effective for a period of 90 days to permit consideration by the Commission of approval of the proposed modification on a permanent basis which is the subject of a separate rule filing. The Commission intends to seek comment on whether there should be a "flash" feature added to the NASD's current modifications, which would allow for customer price improvement.

The National Association of Securities Dealers, Inc. ("NASD") has filed as a stated policy, practice or interpretation, certain modifications to the operation of the CAES system, which have been developed for implementation by NASD Market Services, Inc., to permit the automatic execution of round lot and mixed lot agency orders at the prevailing inside market. The calculation of the inside market for listed securities shall include all exchange quotations in such securities. Such inside market shall consist of at least two open, active, two-sided quotations.

Henceforth, the system will process only designated agency market orders, designated agency limit orders, undesignated agency market orders and undesignated agency limit orders for automatic execution at the inside bid (for sell orders) and inside ask (for buy orders). This change will not, however, effect the current operating characteristics and procedures of the ITS/CAES linkage which remains unchanged.

A designated market order for 1,000 shares or less will be executed against the designated CAES market maker at the existing inside market whenever the market maker's size in CAES is greater than zero. Where a designated order for more than 1,000 shares is received by CAES, and the designated market maker's quote is equal to the inside, the order shall be automatically executed up to the size displayed by the market maker and the balance of the order shall be priced at the inside and forwarded to the market maker for acceptance within 90 seconds.

If there is no current inside market the designated order, regardless of size, will be forwarded to the market maker with a notation that a price is required. If there is an inside market, but the market maker's size is zero, the designated order will be priced at the inside and forwarded to the market maker for acceptance within 90 seconds.

A designated limit order for 1,000 shares or less will be executed against the designated market maker at the inside, unless there is no current inside market, the market makers size is zero or the inside is inferior to the limit price, whereupon the order shall be priced at the limit and forwarded to the designated market maker for acceptance as a day order. A designated limit order in excess of 1,000 shares shall be processed in the same manner as an order for 1,000 shares except that where a portion of the order has been automatically executed at the inside, up to the size displayed by the CAES market maker, the balance of the order shall be priced at the limit and forwarded to the market maker for execution as a day order, and where specialized execution instructions accompany the order, i.e. All or None or

Fill or Kill, the entire order will be priced at the limit and forwarded to the market maker for acceptance within the time frame applicable to such qualified orders.

An undesignated market order for up to 1,000 shares will be automatically executed against an eligible CAES market maker at the inside market for that security. A market maker shall be eligible for receipt and automatic execution of an order at the inside market if his displayed size remains greater than zero. If an execution reduces a market maker's displayed size to zero additional orders received in CAES will be executed at the inside market against the next eligible market maker in rotation priority within CAES until the size displayed by each of the succeeding market makers is exhausted. When the size of all eligible market makers is exhausted, orders will be priced at the inside quote and forwarded to all CAES market makers in the security. If there is no inside market at the time the order is received in CAES, the order will be forwarded to all CAES market makers in the security with an appropriate notation indicating that the market maker may price and accept the order within 90 seconds.

An undesignated market order in excess of 1,000 shares will be executed against market makers up to their displayed size or against succeeding market makers up to their displayed size, so long as the CAES market maker's quote is equal to the inside market. If no CAES market maker is at the inside quote, the order shall be priced at the inside and forwarded to all CAES market makers in the security for acceptance. If there is no inside market the entire order will be forwarded to the CAES market makers with a notation indicating that a price and acceptance is required within 90 seconds. Similarly if a qualified order is received by CAES, i.e. All or None, the entire order will be priced at the inside and forwarded to all CAES market makers.

An undesignated limit order of 1,000 shares or less will be automatically executed against the next eligible CAES market maker with size greater than zero if the inside market is equal to or better than the limit price. If there is no inside market, if there is no CAES market maker with size greater than zero, or if the inside market is inferior to the limit price, the order shall be priced at the limit and forwarded to all CAES market makers in the security for acceptance as a day order.

An undesignated limit order in excess of 1,000 shares shall be executed against market makers up to their displayed size or against succeeding market makers up to their displayed size, so long as the CAES market maker quote is equal to the inside market. The balance, if any, shall be priced at the limit and forwarded to all CAES market makers in the security for acceptance. If no CAES market maker is at the inside market, if that market is inferior to the limit price, or if there is no inside market then the entire order will be priced at the limit and forwarded to all CAES market makers in that security for acceptance as a day order. If the limit order is qualified, i.e. All or None, Fill or Kill, and the total size available from CAES market makers is less than the size of the order, the entire order will be placed at the limit and forwarded to all CAES market markers for acceptance.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the development and implementation of this modification to CAES is to improve the efficiency of execution of transactions in listed and NASDAQ/NMS securities through the use of new data processing and communication techniques. Transactions automatically executed through CAES are presently effected at the best current quotation of a CAES market maker, which may be inferior to the inside market. This modification will ensure that transactions executed through CAES will be effected only at the prevailing inside market for any securities in CAES.

The statutory basis for the development and implementation of CAES is found in sections 11A(a)(1)(B) and in (C)(i), 15A(b)(6), and 17(A)(a)(1)(B) and in (C) of the Securities Exchange Act of 1934 ("Act"). Section 11(a) (1)(B) and (C)(i) sets forth a Congressional goal of achieving more efficient and effective market operations and the economically efficient execution of transactions through new data processing and communication techniques. Section 15A(b)(6) requires that the rules of the Association be designed "to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect a mechanism of a free and open market. . . ." Section 17(A)(a)(1) (B) and (C) sets forth a Congressional goal of reducing cost involved in the clearance and settlement process through new data processing and communication techniques. The Association believes that the modification of CAES will further these ends by providing an enhanced mechanism for the efficient and economic execution and clearance of transactions in both listed and NASDAQ/NMS securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

CAES is a service to which participants subscribe on a voluntary basis and as such the Association believes the modification imposes no burden on competition. To the extent that any burden on competition may be found to exist, the Association believes that the benefit of increased efficiency of CAES together with the protection of the investing public provided by a guarantee that transactions will be effected in CAES only at the best price displayed by any market maker or market center will outweight any potential burden upon competition and materially advance the purposes to be served under the foregoing sections of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

Comments were neither solicited nor received in connection with the enhancement to the CAES system.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

The Association requests the Commission to find good cause for approving the proposed rule change prior to the 30th day after its publication in the **Federal Register**, and, in any event, before December 20, 1985, the scheduled commencement date for the modification to CAES. The Association believes that the enhancement to CAES will benefit members and public investors by providing more efficient and cost-effective processing of transactions in listed and NASDAQ/

NMS securities while assuring that such transactions are executed at the best displayed price available anywhere in the market at any particular point in time.

The Association believes that good cause exists to accelerate the effectiveness of the proposed rule change prior to December 20, 1985 for application during the pendency of the Commission's consideration of the permanent rule proposal covering the modification to CAES.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 11A(a)(1)(B) and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that accelerated approval and the implementation of the modification to CAES will benefit public investors by providing more efficient and cost-effective processing of transactions in listed and NASDAQ/NMS securities while assuring that such transactions are executed at the best displayed price available anywhere in the market at any particular point in time. The Commission recognizes that the NASD has prepared its system for implementation of the modification on that date. The Commission also notes that the issues involving CAES will be noticed for public comment and, as discussed above, the Commission believes that the benefits of approval of this temporary rule change outweigh any potential adverse effects to the commentators or other market participants during the short period of the rule change's effectiveness.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Station, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 17, 1986.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-30707 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22725; File No. SR-NYSE-85-44]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc. Relating to Rate Increases Affecting the Regulatory Oversight Services Fee

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 12, 1985, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Scheduled of Proposed Increases in Fees and Charges (effective January 1, 1986).

Additions italicized; deletions [bracketed].

REGULATORY OVERSIGHT SERVICES

	Current	Proposed
Fee per $1,000 Gross Revenue (FOCUS) (a)	[$.35]	*$.42*

Notes: (a) As reported in the FOCUS Report.
FOCUS: financial and operational uniform combined single report.

The 1985 forecast is presented in its pre-reorganization format; the 1986 forecast reflects the new reorganization. With the exception of two new cost centers added in 1986, and the consolidation of cost center 4534 into cost center 4533 the only difference between the 1985 and 1986 formats is the reporting relations of the cost centers. The new cost centers are as follows:

4347—Broker-Dealer Oper. & Fin. Resp.—responsible for rule interpretation and development of net capital, customer protection and operational rules

4573—Audit & Control—addresses the quality and assurance of data bases, and SIAC product and development

It should be noted that the new cost centers were staffed with existing personnel.

The revenue generated from the Regulatory Services Oversight fee is used exclusively to defray FINOPS expenses. As pointed out in previous filings, the cost of FINOPS Services has increased over the years, and the Exchange's fee has been insufficient to cover such expenses.

It should be noted that with the proposed fee change there will still be a projected loss of $12.0 million in 1986 in the Regulatory Services Group, $4.8 million of which will be with respect to FINOPS. It is anticipated that FINOP revenues for 1986 will be approximately $18.3 million.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), And (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(1) The primary purpose of the proposed rule change is to continue to recover a portion of the cost of Financial and Operational ("FINOPS") services.

As of July 1, 1985 MF Regulation was reorganized and renamed the Regulatory Services Group. The reorganization entailed dividing the cost centers of Member Firm Regulatory Services into two distinct divisions: Member Firm Regulation, which is primarily responsible for the examination and surveillance of member firms, and

compliance with financial and sales practice requirements; and Enforcement and Regulatory Standards, which is concerned primarily with enforcement activities, rule development, and the upgrading of automated systems to analyze member firm's financial and operational standing. Moreover, cost center 4534 fingerprinting was consolidated into cost center 4533 staff services.

(2) *Statutory Basis.* The basis under the Act for the proposed rule change is the requirement under Section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other changes among its members and other persons using its facilities. It is also consistent with the Exchange's self-regulatory responsibilities as provided in Section 6(b)(1) and 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor recived written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (1) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule Change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 17, 1986.

Dated: December 18, 1985.

For the Commission, by the Division of Market Regulation, Pursuant to delegated authority

John Wheeler,

Secretary.

[FR Doc. 85-30699 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22733; SR-PSE-85-26; SR-CBOE-85-42]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Chicago Board Options Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes

The Pacific Stock Exchange, Inc. ("PSE") and Chicago Board Options Exchange, Inc. ("CBOE") submitted proposed rule changes, pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] to amend their rules concerning accommodation liquidations, also known as cabinet trading.[3]

Accommodation or cabinet trading of options contracts is intended to accommodate closing transactions in series of options in which there is no auction market due to the absence of a bid or offer at the lowest fractional price per contract. Under existing PSE and CBOE rules cabinet orders only can be entered for closing or liquidating transactions. Accordingly, a closing order will remain unexecuted, if there is no closing cabinet order with which it can be paired.

PSE's and CBOE's proposed rule changes would permit the entry of opening orders in the cabinet, at a limit price of one dollar per contract, against closing cabinet bids or offers, but only if such closing bids or offers are displayed on the public limit order book. All such opening orders, however, would have to yield to any matching closing order in the cabinet and thus opening orders only would be permitted to the extent there is no matching closing bid or offer. In addition, customers, firms and market makers only could enter opening orders in cases where closing orders already exist in the cabinet. For example, under the proposal, if the cabinet already contains a closing sell order but no closing buy order, then a person may enter an opening buy order in the cabinet, and the closing sell order will be executed.

PSE and CBOE believe that their proposed rule changes will increase the likelihood that cabinet orders can be matched and closed out. In addition, the PSE states that the rule change may also increase a market maker's capacity to make markets in other series in the class.

PSE and CBOE also are making some other minor changes in their rules' text by changing the reference to option contracts at "$.01 per share price" to "$1.00 per option contract." In addition, the CBOE will amend its rules so that closing sell orders for $1.00 will be displayed by the Order Book Official if it cannot be immediately executed.

Under the CBOE's proposed rule change opening orders would be permitted in the cabinet for options on government securities as well as equity and index options. In addition, the proposal establishes a cabinet trading rule for foreign currency options.[4] We note, however, that the CBOE's procedure for cabinet trading involving government securities options are different from those involving equity and index options because there is no Order Book Official ("OBO") or Board Broker in such options to accept cabinet orders. It is our understanding that accommodation transactions in such options are conducted through public outcry because of the absence of an OBO. The CBOE is proposing to apply this procedure to accommodation liquidations involving foreign currency options because there is also no OBO present at the post for these options.

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] The PSE and CBOE filed their proposed rule changes on September 25, 1985 and November 15, 1985, respectively. The CBOE filed Amendment No. 1 to its proposal on November 15, 1985. The Amendment sets forth an accommodation liquidation rule for foreign currency options and makes some changes to the accommodation rule applicable to government securities options to conform that rule to the proposed changes in the general rule.

[4] There is no provision under the existing foreign currency rules for cabinet trading.

The Commission is publishing this release to solicit comment on the proposed rule changes. Persons interested in commenting on the proposals should submit six copies of their comments within 21 days from the date of publication of this notice in the **Federal Register**. Comments should be sent to the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the proposed rule changes, and all documents relating to the proposed rule changes, except those that may be withheld from the public pursuant to 5 U.S.C. 552, are available for inspection and copying at the Commission's Public Reference Room. Copies of the PSE and CBOE filings also are available at the PSE and CBOE, respectively.

The Commission finds that the proposed rule changes may facilitate the closing out of cabinet orders and thereby accommodate investors who wish to close out positions in inactive, out-of-the-money options series for which there are no displayed bids or offers at the lowest fractional price per contract. However, because certain questions remain on how accommodation liquidations would be executed in a public outcry system when opening orders in the cabinet must yield to closing orders, the Commission is only approving opening cabinet orders on the CBOE in options where an OBO or Board Broker is present. Closing cabinet orders can continue to be matched against other closing orders in options on government securities. In addition, the Commission is approving the matching of closing cabinet orders in CBOE's foreign currency options. For these reasons, the Commission finds that the proposed rule change and certain portions of the CBOE's proposed rule change are consistent with the requirements of the Act applicable to a national securities exchange and, in particular, the requirements of Section 6.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof in that the proposals are substantially similar to a rule change proposed by the Philadelphia Stock Exchange, Inc. ("Phlx") that was published for comment and approved by the Commission.[5] No comments were submitted in response to the Phlx, Amex and NYSE rule proposals. In addition, the Commission finds good cause for permitting accommodation liquidations in closing orders for foreign currency options because the same procedures that have existed for options on government securities will be applied.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the PSE's proposed rule change and those portions of the CBOE's proposed rule change that would permit opening orders in the cabinet in those options where an OBO or Board Broker is present and that would permit matching closing cabinet orders for foreign currency options is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 20, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-30709 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[5] *See* File No. SR-Phlx-84-30, Securities Exchange Act Release Nos. 21390 (October 10, 1984), 49 FR 40752 (October 17, 1984) and 21515 (November 21, 1984), 49 FR 46859 (November 28, 1984). The Commission also approved, on an accelerated basis, similar proposals submitted by the American Stock Exchange, Inc. ("Amex") and New York Stock Exchange, Inc. ("NYSE"). *See* File No. SR-Amex-85-7, Securities Exchange Act Release No. 21936 (April 11, 1985), 50 FR 15258 (April 17, 1985) and File No. SR-NYSE-85-29, Securities Exchange Act Release No. 22530 (October 11, 1985), 50 FR 43051 (October 23, 1985).

[Release No. 34-22728; SR-PHLX-85-23]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("Phlx") submitted on October 22, 1985, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] to amend its By-Laws and reduce the potential proportion of the Governors on the Board who could be from the floor. Among other things, the amendments provide that of the 21 previously unclassified member firm or "broker" governors on the Phlx Board, 9 would be categorized as On-Floor Governors,[3] 9 as Off-Floor Governors [4] and 3 as At-Large Governors.[5] In addition, the Board will continue to include the Chairman, 2 Vice Chairmen (1 from the floor and 1 from off the floor) the President of the Corporation and 3 public governors.[6] Both the immediate past Chairman and the past President of the Corporation can serve as ex-officio members of the Board.

Because current Phlx By-Laws set no limit on the number of the 21 unclassified broker governors who can be On-Floor or Off-Floor Governors, such By-Laws could result in domination of the Board by one sector of the Phlx membership.[7] The Commission, however, in connection with its review of a proposal by the Chicago Board Options Exchange ("CBOE"),[8] recently determined that it would be inconsistent with sections 6(b)(1), 6(b)(3) and 6(b)(5) of the Act if one segment of an exchange membership dominated the Board of the exchange.[9] Accordingly, the Phlx

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] On-Floor Governors are described in Section 4-1 of the Phlx By-Laws as members who are primarily engaged in business on the Exchange floor or general partners, executive officers (vice president and above) or members associated with member organizations primarily engaged in business of the Exchange floor.

[4] Off-Floor Governors are described in Section 4-1 of the Phlx By-Laws as general partners, executive officers (vice president or above) or members associated with member organizations which conduct a non-member public customer business and who individually are not primarily engaged in business activities on the Exchange floor.

[5] At-Large Governors are described in Section 4-1 of the Phlx By-Laws as persons who qualify either as On-Floor or Off-Floor Governors.

[6] Public Governors are described in § 4-1 of the Phlx By-Laws as representatives of the public unaffiliated with the Exchange or any broker or dealer and appointed by the Board.

[7] Phlx has provided the staff with data collected from the past 5 years indicating that the Phlx Board has been composed of a disproportionate number of broker governors and officers representing the floor. In 1981, 58% of the unclassified broker governors were from the floor as were 50% of the Board as a whole; in 1982, the figures were 60% and 55%, respectively; in 1983, 62% and 50%, in 1984, 67% and 57%, and in 1985, 81% and 64%.

[8] Section 6(b)(1) of theAct requires that the exchange be organized so as to have the capacity to carry out the purposes of the Act. Section 6(b)(3) requires that the rules of the exchange assure a fair representation of its members in the selection of its directors and administration of its affairs. Section 6(b)(5) requires that exchange rules be designed, in general, to protect investors and the public interest.

[9] In Securities Exchange Act Release No. 21439 (Octobef 31, 1984), 49 FR 44577 (November 7, 1984), the Commission instituted proceedings to determine whether to disapprove a proposed rule change by CBOE which would have enlarged the size of its Board of Directors from 21 to 24 by increasing from 6 to 9 the minimum number of floor directors on the Board. In Securities Exchange Act Release No. 22058 (May 21, 1985), 50 FR 23090 ("CBOE order") the Commission disapproved CBOE's proposal to increase the number of floor directors.

In brief, the Commission noted that, because voting power within an exchange is allocated based on membership on the exchange, as a practical matter on-floor members (e.g., specialists and floor traders) consistently would be able to dominate the exchange election process to the exclusion of retail broker-dealer firms doing a public customer business. While the Commission did not conclude that public member firm directors were necessarily better representatives of the public interest in governing an exchange, the Commission did conclude that it was important that no one segment of the exchange membership achieve structural control of the Board. *See* CBOE order at 23092, 23093 and discussion therein of H.R. Doc. No. 85, 74th Cong., 1st Sess. at 4, 8 (1935); SEC, *Report of*

Continued

proposal would conform the structure of the Phlx Board of Governors with the fair representation principles the Commission set forth in reviewing CBOE's proposal.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22594, November 7, 1985) and by publication in the **Federal Register** (50 FR 46851, November 13, 1985). No comments were received with respect to the proposed rule filing.

The Commission commends Phlx for initiating this proposed rule change which will remedy the problems of domination of the Board by one sector of the Phlx membership and Board imbalance that Phlx has faced in the past.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirement of Section 6 and the rules and regulations thereunder. Specifically, the Commission finds the proposal to be consistent with Section 6(b)(1), 6(b)(3) and 6(b)(5) of the Act.

Section 6(b)(1) requires that the exchange be organized so as to be able to carry out the purposes of the Act. A diversified Board which no single membership group could dominate would better represent the interests of all of the Phlx's constituencies and would be more likely to enforce the rules of the Act and the phlx.

Section 6(b)(3) of the Act requires that the rules of the exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provides that one or more directors must be representative of issuers and investors. Currently, up to 22 of the 30 Board members (73%) could be from one portion of the exchange membership. Under the proposal, up to 13 of the 30 Board members (43%) could be from one segment. This represents a substantial reduction in the potential for domination of the Board by one group. In that no single membership group could be dominant, the proposal would assure a fair representation of Phlx members on the Board.

Section 6(b)(5) of the Act requires that the rules of an exchange be designed, in general, to protect investors and the public interest. Unlike the CBOE proposal under which the proportionate representation of public and off-floor directors on the Board would have decreased, the proportion of Public Governors on the board remains constant under the Phlx proposal.

In the Commission's view, this rule change will help ensure that the Phlx Board is responsive to its constitutents and strengthen the ability of the Board to carry out the purpose of the Act and enforce compliance with Exchange and Commission rules.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

By the Commission.

Dated: December 19, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-30695 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22726; File No. SR-OCC-85-19]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change of Options Clearing Corp. (File No. SR-OCC-85-19) Regarding its On-Line System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 20, 1985, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change described below. The Commission is publishing this notice to solicit comments on the proposed rule change.

On May 22, 1984, the Commission approved a proposed rule change filed by OCC that established OCC's on-line system ("C/MACS").[1] C/MACS was created to enable each participating Clearing Member to send to and receive from OCC directly options clearance and settlement data through an automated, on-line terminal system. The rule change essentially authorized OCC to permit clearing members to submit to OCC reports, notices, instructions, data or other items via an on-line computer terminal.

In its present filling, OCC would enable C/ MACS participating Clearing Members to perform various data input services for other Clearing Members. For a C/MACS user (the "Managing Firm") to provide these services to another Clearing Member (the "Managed Firm"), both firms must enter into a Facilities Management Agreement ("FMA")[2] and submit a copy of the agreement to OCC. Thus, the proposal essentially extends OCC's existing facilities management requirements to C/MACS participants. The proposal also modifies some of those requirements to reflect special automated system needs. Each Managed Firm must execute a supplemental agreement to the C/MACS FMA agreement that outlines the duties and liabilities of both the Managed Firm and OCC. Pursuant to the supplemental agreement, Managing Firms must supply OCC with a list of all employees who will have access to C/MACS. OCC will assign to each authorized employee a "logon id" (*i.e.*, secret access code). Managing Firms are responsible for ensuring that logon ids remain confidential. Furthermore, Managing Firms will be jointly responsible, with Managed Firms, for maintaining overall C/MACS security.

OCC states that the proposed rule change is consistent with Section 17A of the Act in that it provides for the use of new data processing and communications techniques. Thus, the proposal should result in more efficient, effective and safe procedures for options clearance and settlement.

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934

Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the filing, all

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Special Study of Securities Markets, 88th Cong., 1st Sess. pt. 4, at 572, 763-65 (Comm. Print 1973); Subcomm. on Com. Fin. of the Comm. on Interstate and For. Com., *Securities Industry Study*, H. Rep. No. 1519 92nd Cong. 2nd Sess. at 103, 107 (Comm. Print 1972).

[1] *See* Securities and Exchange Act Release No. 20983 (May 22, 1984), 49 FR 22427 (May 29, 1984), approving File No. SR-OCC-83-15.

[2] *See* Securities Exchange Act Release No. 22239 (July 18, 1985), 50 FR 29777 (July 22, 1985), approving File No. SR-OCC-83-22, for a description of OCC's Rules and procedures guiding facilities management arrangements, including the FMA.

subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number in the caption above and should be submitted by January 17, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 18, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-30696 Filed 12-26-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 23, Rev. 1]

Delegation of Authority by the Administrator to the Inspector General

Delegation of authority No. 23 (50 FR 12878) is hereby revised to expand the delegation to the Inspector General of investigative authorities under the Small Business Act and the Small Business Investment Act of 1958, and make clear that the authorities delegated to the Inspector General to administer oaths and affirmations may be exercised by an SBA employee officially designated as acting in that position. Delegation of Authority No. 23 is revised to read as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended, the Small Business Investment Act of 1958, 72 Stat. 689, as amended, and pursuant to section 9(a)(2) of the Inspector General Act of 1978, 91 Stat. 1101, there is hereby delegated to the Inspector General:

A. Investigation Authority: Small Business Act

The authority to permit any person to file with him or her a statement in writing, under oath or otherwise as the Inspector General shall determine, as to all the facts and circumstances concerning the matter to be investigated; the authority to administer oaths and affirmations; and, for the purpose of verifying compliance with subpoenas issued under section 6(a)(4) of the Inspector General Act of 1978, 5 U.S.C. App. I, the authority to subpoena witnesses, compel their attendance and take evidence.

B. Investigation Authority: Small Business Investment Act

The authority to permit any person to file with him or her a statement in writing, under oath or otherwise as the Inspector General shall determine, as to all the facts and circumstances concerning the matter to be investigated; the authority to administer oaths and affirmations; and, for the purpose of verifying compliance with subpoenas issued under section 6(a)(4) of the Inspector General Act of 1978, 5 U.S.C. App. I, the authority to subpoena witnesses, compel their attendance and take evidence.

II. The authorities previously delegated to the Inspector General and those delegated herein may be exercised by an SBA employee officially designated as acting in that position.

III. The authorities delegated herein may be redelegated.

Dated: December 4, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-30664 Filed 12-26-85; 8:45 am]

BILLING CODE 8025-01-M

Minneapolis Advisory Council Meeting

The U.S. Small Business Administration Region V District Advisory Council, located in the geographical area of Minneapolis/St. Paul, will hold a public meeting at 7:30 a.m. on Tuesday, February 4, 1986, at First Bank West, 26th Floor-Executive Dining Room, 120 South Sixth Street, Minneapolis, MN, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call James N. Thomson, District Director, U.S. Small Business Administration, 610-C Butler Square, 100 North Sixth Street, Minneapolis, MN 55403 612/349-3530.

Jean M. Nowak,

Director, Office of Advisory Councils.

December 20, 1985.

[FR Doc. 85-30659 Filed 12-26-85; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 02/02/0493]

NYSTRS/NV Capital, Limited Partnership; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1985)), by NYSTRS/NV capital, Limited Partnership (Applicant), 1215 Western Avenue, Albany, New York 12203, for a license to operate as a limited partnership small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), and the rules and Regulations promulgated thereunder.

The formation and licensing of a limited partnership SBIC is subject to the provisions of § 107.4 of the Regulations.

The initial investors and their percent of ownership of the Applicant are as follows:

NSV Corp., 1215 Western Avenue, Albany, NY 12203, General Partner, 1 percent

Norstar Bancorp Inc., 1215 Western Avenue, Albany, New 12203, Limited Partner, 49.5 percent

New York State Teachers' Requirement System, 10 Corporate Woods Drive, Albany, New York 12211, Limited Partner, 49.5 percent

NSV Corp., a New York corporation, is a wholly-owned subsidiary of Norstar Venture Capital Corp. Norstar Bancorp Inc. owns all of the outstanding stock of Norstar Venture Capital Corp. Norstar Bancorp also owns all of the outstanding stock of another SBIC, Norstar Capital Inc., Abany, New York (License No. 02/02-0482).

NAV Corp. will manage the Applicant. The offices and directors of NSV Corp. are:

Raymond A. Lancaster, 9 Coventry Road, Glenmont, New York 12077, President, Director

John B. Robinson, Jr., 208 Graffunder Drive, Menands, New York 12204, Treasurer, Director

Harry P. Meislahn, 16 Axbridge Lane, Delmar, New York 12054, Secretary, Director

These same individuals are officers and directors of Norstar Capital Inc. Section 107.602 of the Regulations calls for SBA's prior written approval when two or more Licensees will have common officers, directors, managers, or a Control Persons or a stockholder or

partner owning or controlling directly or indirectly ten or more precent of the stock or ownership interest of the Licensees. SBA intends to grant that approval in this instance.

The Applicant, a Delaware limited partnership, will begin operations with an initial partnership capital of $2,050,00, and will operate primarily in the northeastern United States with an emphasis on New York State.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any persons may, not later than January 27, 1986, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Albany, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 18, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-30661 Filed 12-26-85; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 23-B]

Redelegation of Authority by the Assistant Inspector General for Investigations to Deputy Assistant Inspectors General for Investigations, Chief Inspector, Special Agents-in-Charge, and Special Agents, Investigations Division, Office of Inspector General

Delegation of authority No. 23-B is hereby made to effect a redelegation of investigative authorities from the Assistant Inspector General for Investigations to the following positions in the Investigations Division, Office of Inspector General: Deputy Assistant Inspectors General for Investigations, Chief Inspector, Special Agents-in-charge, and Special Agents. These investigative authorities were delegated by the Inspector General to the position of the Assistant Inspector General for Investigations and Delegation of Authority No. 23-A, and were expressly made redelegable.

I. Pursuant to the authority delegated to the Assistant Inspector General for Investigations in Delegation No. 23-A (published in this issue of the **Federal Register**), which authority was expressly made redelegable, investigative authorities are hereby redelegated as follows:

A. Investigation Authority: Small Business Act

Deputy Assistant Inspector General for Investigations, Chief Inspector, Special Agents-in-Charge, and Special Agents. The authority to permit any person to file with him or her a statement in writing, under oath or otherwise as he or she shall determine, as to all the facts and circumstances concerning the matter to be investigated; the authority to administer oaths and affirmations; and, for the purpose of verifying compliance with subpoenas issued under section 6(a)(4) of the Inspector General Act of 1978, 5 U.S.C. App. I, the authority to take evidence from witnesses subpoenaed by the Inspector General.

B. Investigation Authority: Small Business Investment Act

Deputy Assistant Inspectors General for Investigations, Chief Inspector, Special Agents-in-Chrge, and Special Agents. The authority to permit any person to file with him or her a statement in writing, under oath or otherwise as he or she shall determine, as to all the facts and circumstances concerning the matter to be investigated; the authority to administer oaths and affirmations; and, for the purpose of verifying compliance with subpoenas issued under section 6(a)(4) of the Inspector General Act of 1978, 5 U.S.C. App. I, the authority to take evidence from witnesses subpoenaed by the Inspector General.

II. The authorities delegated herein may be exercised by an SBA employee officially designated as acting in the following positions: Deputy Assistant Inspector General for Investigations, Chief Inspector and Special Agent-in-Charge.

III. The authorities delegated herein may not be redelegated.

Dated: December 19, 1985.

William O. Jones,

Acting Assistant Inspector General for Investigations.

[FR Doc. 85-30663 Filed 12-26-85; 8:45 am

BILLING CODE 8025-01-M

[Delegation of Authority No. 23-A]

Redelegation of Authority by the Inspector General to the Assistant Inspector General for Investigations.

Delegation of authority No. 23-A is hereby made to effect a redelegation of investigative authorities from the Inspector General to the position of the Assistant Inspector General for Investigations, Investigations Division, Office of Inspector General. These investigative authorities were delegated by the Administrator to the position of the Inspector General by Delegation of Authority No. 23 and Delegation of Authority No. 23, Rev. 1 thereto and were expressly made redelegable.

I. Pursuant to the authorities delegated to the Inspector General in Delegation No. 23 (50 FR 12678) and Delegation No. 23 Rev. 1 (published in today's **Federal Register**), investigative authorities are hereby redelegated to the Assistant Inspector General for Investigations, as follows:

A. Investigation Authority: Small Business Act

The authority to permit any person to file with him or her a statement in writing, under oath or otherwise as he or she shall determine, as to all the facts and circumstances concerning the matter to be investigated; the authority to administer oaths and affirmations; and, for the purpose of verifying compliance with subpoenas issued under section 6(a)(4) of the Inspector General Act of 1978, 5 U.S.C. App. I, the authority to take evidence from witnesses subpoenaed by the Inspector General.

B. Investigation Authority: Small Business Investment Act

The authority to permit any person to file with him or her a statement in writing, under oath or otherwise as he or she shall determine, as to all the facts and circumstances concerning the matter to be investigated; for the purpose of any investigation conducted under this authority, the authority to administer oaths and affirmations; and, for the purpose of verifying compliance with subpoenas issued under section 6(a)(4) of the Inspector General Act of 1978, 5 U.S.C. App. I, the authority to take evidence from witnesses subpoenaed by the Inspector General.

II. The authorities delegated herein may be exercised by an SBA employee officially designated as acting in that position.

III. The authorities delegated herein may be redelegated.

Dated: December 19, 1985.

Mary F. Wieseman,

Inspector General.

[FR Doc. 85-30662 Filed 12-26-85; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Meeting

The U.S. Small Business Administration, Region VI Advisory Council, located in the geographical area of the Lower Rio Grande Valley of Texas, will hold a public meeting at 2:00 p.m. on Tuesday, January 21, 1986, at the Cano Coors Distributing Co., 101 N. Ware Road, McAllen, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Rodney W. Martin, District Director, U.S. Small Business Administration, 222 E. Van Buren, Suite 500, Harlingen, Texas—(512) 423-8933.

Jean M. Nowak,

Director, Office of Advisory Councils.

December 20, 1985.

[FR Doc. 85-30660 Filed 12-26-85; 8:45 am]

BILLING CODE 8025-01-M

Action Subject to Intergovernmental Review

AGENCY: Small Business Administration.

ACTION: Notice of action subject to intergovernmental review under Executive Order 12372.

SUMMARY: SBA is in the process of discontinuing the West Virginia Small Business Development Center (SBDC) at the request of the host organization (the University of Charleston) effective December 31, 1985. Efforts are being taken within the State of West Virginia to start up a new SBDC as soon as possible after December 31, 1985; the target start up date is January 1, 1986. This notice provides for public awareness of SBA's intention to fund a different SBDC in West Virginia as soon as possible after December 31, 1985. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to the proposal developer for the SBDC expected to be funded. This publication is being made to provide the State single point of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed funding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

Pursuant to § 135.8 of SBA's regulations, SBA must provide a comment period of 60 days for SBDC fundings, except in unusual circumstances. In addition, § 135.13 authorizes the Administrator to waive any provision of the Intergovernmental Review regulations in an emergency. SBA deems this situation to be an unusual circumstance within the meaning of §135.8 and will limit the comment period for this funding to seven days. The West Virginia State single point of contact has been informed of this decision and fully supports and the shortening of this comment period.

DATE: Comments will be accepted through January 3, 1986.

ADDRESS: Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See. 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application for funding of the proposed Small Business Development Center (SBDC). Also, published herewith is an annotated program announcement describing the SBDC program in detail.

The proposed SBDC will be funded at the earliest practicable date following the 7-day comment period. However, no funding will occur unless all comments have been considered. Relevant information identifying this SBDC and providing the mailing address of the proposal developer is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to the affected State single point of contact which has been established under the Executive Order.

The single point of contact and other interested State and local entities are expected to advise the relevant proposal developer of their comments regarding the proposed funding in writing as soon as possible. The SBDC proposal cannot be inconsistent with any area-wide plan providing management assistance to small business, if there is one, which has been adopted by an agency recognized by the State government as authorized to do so. Copies of such written comments must also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration , 1441 L Street, NW., Washington, DC 20416. Comments will be accepted by the relevant proposal developer and SBA for a period of 7 days from the date of publication of this notice. The proposal developer will make every effort to accommodate these comments during the 7-day period. If the comments cannot be accommodated by the proposal developer, SBA will, prior to funding the proposed SBDC, either attain accommodation of any comments or furnish an explanation to the commenter of why accommodation cannot be attained prior to funding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance devlivery program of the U.S. Small Business Administration. SBDC's are authorized under section 21 of the Small Business Act (15 U.S.C. 648). SBDC's operate pursuant to the provisions of section 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with

other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agribusiness, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association), exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed toward specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All counseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Dated: November 8, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-30658 Filed 12-26-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Dockets 43656 (Maryland); 43657 (Arizona); 43658 (Vermont)]

55 Mile Per Hour Hearings

Correction

In FR Doc. 85-30178 beginning on page 51959 in the issue of Friday, December 20, 1985, on page 51960, third column, in the paragraph designated, "*Prehearing Conference*" the date reading, "December 30, 1985" should read, "January 7, 1986".

BILLING CODE 1505-01-M

Federal Aviation Administration

Advisory Circular; Certification of Small Airplanes for Flight in Icing Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability of Proposed Draft Advisory Circular (AC) and Request for Comments.

SUMMARY: This AC provides information and guidance concerning compliance with Part 23 of the Federal Aviation Regulations (FAR) applicable to ice protection requirements for small airplanes.

DATE: Commenters must identify File AC 23.1419–XX; Subject: Certification of Small Airplanes for Flight in Icing Conditions, and comments must be received on or before March 27, 1986.

ADDRESS: Send all comments on the proposed draft AC to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jess Lewis, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 374–6941, or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited

Interested parties are invited to submit comments on the proposed draft AC. The proposed draft AC and comments received may be inspected at the offices of the Regulations and Policy Office (ACE–110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background

In the latter part of 1968, the FAA instituted an extensive review of the airworthiness standards of Part 23 of the FAR. As a result of this review, in November 1973, the FAA issued amendment 23–14 which made several substantive changes in the interest of safety to Part 23 of the FAR. Among these substantive changes were a new § 23.929 requiring engine installation ice protection, a revised § 23.1419 establishing standards for ice protection systems, and a new § 23.1309 which established reliability requirements for installed equipment and systems. These three sections are directly related as defined in § 21.101 to the certification of an ice protection system because of the increased reliance on this system when operating in an icing environment.

Issued in Kansas City, Missouri, December 17, 1985.

Earsa L. Tankesley,

Acting Manager, Aircraft Certification Division.

[FR Doc. 85–30543 Filed 12–26–85; 8:45 am]

BILLING CODE 4910–13–M

Future Air Navigation Systems Committee; Meeting

A meeting to discuss the International Civil Aviation Organization (ICAO) Future Air Navigation Systems (FANS) Committee activity in pursuing standardization efforts for future aeronautical satellite communications system capability for air-ground communciations will be held for potential satellite system providers at the Federal Aviation Administration (FAA) headquarters, 800 Independence Avenue, SW., Washington, D.C., in Conference Rooms 5ABC, on January 22, 1986, beginning at 9:30 a.m.

The U.S. Member of the ICAO FANS Committee will briefly review the Committee's activity and the direction being taken by the Committee to help ensure a minimum system standardization to allow system interoperability among the possible satellite systems that are anticipated to be available worldwide. A future communications, navigation, and surveillance (CNS) system concept and related operational requirements developed by the FANS Committee will be discussed vis-a-vis an opportunity for potential satellite system providers to develop specific system design responses to these requirements and possibly participate in the activities of the U.S. Delegation at the FANS working group meeting scheduled for March 17–21, 1986.

A package of information on the March 1986 FANS Committee working group meeting, including the future CNS concept and operational requirements, is available from FAA by contacting Victor E. Foose, ADL–5, Room 800W, at the above address (zip code 20591) or by calling (202) 426–8795. In order to make the subject meeting as productive as possible, prospective attendees are encouraged to obtain and begin considering this information prior to the meeting.

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

S.B. Poritzky,

U.S. Member of FANS.

[FR Doc. 85–30549 Filed 12–26–85; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

National Motor Carrier Advisory Committee; Public Meetings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a meeting on January 30 and 31, 1986, beginning at 9:00 a.m., each day, in Washington, DC, at the Department of Transportation's Headquarters Building, 400 Seventh Street, SW., Washington, DC, Room 2230. The meeting is open to the public.

The agenda includes the following topics: Federal highway user fee and related issues, weigh-in-motion activities, status report on National Governors' Association Working Group on State Motor Carrier Procedures, changes in organization of the office of the Associate Administrator for Motor Carriers, various motor carrier safety issues, status of implementation of truck-related provisions of the Surface Transportation Assistance Act of 1982, status report on Heavy Truck Study and Study on Truck Occupant Protection, the Department's trucking deregulation proposal, various legislative issues, and a demonstration project concerning high performance traffic barriers.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Stapleton, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC–20, Room 4224, 400 Seventh Street, SW., Washington, DC 20590, (202) 426–0834. Office hours are from 7:45 a.m. to 4:15 p.m. e.s., Monday through Friday.

Issued on: December 18, 1985.

R.D. Morgan,

Executive Director, Federal Highway Administration.

[FR Doc. 85–30689 Filed 12–26–85; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirement Submitted to OMB for Review

Dated: December 19, 1985.

The Department of Treasury has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed.

Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0146
Form Number: IRS Form 2553
Type of Review: Extension
Title: Election by a Small Business Corporation
Clearance Officer: Garrick Shear [202] 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Robert Neal [202] 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Joseph J. Maty,

Departmental Reports Management Office.

[FR Doc. 85-30655 Filed 12-26-85; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Amendment to Department Circular—Public Debt Series—No. 10-85]

12% Treasury Bonds of 2005

Washington, November 13, 1985.

Department of the Treasury Circular, Public Debt Series—No. 10-85, dated March 20, 1985, as supplemented, descriptive of 12% Treasury Bonds of 2005, hereafter referred to as Bonds, is hereby amended effective November 18, 1985.

The following Section and Subsections in the original circular dated March 20, 1985, are hereby redesignated:

From 6. to 7
From 6.1 to 7.1
From 6.2 to 7.2

Subsections 2.6. and 6.3. in the original circular are replaced by the Subsections 2.6. and 7.3. below and, in addition, the following Sections and Subsections are now included. The other terms and conditions remain unchanged.

2. Description of Securities

2.6. A book-entry Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.5. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a book-entry Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Bond are: each future semiannual interest payment (hereafter referred to as an Interest Component) and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2. In order for a book-entry Bond to be separated into the components described in Subsection 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering is $50,000.

6.3. Only Bonds in book-entry form may be separated into their components. Such separation may be effected at any time from the effective date of the amendment of this circular until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the book-entry Bonds. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.4. The Principal Component will be payable on May 15, 2005.

6.5. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.6. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.7. Once a book-entry Bond has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.8 Interest Components and Principal Components may be held only in book-entry form.

6.9. Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Bond will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first disposition occurs. Both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.10. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.11. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachment A is incorporated as part of this circular.

The foregoing amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

Attachment

Cusip Numbers and designations for the Principal Component and Interest Components of 12% Treasury Bond of May 15, 2005, CUSIP No. 912810 DQ 8

The Principal Component is designated 12% Treasury Principal (TPRN) 2005 due May 15, 2005, CUSIP No. 912803 AD 5.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) 2005 due			
Treasury Interest (TINT) 2005 due			

INTEREST COMPONENTS—Continued

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
May 15, 1986	EG 1		FC 9
	May 15, 1996		
Nov. 15, 1986	EH 9	Nov. 15, 1996	FD 7
May 15, 1987	EJ 5	May 15, 1997	FE 5
Nov. 15, 1987	EK 2	Nov. 15, 1997	FF 2
May 15, 1988	EL 0	May 1998	FG 0
Nov. 15, 1988	EM 8	Nov. 15, 1998	FH 8
May 15, 1989	EN 6	May 15, 1999	FJ 4

INTEREST COMPONENTS—Continued

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Nov. 15, 1989	EP 1	Nov. 15, 199	FK 1
May 15, 1990	EQ 9	May 15, 200	FL 9
Nov. 15, 1990	ER 7	Nov. 15, 200	FM 7
May 15, 1991	ES 5	May 15, 2001	FN 5
Nov. 15, 1991	ET 3	Nov. 15, 2001	FP 0
May 15, 1992	EU 0	May 15, 2002	FQ 8
Nov. 15, 1992	EV 8	Nov. 15, 2002	FR 6
May 15, 1993	EW 6	May 15, 2003	
Nov. 15, 1993	EX 4	Nov. 15, 2003	FT 2
May 15, 1994	EY 2	May 15, 2004	FU 9

INTEREST COMPONENTS—Continued

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Nov. 15, 1994	EZ 9	Nove. 15, 2004	FV 7
May 15, 1995	FA 3	May 15 2005	FW 5
Nov. 15, 1995	FB 1	May 15, 2005	FWS

[FR Doc. 85-30573 Filed 12-26-85; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 249
Friday, December 27, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, December 30, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Applications for Federal deposit insurance:

American Bank of Connecticut, an operating noninsured savings association located at Two West Main Street, Waterbury, Connecticut.

Evansville Morris Plan/Thrift, Inc., an operating noninsured industrial bank located at 222 Main Street, Evansville, Indiana.

Fidelity Investment, Inc., an operating noninsured industrial bank located at 714 North Michigan Street, South Bend, Indiana.

Citicorp Person-to-Person Financial Center, Inc., an operating noninsured industrial bank located at 7550 France Avenue South, Suite 180, Edina, Minnesota.

Request for reconsideration of a previous denial of request for relief from reimbursement of violations under Regulation Z:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,376
Northern California Consolidated Office, San Jose, California
Case No. 46,392-L (Amendment)
United American Bank in Knoxville, Knoxville, Tennessee and
United American Bank in Hamilton County, Chattanooga, Tennessee and
City and County Bank of Knox County, Knoxville, Tennessee and
First Peoples Bank of Washington County, Johnson City, Tennessee and
City and County Bank of Anderson County, Lake City, Tennessee

Recommendations regarding the Corporation's assistance agreement with an insured bank pursuant to section 13 of the Federal Deposit Insurance Act.

Request for financial assistance pursuant to section 13(i) of the Federal Deposit Insurance Act.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: December 23, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85-30759 Filed 12-24-85; 11:04 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, December 30, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to purchase assets and assume liabilities and establish one branch:

The Savings Bank of Manchester, Manchester, Connecticut, an insured mutual savings bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Tolland, Connecticut, branch of Heritage Savings and Loan Association, Manchester, Connecticut, a non-FDIC-insured institution, and for consent to establish that office as a branch of The Savings Bank of Manchester.

Application for consent to purchase assets and assume liabilities:

Bank One, Milford, National Association, Milford, Ohio, for consent to purchase certain assets of and assume the liability to pay deposits made in the Mount Orab Branch, Goshen Branch, and Bethel Branch of Security Savings Association, Milford, Ohio, a non-FDIC-insured institution.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as

receiver, liquidator, or liquidating agent of those assets:

Case No. 46,380–SR
Gamaliel Bank, Gamaliel, Kentucky
Case No. 46,384–SR
American Bank, St. Joseph, Tennessee
Case No. 46,389–SR
Southwestern Bank, Tucson, Arizona
Case No. 46,391–L
Union Trust Company, San Juan, Puerto Rico

Memorandum regarding the Division of Bank Supervision's rotation policies for staff assignments.

Memorandum regarding the buildout of office space in the Corporation's Kansas City Regional Office.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum regarding a contract renewal.

Memorandum regarding extension of time to comply with certain provisions of the Corporation's regulations governing securities activities of subsidiaries and affiliates of insured nonmember banks (12 C.F.R. 337.4).

Memorandum and resolution re: Notice of withdrawal of final amendments to Part 330 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage," which amendments limited insurance coverage on deposits placed by deposit brokers.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: December 23, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85–30760 Filed 12–24–85; 11:04 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:48 p.m. on Thursday, December 19, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Bank of Panama, Panama, Nebraska, which was closed by the Director of Banking and Finance for the State of Nebraska on Thursday, December 19, 1985; (2) accept the bid for the transaction submitted by Farmers State Bank, Douglas, Nebraska, an insured State nonmember bank; (3) approve the application of Farmers State Bank, Douglas, Nebraska, for consent to purchase certain assets of and assume the liability to pay deposits made in Bank of Panama, Panama, Nebraska, and for consent to establish the sole office of Bank of Panama as a branch of Farmers State Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(B)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Farmers State Bank, Sargent, Nebraska, which was closed by the Director of Banking and Finance for the State of Nebraska on Thursday, December 19, 1985; (2) accept the bid for the transaction submitted by First National Bank in Ord, Ord, Nebraska; (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(C) adopt a resolution making funds available for the payment of insured deposits made in Farmers & Merchants Bank, Comstock, Nebraska, which was closed by the Director of Banking and Finance for the State of Nebraska on Thursday, December 19, 1985; and

(D) adopt a resolution making funds available for the payment of insured deposits made in Princeton State Bank, Princeton, Missouri, which was closed by the Commissioner of Finance for the State of Missouri on Thursday, December 19, 1985.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 23, 1985.

Federal Deposit Insurance Corporation.

Janice M. Smith,

Acting Assistant Executive Secretary.

[FR Doc. 85–30761 Filed 12–24–85; 11:04 am]

BILLING CODE 6714–01–M

4

COUNCIL ON ENVIRONMENTAL QUALITY

December 23, 1985.

TIME AND DATE: 10:00 a.m., Thursday, January 9, 1986.

PLACE: Conference Room, First Floor, 722 Jackson Place, NW., Washington, DC.

MATTERS TO BE CONSIDERED:

1. The General Counsel will brief the Council on comments received in response to the proposal to amend 40 CFR 1502.22. (50 FR 32234 (1985)).

2. Other business.

A. Alan Hill,

Chairman.

[FR Doc. 85–30724 Filed 12–24–85; 8:50 am]

BILLING CODE 3125–01–M

5

POSTAL SERVICE

Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold meetings at 1:00 p.m. on Monday, January 6, 1986, in Washington, D.C., and at 8:30 a.m. on Tuesday, January 7, 1985, in the Benjamin Franklin Room, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington DC. As indicated in the following paragraph, the January 6 meeting is closed to public observation. The January 7 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

At its meeting on December 2, 1985, the Board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for January 6, 1986. (See 50 FR 50382, December 10, 1985.) By telephone vote on December 23, 1985, a majority of the Members contacted and voting, the Board voted to add to the closed meeting agenda consideration of *Rose v. USPS.*

AGENDA

Monday Session

January 6, 1986–1:00 p.m. (Closed)

1. Consideration of Postal Rate Commission Recommended Decision in *Complaint of Tri-Parish Journal, Inc.* (Docket No. C85–2).

2. Consideration of court ruling in *Mason H. Rose* v. *United States Postal Service.*

Tuesday Session

January 7, 1986–8:30 a.m. (Open)

1. Mintues of the Previous Meeting, December 2–3, 1985.

2. Remarks of the Postmaster General.

3. Selection of Chairman and Vice Chairman.

(Under the Board's bylaws, the first regular meeting of each calendar year is designated as the Annual Meeting. The terms of the Chairman and Vice Chairman of the Board expire at the end of the first Annual Meeting following the meeting at which they were elected. Accordingly, the Board will consider the election of a Chairman and Vice Chairman.)

4. Appointment of Commttee Members by Chairman.

(The bylaws also provide that the terms of the Chairman and members of the several committees of the Board expire at the end of this meeting.)

5. Annual Report on Open Meeting Compliance.

(Mr. Harris will present for approval by the Board the annual report to Congress that is required by the Government in the Sunshine Act regarding the Board's compliance with the Act.)

6. Consideration of a request to the Postal Rate Commission for an advisory opinion on a change in the nature of COD service.

(Ms. Uemoto, Assistant Postmaster General, Rates and Classification, will present this item.)

7. Capital Investments:

a. Midland, Texas, General Mail Facility;

b. Flat sorters.

c. Extension of lease for Southern Region headquarters.

8. Tentative agenda for February 3–4, 1986, meeting in San Diego, California.

David F. Harris,

Secretary.

[FR Doc. 85–30736 Filed 12–24–85; 10:32 am]

BILLING CODE 7710-12-M

federal register

Friday
December 27, 1985

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31

Federal Acquisition Regulation (FAR); Nominal Changes; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

Federal Acquisition Regulation (FAR); Nominal changes to FAR

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are proposing changes to the Federal Acquisition Regulation (FAR) 31.205–8, Contributions and donations; 31.205–15, Fines and penalties; and 31.205–47, Defense of fraud proceedings.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 27, 1985 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85–73 in all correspondence related to this issue.

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

SUPPLEMENTARY INFORMATION:

A. Background

Section 911, paragraphs (e) (1) (C), (D), and (G) of the Defense Procurement Improvement Act of 1985 (Pub. L. 99–145, Department of Defense Authorization Act of 1986) specifies that (1) costs of defense of fraud or similar proceedings (including filing of any false certification), (2) payments of fines and penalties resulting from violations, or failure to comply with Federal, State, local or foreign laws and regulations, and (3) contributions and donations, regardless of the recipient, are to be unallowable. Section 911 of the Act also authorizes amendments to procurement regulations to provide appropriate definitions, exclusions, limitations, and qualifications. The Councils have examined the language of the three cost principles in light of the requirements of the Act and have developed proposed changes to clarify the present wording and fulfill the intent of the Act.

B. Regulatory Flexibility Act

The proposed changes to FAR 31.205–8, 31.205–15, and 31.205–47 are not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because most contracts awarded to small entities are awarded on a competitive fixed-price basis and cost principles do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements on the public which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: December 20, 1985.

Harry S. Rosinski,

Deputy Director, Office of Federal Acquisition and Regulatory Policy.

PART 31—[AMENDED]

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 31.205–8 is revised to read as follows:

31.205–8 Contributions or donations.

Contributions or donations, including cash, property and services, regardless of the recipient, are unallowable, except as provided in 31.205–1(e)(3).

3. Section 31.205–15 is revised to read as follows:

31.205–15 Fines and penalties.

Costs of fines and penalties resulting from violations of, or failure of the contractor to comply with, Federal, State, local, or foreign laws and regulations are unallowable except when incurred as a result of compliance with specific terms and conditions of the contract or written instructions from the contracting officer.

4. Section 31.205–47 is amended by revising paragraph (b) and the first sentence of paragraph (d) to read as follows:

31.205–47 Defense of fraud proceedings.

* * * * *

(b) Costs incurred in connection with defense of any (1) criminal or civil investigation, grand jury proceeding, or prosecution, (2) civil litigation, (3) suspension or debarment proceedings, or (4) similar proceedings (including those associated with the filing of any false certification), or any combination of the foregoing, brought by the Government against a contractor, its agent or employee, are unallowable when the charges, which are the subject of the investigation, proceedings, or prosecution, involve fraud or similar offenses (including filing of a false certification) on the part of the contractor, its agent or employee, as defined in (a) above, and result in conviction (including conviction entered on a plea of nolo contendere), judgment against the contractor, its agent or employees, or decision to debar or suspend, or are resolved by consent or compromise.

* * * * *

(d) Costs which may be unallowable under 31.205–47, including directly associated costs, shall be differentiated and accounted for by the contractor so as to be separately identifiable. * * *

[FR Doc. 85–30535 Filed 12–26–85; 8:45 am]

BILLING CODE 6820–61–M

Federal Register

Friday
December 27, 1985

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions, Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Iowa	
IA84–4042	June 15, 1984.
Pennsylvania	
PA84–3004	Feb. 17, 1984.
West Virginia	
WA83–3023	Nov. 25, 1983.

Signed at Washington, D.C. this 20th Day of December 1985.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

MODIFICATION P. 1

DECISION #IA84-4042-MOD.#8 (49 FR 24855 - 6/15/84)	Basic Hourly Rates	Fringe Benefits
WOODBURY COUNTY, IOWA		
CHANGE:		
Plumbers & Pipefitters	$14.49	$3.25

DECISION NO. PA84-3004 - MOD. NO. 9 (49 FR 6209 - February 17, 1984)	Basic Hourly Rates	Fringe Benefits
Armstrong, Beaver, Butler, Fayette, Indiana, Washington, Allegheny & Westmoreland Counties, Pennsylvania		
CHANGE:		
Asbestos Workers	$16.45	5.72
Cement masons		
Zone 1	14.86	29.5%
Carpenters		
Zone 1	15.12	33 & 1/10%
Elevator Constructors	17.95	3.58+ a+b
Elevator Constructors Helpers	70%JR	3.58+ a+b
Elevator Constructors Helpers (Prob)	50%JR	
Lathers		
Zone 1	15.12	33 & 1/10%
Piledrivermen	16.23	.08+ 32%
Steamfitters		
Zone 1	17.30	4.79
Sprinkler Fitters		
Zone 1	17.75	4.34
Soft Floor Layers		
Zone 1	15.50	32.5%
Plasterers		
Zone 1	14.44	4.29
Plasterers		
Zone 1		
"Board Coaters"	13.00	4.29
Plumbers		
Zone 2	17.10	4.79

DECISION #WV83-3023 - MOD. #5 (48 FR 53273 - November 25, 1983)	Basic Hourly Rates	Fringe Benefits
Statewide, West Virginia (Heavy & Highway Construction)		
CHANGE:		
LABORERS:		
Heavy Construction:		
Class I	15.17	2.70
Class II	14.57	2.70
Class III	14.13	2.70
Class IV	13.64	2.70
Class V	13.25	2.70
Highway Construction:		
Class I	14.91	2.70
Class II	14.30	2.70
Class III	13.81	2.70
Class IV	13.31	2.70
Class V	12.87	2.70

Classifications Definitions for Laborers Heavy & Highway Construction:

Class I - Blacksmith, Tunnel Driller Tunnel miner, Powderman;

Class II - Mucker-chucker, Reinforcing bar handler (structures);

Class III - Caison Bottom Man, Pipe layer (including laser beam set-up) Form setter (road), Drill operator, Inside laborer, Air tool Operator, Grade Checker, Asphalt Raker;

Class IV - Vibrator man, Whacker, Chainsaw operator, Mortarman, Mason tender, Blacksmith tender, Cement finisher tender. Drill Tender, Powderman tender, Waterproofer, Sheeter & Shorer, Pipe layer tender Bull float man, Pavement Reinforcing Placer, Handyman, Signal man, Green cutter, Georgia Power buggie burner, Cement blower man, Bituminous hand sprayer;

Class V - Laborer, Deckhand, Mulcher & Seeder (Hand or Machine), Tree trimmer.

(2)

[FR Doc. 85-30523 Filed 12-26-85; 8:45 am]
BILLING CODE 4510-27-C

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions, Notice of New Publication Procedures

Note.—This document was originally published on Dec. 6, 1985 at 50 FR 50116. It is reprinted in this issue at the request of the Department of Labor.

Beginning January 3, 1986, general wage determinations issued under the Davis-Bacon and Related Act will no longer be published in the **Federal Register.** Instead, notices of wage determinations issued will be published in the **Federal Register.** General wage determinations will be published in full in the Government Printing Office (GPO) document entitled *"General Wage Determinations Issued Under The Davis-Bacon And Related Act."* This change is being made to enhance the availability and use of Davis-Bacon wage determinations information while lowering Federal Government costs.

The GPO publication *"General Wage Determinations Issued Under The Davis-Bacon And Related Acts"* is organized into three volumes—East, Central, and West. Subscriptions may be purchased for one, two, or all three volumes (at a cost of $227 per volume) from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3283.

This publication is to be available for examination at all 80 Regional Government Depository Libraries and many other of the 1,400 Government Depository Libraries across the country. The State covered by each volume are as follows:

Volume I—East

Alabama	North Carolina
Connecticut	Pennsylvania
Delaware	Rhode Island
Florida	South Carolina
Georgia	Tennessee
Kentucky	Vermont
Maine	Virginia
Maryland	West Virginia
Massachusetts	District of Col.
Mississippi	Canal Zone
New Hampshire	Puerto Rico
New Jersey	Virgin Islands
New York	

Volume II—Central

Arkansas	Missouri
Illinois	Nebraska
Indiana	New Mexico
Iowa	Ohio
Kansas	Oklahoma
Louisiana	Texas
Michigan	Wisconsin
Minnesota	

Volume III—West

Alaska	Nevada
Arizona	North Dakota
California	Oregon
Colorado	South Dakota
Hawaii	Utah
Idaho	Washington
Montana	Wyoming

On or about January 1 of each year, an annual edition will be issued that includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers and libraries providing any modifications or supersedeas wage determinations issued. Each volume's annual and weekly editions will be printed in loose-leaf format, thereby faciliating the orderly and continuous availability of a comprehensive listing of up-to-date general wage determinations.

Susan R. Meisinger,

Deputy Under Secretary for Employment Standards.

Herbert J. Cohen,

Deputy Administrator, Wage and Hour Division.

[FR Doc. 85–29402 Filed 12–5–85; 8:45 am]

BILLING CODE 4510–27–M

Federal Register

Friday
December 27, 1985

Part IV

Department of Labor

Bureau of Labor-Management Relations and Cooperative Programs

29 CFR Part 220

Airline Employees Protection Program; Final Rule

DEPARTMENT OF LABOR

Bureau of Labor-Management Relations and Cooperative Programs

29 CFR Part 220

Airline Employee Protection Program

AGENCY: Bureau of Labor-Management Relations and Cooperative Programs, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor, through the Bureau of Labor-Management Relations and Cooperative Programs (BLMRCP), is issuing regulations to implement the Airline Employee Protection Program established by Section 43 of the Airline Deregulation Act or 1978 (Pub. L. 95–504). By Secretary's Orders Number 1–79 and 5–84, the (BLMRCP) has been assigned responsibility for provisions concerning protected employees' priority hire rights, air carriers' duty to hire and the comprehensive job listing. These rules are designed to effectuate those provisions.

EFFECTIVE DATE: January 27, 1986.

FOR FURTHER INFORMATION CONTACT: Jeffrey Salzman, Airline Employee Protection Program, Division of Employee Protections, Room N–5416 U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Phone: (202) 357–0473.

SUPPLEMENTARY INFORMATION:

Background

On October 24, 1978, the Airline Deregulation Act of 1978, Pub. L. 95–504 (the Act), was signed into law to bring to a close economic regulation of the airline industry. Although airline deregulation is expected to result in expanded overall employment opportunities over the long term, Congress recognized the possibility of reduction of the labor force of one or more air carriers as they make the adjustment from government regulation to an economic environment governed by market forces. Section 43 of the Act provides in general terms for certain employee protective provisions to be administered by the Secretary of Labor. Those provisions include both a legal hiring preference for certain unemployed airline workers and, under contain defined circumstances, a benefit program. These regulations apply only to the first-right-of-hire and job list provisions contained in Section 43 of the Act (the Rehire Program).

Under the Act, those persons (other than members of the board of directors or corporate officers) who as of October 24, 1978 (the Trigger Date) had been employed for at least four years by an air carrier which had been certificated under section 401 of the Federal Aviation Act of 1958 on or before that date (any such carrier being hereinafter called a covered air carrier) are protected employees for purposes of the Rehire Program. All protected employees who are furloughed or terminated (other than for cause) by their employer during the ten year period subsequent to the Trigger Date (hereinafter called "designated employees") are entitled to a first-right-of-hire in their occupational specialty by any covered air carrier which is hiring new employees, except that any such covered air carrier is specifically entitled to recall its own furloughed or terminated employees or promote or transfer existing employees before hiring a designated employee. Air carriers which are not covered carriers for purposes of the Act do not have any duty to hire designated employees. In addition, the Act requires the Secretary to compile and publish a comprehensive list of jobs available with certificated air carriers, whether or not such carriers are subject to the duty to hire designated employees.

In January of 1979, public meetings were held with interested parties from the airline industry to obtain their views concerning development of this program. Proposed regulations were published in March of 1979 in the **Federal Register** and public comments were received. However, a final rule from this rulemaking proceeding was never published.

The Department published a revised proposal on September 17, 1982, 47 FR 41304, with a 30-day review and comment period.

Final Regulations were published on November 22, 1983, 48 FR 52854, with an effective date of 60 legislative days after submission to Congress. The regulations were submitted to Congress on November 17, 1983, and took effect on May 17, 1984. Technical amendments to reflect the re-organization of the Labor-Management Services Administration and provide information collection control numbers were published on May 18, 1985. The Department also published a notice of effective date at that time. 49 FR 21053.

On May 17, 1984, however, the United States District Court for the District of Columbia held that the legislative veto provision in section 43 of the Airline Deregulation Act was unconstitutional and that other provisions of section 43 were also invalid because they were not severable from the legislative veto provision. *Alaska Airlines, et al.* v. *Donovan* 594 F. Supp. 92 (D.C.D.C. 1984). On May 24, 1984, the Department published a notice rescinding the May 18 notice of effective date, pursuant to court order. 49 FR 21499. On July 16, 1985, the United States Court of Appeals for the District of Columbia Circuit reversed the District Court. *Alaska Airlines*, v. *Donovan* (D.C. Cir. 1985). The mandate from the Court of Appeals was issued on October 9, 1985.

The Court of Appeals remanded the case, now titled *Alaska Airlines*, v. *Brock* to the District Court for further proceedings on other issues raised by the carriers. In the absence of further legal impediments to implementation of the Rehire Program and because there have already been lengthy delays, the Department intends to implement the Rehire Program at the end of the normal 30-day notice period.

Discussion of Major Comments and Changes

The Department received written responses from 34 air carriers, labor organizations, civil rights organizations, and employees. The Department gave full consideration to all comments and suggested changes. Discussed below are the major comments and changes.

Rehire Program and Qualifying Dislocation

Section 43 of the Act distinguishes between protected employees and eligible protected employees. In the proposal accordingly we took the position that protected employees who are furloughed or terminated other than for cause ("designated employees" under this rule) are entitled to a first-right-of-hire. There is no requirement for determinations by the Civil Aeronautics Board or its successor, the Department of Transportation (DOT), that there has been a major contraction in employment or that such contraction was due to deregulation. Eligible protected employees may receive monetary benefits if the DOT makes the above determinations.

Air carriers took issue with the foregoing interpretation. They argued that the distinction between protected and eligible protected employees is not supported by the Act nor by its legislative history. Moreover, the air carriers stated that such a distinction, providing the first-right-of-hire without the need for a major employment impact or a finding of cause by the DOT was not consistent with other protective statutes, which were specifically remedial.

The Department has reviewed the legislative history and has concluded

that the interpretation set forth in the proposed regulations accurately reflects Congressional intent to provide the first-right-of-hire even though a bankruptcy or major contraction has not occurred. Key to the Department's interpretation is the deletion from the legislation as finally enacted of the precise language which formerly conditioned the first-right-of-hire on the triggering requirements outlined above for monetary benefits. These triggering requirements were clearly a condition for both forms of benefits (hiring and monetary) when the deregulation bill (S. 2493) was passed by the Senate. However, the final bill which emerged from the joint House-Senate Conference dropped the triggering conditions for the first-right-of-hire provisions. The conference bill was passed into law unchanged. In the face of this clear and deliberate action on the part of the Congress, the Department has no latitude to reintroduce these requirements for the hiring priority benefit.

Waiting Period

The Department proposed that covered air carriers could hire nondesignated employees if no qualified designated employees had applied in a timely manner. The waiting period before carriers could hire nondesignated employees would end 30 days after the listing had been called in to the Center. Carriers stated that this period would be too long and would place an excessive burden on their operations. The Department, however, believes that the prevalent practice in the industry of accepting advance applications, which this regulation recognizes, will relieve carriers of delays in filling vacancies. A carrier will be free to fill a job with a designated employee from an advance application at the same time it lists the vacancy with the Center, and there will be no waiting period. Such a listing should indicate that the job has already been filled, and the carrier would not receive unwanted applications.

A number of smaller covered carriers stated that the 30-day waiting period worked a particular hardship on their operations They generally do not hire in large classes, and their small work forces at many stations have greater difficulty performing additional duties while a job is being filled. We agree that any burden which might occur as a result may be greater on such smaller carriers. The Department seriously considered reducing the waiting period for carriers operating smaller aircraft. But the period of time that elapses between a listing and its availability to employees precludes any significant relief which would still afford designated employees an opportunity to apply for the job. We have concluded that a 30-day period is necessary to effectuate the statutory rights of protected employees. Smaller carriers, however, can mitigate any possible burdens by maintaining files of advance applications or by listing anticipated vacancies.

One commentator suggested that carriers should be required to retain applications for a 12-month period. The Department rejected this provision because a uniform requirement might unduly burden some carriers. However, we suggest that carriers develop prudent retention policies for unsolicited and advance applications in the event that a designated employee alleges that a carrier did not consider the employee's application prior to hiring a non-designated employee.

Exemption From the Duty to Hire

Several small regional and former charter carriers sought exemption from the duty to hire on a variety of grounds. Two carriers, for example, had obtained their certificates only weeks before the Act became effective. Others suggested that it was anomalous to cover such carriers, many of which had no protected employees. These carriers commented that they had not enjoyed the benefits of the regulated system and thus should not be encumbered with the protective requirements under deregulation. Congress, they stated, could not have intended to burden this group of carriers. Several noted that they essentially resembled the new entrants, which do not have a duty to hire.

The Department cannot agree with these claims. The explicit language of Section 43(d) imposing the duty on all covered carriers is clear and compelling. Congress anticipated that carriers would experience economic adjustments in a deregulated environment. Under the statute, protected employees, who lose jobs at a shrinking carrier, will be able to obtain employment with a growing one. Statutory language must be construed in the context of the overall statutory purposes—in this case, the reemployment of designated employees. The Department therefore has concluded it would be inappropriate to provide exemptions and reduce preferential hiring opportunities.

Definition of Protected Employee

The proposal provided protection based on accrued seniority as well as employment. The Department received comments supporting its proposed definition as well as comments seeking to broaden the definition or to restrict it. An industry association suggested that we amend proposed section 220.01(j) to require a protected employee to be in compensated service for 48 consecutive months and have an employment relationship with that carrier on the Trigger Date (October 24, 1978). We believe that the suggested requirement of consecutive compensated service would be excessively restrictive and would not provide an accurate measure of long term attachment to the industry, which is the general basis on which Congress conferred protection on airline employees.

Upon review of the statutory definition of a protected employee, however, we do agree with the association that protected employees should have an employment relationship with a covered air carrier on the effective date of the Act. Employees who have been furloughed and recalled display that attachment to the industry. Similarly, employees who have the four years of service or accrued seniority with a particular carrier, but who shift employment to another covered carrier, also have had that same reliance on the regulated system as the employee whose entire career is spent at one carrier.

Pursuant to our requirement for an employment relationship, we have altered the notice of protected status in § 220.25(c)(1) so that such notice would go the carriers workers who had an employment relationship on October 24, 1978. This requirement would focus the notice on those employees who meet at least one of the two criteria for attaining protected status and will facilitate the process of determining who is protected.

Other commentators stated that the Department was too restrictive. One union suggested utilizing an employee's date of hire as the beginning of the service period for determining protected status because contracts differ on determining accrual of seniority. We note, however, that the contractual provisions which that union submitted generally provide for accrual of seniority during major breaks in compensated service such as furloughs, sick leave, maternity leave. While we recognize that the Department's definition may lead to differential results among similarly situated employees, we do not believe that the differentiation will be substantial.

Several commentators disagreed with the Department's position that four years of service or seniority had to be with a single carrier in order to achieve protected status. Thus an employee who had spent only two years with one carrier and only two years with another

carrier prior to 1978 would not be protected. The Department bases its position on the explicit language of Section 43(h)(1): "* * * employed for at least four years by *an* [emphasis added] air carrier * * *" The Senate Commerce Committee in reporting out the legislation, used the term service with "a *particular* [emphasis added] airline." We believe that the statutory language and the committee report reflect a Congressional intent that service or seniority must be with only one carrier in order to qualify as a protected employee.

Equal Employment Opportunity

Section 29 of the proposed rule stated that the first-right-of-hire shall take precedence over any equal employment opportunity [EEO] obligations which a carrier may have. After consultations between the Department of Labor and the Equal Employment Opportunity Commission, it was agreed that latitude existed to accommodate the requirements of both the ADA and EEO statutes. Since covered air carriers remain free to select any applicant from among the pool of designated employees, the Department believes that air carriers will be able to accommodate both their duty to hire designated employees and their equal employment obligations in most cases. Where this is not possible, a carrier having a specific equal employment requirement as defined in section 220.01(j) of the regulation may hire a non-designated employee. Every carrier remains responsible for following the hiring procedures set forth in the regulation.

New Entrants' Requirement to List Vacancies

The Department had proposed that new entrant carriers as well as the prederegulation carriers list their job vacancies in the comprehensive listing. Several new entrants objected to this obligation. They argued that the comprehensive list required by Section 43(d)(2) was intended only to complement the duty to hire and that the Department's application of this requirement to new entrants was unreasonable and unnecessary. Such listings, they believe, would be futile since carriers which do not have an obligation to hire would be required to list jobs they already may have filled by the time designated employees applied.

In proposing this section, the Department was guided by the explicit language of section 43(d)(2) which establishes the requirement for a comprehensive list of jobs available with *all* carriers certificated under section 401 of the Federal Aviation Act. By contrast, the duty to hire is imposed on carriers certificated prior to deregulation. Furthermore, publication of a truly comprehensive list is consistent with the overall statutory pupose of section 43. The Congress anticipated that while the industry as a whole would grow, there might be some job losses at some carriers. A protection program was written to cushion adverse effects on workers. Publication of a comprehensive list will announce job vacancies to these workers and facilitate their reemployment. To the extent that some of these workers may be eligible for monetary benefits, assistance to them in obtaining any reasonably comparable employment will lessen the cost of the monetary benefits program.

Recall Rights

The proposed rule preserved, in accordance with express statutory language, seniority and recall rights at the designated employee's former carrier. In implementing this provision, the Department proposed to permit carriers to require disclosure of any such rights. Several unions objected to the disclosure of recall rights on the grounds that it would either preclude hiring of designated employees possessing these rights or coerce employees into relinquishing these rights.

While the Department recognizes that the commentators' contentions may have some validity, it believes that carriers hiring designated employees have a compelling interest in retaining these designated employees. Considerable time and expense is usually invested in new hires, and the regulations must reflect these practical considerations. Disclosure does not, in any event, diminish the carrier's duty to hire. It only permits a carrier to distinguish among designated employees according to the extent of seniority or recall rights in addition to other criteria.

Several commentators sought to have carriers hire on the basis of the seniority of the designated employees. It is clear, however, that the statute does not require this approach. Moreover, any program based on it would be virtually impossible to administer. The Department has sought to implement this program without imposing any new obligations on the carriers that are not required by the statute as it pertains to the selection of employees.

Temporary and Seasonal Employees

Recognizing the prevailing practice in the industry of hiring temporary and seasonal employees, such as college students and military personnel during the Christmas holidays and periods of peak summer travel, the Department proposed to permit carriers to fill seasonal and temporary positions outside of the Rehire Program. Under the proposed rule, carriers could not promote or reassign such employees into permanent positions unless the employees held seniority or recall rights.

Several carriers opposed this restriction on promotion because their typical employee selection procedure is to hire initially on a temporary or seasonal basis and promote into permanent positions. The regulations would force them to change their hiring practices. The Department cannot accept these comments without defeating the overall purpose of the Rehire Program. Where carriers utilize temporary or seasonal employment as a means of selecting permanent employees, they should list the vacancies and hire designated employees. They would then be free to promote them into permanent jobs; we have modified § 220.20(b) accordingly. In other instances where carriers accord seniority or recall rights to temporary or seasonal workers, those workers would not be defined as temporary or seasonal under these regulations, and the restriction on promotion would not apply.

One union requested that the Department specify the duration of temporary or seasonal employment. However, because seasonal or temporary periods may vary greatly from carrier to carrier and a uniform time period may be unworkable for some carriers, the Department does not believe that it would be appropriate to make a fixed rule concerning the duration of seasonal or temporary periods.

Responsibilities of Non-Operating Carriers

Several commentators noted that carriers which were no longer operating might not be able to provide the lists of protected employees or the notices of rights required by §§ 220.25 and 220.27. The statute requires all certificated carriers, whether operating or not, to meet the requirements of §§ 220.25 and 220.27. However, we recognize that compliance may be more difficult for some carriers. We have written letters to officials or owners of those carriers which we believe are not presently operating seeking information on any problems they might expect in complying. The Department is attempting to provide an opportunity for

full participation of all designated employees in the Rehire Program.

Participation of Labor Organizations

Several unions sought an enhanced role in the implementation of the program. One union suggested that the list of protected employees should be made available to collective bargaining representatives to minimize subsequent appeals. The Department naturally hopes to minimize appeals, but since consultations appear to be in the interests of both carriers and unions, we think it is unnecessary to regulate this activity. In § 220.26 the commentator sought authorization for unions to file appeals on behalf of their members. We agree, to the extent that representation is authorized, and have made the appropriate change.

In addition, this union also wanted collective bargaining representatives to receive copies of the comprehensive job list. The Department has made provision for some 500 additional copies of the list beyond those to be sent to the local offices of the employment service. Prior to the effective date of these regulations, the Department will determine those unions, media, or other organizations which will receive the job listings.

Eligibility for Designated Status

Under the proposed § 220.10 the Department set forth criteria to determine whether or not a protected employee has been furloughed or terminated within the meaning of the Act. In addition to retirees and voluntary quits, we stated that strikers, employees who respect picket lines, or employees who had been terminated for being on strike would not be eligible for the Rehire Program. Several unions opposed these positions arguing that our prohibitions would have a chilling effect on the exercise of rights to concerted activity under the Railway Labor Act.

We think it is evident that strikes and sympathy strikes are neither furloughs nor terminations, which the Act requires to initiate a preference in hiring. A contrary interpretation would be inconsistent with the Act and would provide striking employees with a significant weapon in labor disputes. We do not believe that Congress intended such a result. On the other hand, we agree that terminations for being on strike are similar to other forms of involuntary termination, and we have deleted that exclusion.

One union noted that the phrase "has withheld services" in § 220.10(b)(4) could be interpreted to exclude employees who had ever done so. The Department did not intend this, and we have changed the paragraph to make it parallel to the exclusion for being on strike.

Notices of Rights

In proposed § 220.27 carriers would have as much as 180 days to provide furloughed employees with notices of their designated status. We have reduced that period to 60 days. Carriers should not have any difficulty in meeting this requirement, regardless of whether they use automated personnel systems. Employees should not have to wait six months to obtain the document which confirms designated status and eligibility for the Rehire Program. In addition, we specifically require carriers to replace lost notices of rights.

Effective Period

The Department indicated in its notice of proposed rulemaking that the regulations would apply on their effective date. Certain carriers construed the proposed rule to indicate that the duty to hire and the first-right-of-hire would not apply until the regulations become effective. This is a misunderstanding of the Department's position. While any requirements imposed by the regulations will of course not be in force before the rule's effective date, the rights and duties under section 43(d) which flow directly from the Act have existed since October 24, 1978. These regulations merely facilitate the exercise of statutory rights and duties. We have modified §§ 220.01(g) and 220.50 to prevent any further misunderstanding with respect to the effective date of these regulations and the statutory rights and obligations.

Additional Modifications

In addition to the modifications discussed above, the Department has also made the following changes: (1) In § 220.25(c)(3) we have imposed a 15-day period for carriers to answer appeals and a correspoinding change in section 220.26(a). (2) In § 220.28 we require two copies of the semi-annual report.

Summary of the Final Rule

There follows a summary of the final rule, as modified in the fashion discussed above. The regulations are divided into six subparts:

Subpart A contains the purpose, scope, responsibilities and definitions applicable to this Part 220. It should be noted that a number of these provisions contain significant administrative interpretations of the Act. Of particular importance is the definition of a protected employee contained in § 220.01(1). This definition limits the scope of the Rehire Program to an employee who had a employment relationship with a covered air carrier on the Trigger Date and who occupies a position which entitles the individual to accrue seniority rights or to possess recall rights under the applicable collective bargaining agreement or company policy. Specifically, this definition exempts a seasonal or temporary employee who does not occupy such a position.

Similarly, positions which are seasonal or temporary and do not confer seniority or recall rights have been exempted from the vacancy filing requirements contained in Section 220.22 This interpretation recognizes the industry practice of hiring temporary or seasonal workers, such as college students and military personnel, over Christmas holidays and periods of peak summer travel. These workers do not accrue any seniority rights, and their employment is terminable at will without recall rights. Because the Rehire Program is intended to facilitate the permanent reemployment of employees with a long-term commitment to the industry, the Department believes that coverage of seasonal and temporary employees and positions, so long as they do not confer seniority or recall rights, was not intended by the Act.

While air carriers are free to hire non-designated employees to fill seasonal or temporary positions, Section 220.20(b) prohibits an air carrier from filing a vacancy which would otherwise be available to a designated employee by promoting a seasonal or temporary employee until the carrier has made the vacancy available to designated employees in accordance with the regulations. Conversely, carriers which fill permanent jobs by selection from among their temporary or seasonal employees can maintain this practice by listing their temporary and seasonal positions with the Center established under these regulations and hiring designated employees to fill those positions.

It should also be noted that under the regulations the Rehire Program is applicable only to certain protected employees. A "designated employee" is defined in § 220.01(f) as a protected employee who meets certain statutory eligibility tests as set forth in § 220.10. Only designated employees are entitled to exercise the first-right-of-hire.

Subpart B prescribes the eligibility requirements for, as well as the rights of, designated employees under the Rehire Program.

Section 220.10 implements the statutory limitation that only designated employees are eligible for the first-right-of-hire. Specifically excluded from

eligibility as designated employees are protected employees who retire, voluntarily quit, strike, or withhold services in support of other employees on strike.

Section 220.11 provides that designated employees shall have a first-right-of-hire, regardless of age, in their occupational specialty and also protects existing seniority and recall rights with their former air carriers. This section additionally permits covered carriers to establish job qualifications or other hiring criteria which applicants must satisfy, subject to the limitations on such criteria set forth in § 220.21.

Subpart C enumerates the duties of covered air carriers under the Rehire Program.

Section 220.20 implements the statutory duty of covered air carriers to hire qualified designated employees before hiring any other applicant from outside the furloughed or existing work force of the hiring carrier. This section also explicitly recognizes a covered carrier's right to select the applicant of its choice from among the designated employees who apply for a given position.

Section 220.21 provides that, solely with respect to the Rehire Program, employment opportunities for designated employees may not be limited by a covered air carrier on the basis of initial hiring age, seniority or recall rights, or previous experience with another air carrier. This provision implements the express language of the Act that protected employees have a first-right-of-hire "regardless of age," thereby invalidating existing initial hiring age criteria of covered air carriers as they apply to designated employees in the Rehire Program.

Further, the Department believes that air carriers may not require the absence of seniority, recall rights or previous experience as a condition of employment for protected employees in the Rehire Program. However, these regulations are not intended to affect in any manner the hiring practices of covered air carriers regarding persons who are not designated employees or retirement policies of such carriers which do not discriminate against designated employees.

Section 220.22 provides that all certificated air carriers, including those certificated after the passage of the Act, must list their job vacancies with a Center established by the Secretary which will maintain and publish a comprehensive listing of available airline jobs (See § 220.40). This requirement was established in order to ensure that the comprehensive listing contains a listing of all available jobs, even if some listed jobs are not subject to the express duty to hire imposed under the Rehire Program. In addition, the availability of such a comprehensive list should provide the maximum opportunity for unemployed airline workers to obtain reasonably comparable employment at the earliest possible time.

Section 220.23 prescribes the content of vacancy listings which must be filed by air carriers.

Section 220.24 prohibits covered air carriers from filling a vacancy (other than on a temporary basis) with anyone other than a designated employee until the vacancy has been listed with the Center, pursuant to § 220.22, for at least 30 days.

Section 220.25 establishes a list of protected employees to be published by the Department. Covered air carriers are required to report specific identifying information for all persons who qualify as protected employees. Additionally, air carriers are required to notify each employee who had an employment relationship with the carrier on the Trigger Date as to whether or not that employee is deemed a protected employee. It should be emphasized that the employer is not required to use any particular form in notifying employees as to whether or not they are protected. Thus, for example, the carrier is free to notify current employees of their status by placing a statement to that effect on their pay stub.

An employee whom the air carrier determines is not a protected employee may submit evidence in support of his or her claim to protected employee status to the air carrier, and, under procedures outlined in § 220.26, the employee or his or her representative may appeal any adverse final determination by the air carrier to the Secretary. Any air carrier contemplating hiring a designated employee will be able to verify the employee's initial status as a protected employee by reviewing the list published by the Department.

Section 220.27 requires an air carrier to furnish each protected employee who is furloughed or terminated, other than for cause, during the ten years following the Trigger Date with appropriate written evidence that such employee is a designated employee at the time of such action. This requirement applies unless the furlough is for a specific period of less than 90 days. This requirement applies to all such furloughs or terminations between the effective date of the regulations and October 24, 1988. In addition, covered air carriers are required to make reasonable efforts to provide comparable evidence to protected employees who were furloughed or terminated by such carrier between October 24, 1978 and the effective date of the regulations.

Section 220.28 requires covered air carriers to make a semi-annual report of vacancies filled to the Department. For each vacancy filled by a non-designated employee, this report must contain a certification that no qualified designated employee filed a timely application.

Section 220.29 provides that a carrier under a specific EEO requirement emanating from a federal court or administrative order, consent decree, or conciliation agreement shall, to the extent possible, satisfy this obligation by hiring qualified designated employees. Where no such designated employees are available, the carrier may meet its EEO requirement by hiring nondesignated employees. The EEO obligation does not change a carrier's responsibility for following the hiring procedures established by this regulation.

Subpart D prescribes the obligations of designated employes in seeking to exercise the first-right-of-hire, including seeking suitable employement, making application for specific positions with covered air carriers and providing proof of eligibility for the first-right-of-hire.

Subpart E prescribes the responsibilities of the Department of Labor under the Rehire Program.

Section 220.40 provides that the comprehensive list of jobs available with air carriers will be established and maintained at the Center established by the Secretary. Air carriers may list jobs with this facility by telephone or in writing. The comprehensive list of vacancies will be published on a periodic basis, probably weekly, or as determined necessary by the Secretary.

Section 220.41 provides for the list of protected employees to be published by the Department and circulated to covered carriers.

Subpart F prescribes the beginning and ending dates of the effective period of these regulations and provides for the disclosure of information, collected by the Department, consistent with the Privacy Act (5 U.S.C. 552a).

Enforcement

The Act and its legislative history are silent on the existence of a means to enforce the Rehire Program, whether by seeking damages for failure to carry out requirements of the Act or any accompanying regulations or otherwise. After careful study, the Department has concluded that it is without specific enforcement authority under the Act. However, it appears that a private right of action may be available to a qualified

designated employee who actually applied for job vacancies. (See *Cort. v. Ash*, 442 U.S. 66, 78 (1975).

Drafting Information

This document was prepared under the direction and control of Hugh Reilly, at the time, Executive Assistant to the Assistant Secretary for Labor-Management Relations

Privacy Act

These regulations will create a system of records, which will include a list of protected airline employees, appeals and decisions on protected status, and reports of designated employees hired. The Department will publish in the Federal Register a notice of that system in accordance with section 552a(e)(4) of the Privacy Act.

Executive Order 12291

These regulations contain several provisions which entail economic costs for certificated air carriers and the Federal Government. In particular, these regulations establish: (1) Eligibility requirements and procedures for implementing the first-right-of-hire obligation established under the Act; (2) a comprehensive listing of airline job openings for all air carriers, including those certificated after the Trigger Date; (3) a list of protected employees to be published by the Department; (4) a one-time notice to all employees of covered carriers employed on the Trigger Date stating whether or not they qualify for protected status under the Act; (5) notices to furloughed and terminated employees; and (6) semi-annual reporting of any new hires to the Department, which includes certification for all jobs filled by someone other than a designated employee.

For several reasons the Department expects the actual economic impact of the regulations to be minimal. First, the essential element of the regulations—the duty to hire designated employees—is a statutory obligation, not one created by these regulations. Second, the program does not interfere with covered air carriers' internal promotion and recall practices for existing employees. Many job vacancies are filled internally through promotions of existing employees, while the Act and this rule are limited to outside hiring to fill job vacancies. This reduces substantially the number of actual job openings where first-right-of-hire provisions will apply. In addition, covered carriers are entitled to recall their own furloughed or terminated employees prior to offering positions to designated employees. Finally, the regulations contain an exemption allowing carriers to hire temporary and seasonal employees without preference to covered workers so long as such workers are not subsequently granted seniority or recall rights, or given permanent employment. Thus the regulations will affect neither existing seniority, promotion, or layoff policies nor short-term hiring practices.

Additionally, the exemption of seasonal and temporary positions recognizes a prevalent practice in the industry and allows employers maximum flexibility in meeting work force requirements during peak demand periods. Several carriers indicated it is common practice to use temporary and seasonal jobs to test employees, who may then be offered permanent employment. Under this rule these airlines may continue this practice, provided the initial temporary and seasonal job offering give the same perference in hiring as would be given to permanent jobs under these rules. This option gives the airlines maximum flexibility in dealing with temporary and cyclical employment while still assuring the first-right-of-hire for permanent jobs.

A third reason the Department expects the economic impact of the regulations to be minimal is that the regulations recognize the right of covered carriers to impose their own qualifications and hiring criteria (subject to certain prohibitions) on job applicants and to freely select from among all designated employee applicants who possess the requisite qualifications. Thus, the regulations maintain existing employer personnel policies and job criteria intact, and they do not impose dual personnel systems for qualified designated employees and other applicants. The only change from present carrier practices is that they are required by the Airline Deregulation Act to give preference to qualified designated employees in any outside hiring.

Two costs stemming from the obligation to hire designated workers come from the statutory prohibition against age discrimination and the statutory guarantee of a worker's recal rights. The Department recognizes that covered air carriers may experience some increase training costs because of the statute's prohibition against age restrictions and the requirement which insures preservation of seniority and recall rights. Since investments in training are amortized over a number of years, employers incur higher training costs for short tenure workers, everything else being equal. The designated employee pool may have a shorter tenure horizon on average than other applicants because it includes some older workers close to retirement or those who may be recalled back to their previous employer with their seniority rights intact.

In addition, carriers have commented that hiring experienced employees sometimes involves certain costs of "untraining" and that some workers may find it difficult to adjust to the system of a new employer. Nevertheless, many carriers have found it beneficial to hire experienced, displaced employees. The skills and experience of these employees will offset the problems associated with hiring them.

The problem with worker recall rights is particularly troublesome for airlines with wage scales below those of the older established airlines. Workers may choose to hire on with a smaller airline in today's hard times, but may want to return to their old employer when the economy recovers and industry growth resumes. This puts a potential burden on the carriers hiring these employees, because they may go through a costly period of breaking in these employees only to lose them to their former employers. For this reason, these regulations permit any covered carrier to require designated employees to reveal the status of their recall rights when exercising their first-right-of-hire. While arguably this may reduce the attractiveness of a designated employee who has good prospects for recall to his previous job, such a provision is necessary to allow these airlines to make informed hiring and personnel decisions with respect to designated employees. This policy will help reduce the costs of the program to carriers without undermining the basic protection afforded by the Act.

In sum, while the duty-to-hire obligation imposes some costs on employers, these regulations afford the carriers maximum flexibility in meeting this obligation. At the same time, workers are afforded their full rights as established by the Act. The Department concludes that its regulations defining the first right-of-hire impose no significant costs beyond those required by the Act.

The regulations detailing the administration of the program naturally impose some costs on the airlines. The principal administrative burdens placed on the airlines are: (1) The statutory requirement for all certificated airlines to list job vacancies, (2) a requirement that each covered carrier create a list of its protected employees, (3) a requirement that each covered carrier notify its protected employees of their protected status, (4) a requirement that each covered carrier notify furloughed

and terminated workers of their rights and (5) a requirement that each covered carrier submit a semi-annual list to the Department of Labor of all new employees hired. These reporting requirements are the minimum necessary to administer the program, and to guarantee employees their rights under the Act.

The statute requires all certificated airlines to list available jobs with the Center established by the Department. Several commentators argued that only covered carriers should be required to list jobs, because the more recently certificated airlines have no duty-to-hire obligation. However, neither the express language of the statute nor the legislative history support such an interpretation, and indeed they suggest that a comprehensive list be provided about a broad range of job opportunities. The requirement for listing vacancies is a clear statutory obligation for all airlines holding a Section 401 certificate.

In practice, the requirement for a listing will impose minimal costs in most hiring circumstances. First, the job listing generally requires only nine pieces of information. Thus each listing will be easy to prepare. In addition, a number of openings may be covered by a single job listing. For example, a single listing may solicit applicants for 20 flight attendant openings. Second, the rule allows employers to list job vacancies entirely by telephone, rather than through written job orders. This increases the efficiency of the job listing program and reduces unnecessary employer delays in filling job vacancies. Third, while the rules prescribe a minimum "waiting period" for each listing, a carrier must abide by this waiting period only if it hires a non-designated employee. The purpose of the waiting period is to assure that designated employees have the opportunity to exercise their rights, and it would be needlessly burdensome to require employers to wait out the listing period before hiring a designated employee. Thus, for example, carriers may retain applications of designated employees on file, and hire them at the same time they file the vacancy with the Center.

Even in cases when the carrier must wait 30 days, this requirement is not always burdensome. For example, the larger airlines generally hire entire classes of employees rather than isolated individuals. This type of hiring decision takes place well in advance, at which time employers may list the anticipated vacancies. Similarly, under negotiated union contracts many jobs must be bid to existing employees for a period of time before outside hiring can take place. These listings may be placed simultaneously with internal bidding procedures.

Finally, the listing of jobs with the Center is not without benefits. The national listing of openings and list of protected employees will increase the efficiency of the labor market in the airline industry by facilitating the matching of job vacancies with qualified applicants.

The remaining administrative requirements are not specifically required by the statute, but are held to be the minimum necessary to ensure the effectiveness of the first-right-of-hire and job listing programs. First, each covered carrier is required to submit to the Secretary a list of protected employees who were employed by that carrier at the time of deregulation. The Department had considered an alternative to such a list under which each individual had to declare his or her protected status whenever he or she asserted the first-right-of-hire, with this declaration subject to confirmation by the former employer. This alternative may be less expensive for any small airline which may not have automated employment records. However, several of the smaller carriers, which received their certificates shortly before deregulation have no protected employees and are not subject to this provision. And for many of the bigger airlines, the one-time generation of a master list of protected employees may be the most efficient alternative.

However, apart from the issue of costs, the overriding consideration in requiring a list was to assure that protected employee status is ascertained while employment records are still relatively current. This will avoid the costs of having to confirm employment records potentially ranging back 10 or more years in the later years of the program. In addition, requiring the list at the outset of the program assures that employment records will not be wiped out by any future bankruptcies or mergers of covered airlines. Therefore, while this alternative imposes higher initial costs than the case-by-case treatment, in the long run it may cost the same or less, and it will assure a much more effective administration of the program in the later years.

The requirement that covered carriers notify potentially protected employees (those with an employment relationship on October 24, 1978) of their protected status also is not a statutory requirement, but the Department considers it a necessary one if the program is to operate effectively. The employees so notified would know that they are protected or, at a minimum, they would know that they met one of the two criteria necessary for protected status. Those deemed not protected would then also be informed of the appeal rights available to them. Carriers could easily accomplish this notice on pay stubs or on other forms of internal communication for current employees. Similarly, notices of rights required by § 220.27 can be given to employees already furloughed along with the notices of protected status. Workers furloughed after the regulations become effective can receive notices of rights along with their separation papers.

The other requirement is that each covered carrier submit a semi-annual list of new employees hired (excluding recalls). While the precise costs of these reporting requirements cannot be estimated because the number of jobs to be filled through outside hiring is not known, they are expected to be minimal.

The cost to the Federal Government to establish the Center and to publish a minimum number of job vacancies would be $22,000 per year. If vacancies in the industry occurred at the same rates they occurred in the 1970's, the cost would be about $100,000 per year.

The increased administrative costs imposed on air carriers and the Federal Government as a result of the job listing program and the filing and processing of one-time notices and semi-annual reports will not be major. While the precise costs on air carriers cannot be estimated, the flexibility given to carriers to meet these requirements and the existence of automated personnel files for most of the carriers should reduce the costs to a minimum.

In conclusion, the Department has determined that this rule does not meet the tests for a "major rule" under Executive Order 12291. These rules carry out the statutory mandate of the Airline Deregulation Act to put the first-right-of-hire program into place, and they do so without expanding the scope of the program beyond the intent of Congress. The economic impact of these rules for implementing the first-right-of-hire program is substantially below the threshold for designation as a "major rule" by the Office of Management and Budget. It is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or

the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Paperwork Reduction Act

The Department has sought to keep paperwork requirements to that minimum which would be necessary to secure the rights of protected employees. The regulation requires covered air carriers to: (1) Develop a list of their protected employees, (2) send notices of possible protected status, (3) send notices of furloughs and terminations and (4) file semi-annual reports on their hiring. In addition, all air carriers would also list job vacancies to create a comprehensive list of the industry. The latter provision is a direct statutory requirement, which can be accomplished by telephone.

Several commentators objected to the costs of preparing the list of protected employees and the notices. We believe, contrary to their assertions, that the existence of automated data systems will make the costs low. In any event, the alternative of verification of protected status at the time of a prospective hire could ultimately be more costly and less effective. The Department received no specific comments on the reporting requirements.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the information collection requirements that are included in this regulation have been submitted for review to the Office of Management and Budget. They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

Regulatory Flexibility Act

As indicated in the notice of proposed rulemaking, the Department finds that these regulations do not have a "significant economic effect upon a substantial number of small entities."

This is true both because the regulations do not impose substantial costs beyond those required by the Act, and because the costs fall to a large degree on large establishments. Contrary to the suggestions of several commentators, Congress gave no indication that distinctions should be drawn among the different certificated airlines. In addition, as noted already in this preface, the regulations afford maximum flexibility to airlines to prelist prospective positions and to take whatever other steps may reduce their costs of complying with the first-right-of-hire program. The reporting requirements generally are proportional to the number of employees affected, and therefore will not disproportionately burden the smaller carriers. In addition, several of the small carriers do not have protected employees, and they will not incur the costs of creating lists and notifying employees.

In addition, most of the covered carriers are large entities whether the definition of small entity is based upon annual revenues, or, as some commenters suggested, the definition is based upon employment or upon the kind of aircraft operated by the airline. In the notice of proposed rulemaking it was indicated that four of the carriers affected have gross annual revenues of under $10 million. In terms of employment, 19 of the carriers have fewer than 1,000 employees. In terms of aircraft type, if the 60-seat/18,000 pound payload standard is used, only seven carriers would be small businesses. Hence, these regulations do not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Regulatory Flexibility Act Certification

I, William E. Brock, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b) that the final rule published hereinafter (29 CFR Part 220), for the Airline Employee Protection Program, will not have a significant economic impact on a substantial number of small entities. This conclusion is reached because this rule only has a minimal economic impact on a limited number of small air carriers certificated under section 401 of the Federal Aviation Act of 1958.

Signed at Washington, D.C. this 23rd day of December 1985.

Secretary of Labor.

List of Subjects in 29 CFR Part 220

Labor, Airline employees, Air carriers.

Accordingly, a new 29 CFR Part 220 is added to read as set forth below.

Signed at Washington, D.C. this 23rd day of December 1985.

William E. Brock,

Secretary of Labor.

PART 220—AIRLINE EMPLOYEE PROTECTION PROGRAM

Subpart A—Purpose and Scope of the Airline Employee Protection Program

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220.02 Purpose.
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Subpart B—Designated Employees' Eligibility and Rights

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220.30 Designated employees' responsibilities.

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Appendix I—U.S. carriers certificated as of October 23, 1978 under Section 401 of the Federal Aviation Act of 1958, as amended.

Authority: Section 43(f) of the Airline Deregulation Act of 1978, Pub. L. No. 95-504, 92 Stat. 1750-1753 (49 U.S.C. 1552) (Secretary's Order No. 1-79, 44 FR 13093; Secretary's Order No. 3-84, 49 FR 29578).

Subpart A—Purpose and Scope of the Airline Employee Protection Program

§ 220.01 Definitions.

As used in this Part, unless the content otherwise indicates:

(a) "Act" means the Airline Deregulation Act of 1978, Public Law 95-504, 92 Stat. 1705.

(b) "Air Carrier" means an air carrier certificated under Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371).

(c) "Center" means the entity or location which from time to time may be designated by the Secretary to receive, maintain and distribute the job listing information required by this Part.

(d) "Corporate officer" means an individual who holds any officer's position established pursuant to the Articles of Incorporation or bylaws of any air carrier, or who is otherwise identified as an officer by any air carrier, in filings with the Federal Aviation Administration, Civil

Aeronautics Board or Securities and Exchange Commission or in any reports to stockholders or any public communications of an air carrier.

(e) "Covered air carrier" means an air carrier which was certificated prior to October 24, 1978 (A listing of such carriers appears as an appendix to these regulations).

(f) "Designated employee" means a protected employee who meets the eligibility requirements set forth in Section 220.10.

(g) "Effective period" means the period commencing on the effective date of these regulations and ending on the later of: (1) October 23, 1988, or (2) the last day of the final month in which the Secretary is required to make a payment under Section 43 of the Act; except that nothing in these regulations shall preclude the exercise of statutory rights and duties between October 24, 1978, and the effective date of these regulations.

(h) "Eligibility period" means the ten-year period beginning on October 24, 1978.

(i) "Employment relationship" means an attachment to a covered air carrier which includes, but is not limited to, compensated service, furlough, leave, or strike.

(j) "Equal employment opportunity requirement" means a specific equal employment requirement, pursuant to a federal court or administrative order, consent decree, or conciliation agreement, requiring that named individuals or specific members of a class are entitled to relief by virtue of the carrier's unlawful employment discrimination.

(k) "Occupational specialty" means the class, craft, or field of endeavor in which an individual was employed at the time of separation from a covered air carrier or in which the employee was employed during the 12 months immediately preceding the date of separation.

(l) "Protected employee" means a person other than a member of the Board of Directors or corporate officer of a covered air carrier:

(1) Who had an employment relationship with a covered air carrier on October 24, 1978, and

(2) Who on October 24, 1978, had four years of employment or four years accrued seniority with a single covered air carrier. The term employee shall include any full or part-time employee other than an employee in seasonal or temporary employment as defined herein. As used herein four years of employment shall mean not less than 48 months (whether or not consecutive) in which the employee actually completed the minimum number of hours of regular employment required for such employee's craft, class or position under the then applicable requirements of the employing carrier.

(m) "Seasonal employment" means employment during limited periods of the year due to peak market conditions or other factors which are periodic in nature, and in positions which do not confer seniority or recall rights.

(n) "Secretary" means the Secretary of Labor of the United States.

(o) "Temporary employment" means employment of limited duration which does not confer seniority or recall rights.

(p) "Terminated," means, unless expressly provided to the contrary, termination of employment, other than for cause.

(q) "Terminated for cause" means the separation of an individual from employment initiated by an air carrier for violation of such carrier's rules, policies, procedures, or practices pertaining to employee standards of conduct, job performance, or dependability.

(r) "Vacancy" means an employment opportunity other than seasonal or temporary employment, which an air carrier seeks to fill from outside its existing or furloughed work force.

§ 220.02 Purpose.

Section 43(d) of the Act provides a first-right-of-hire for designated employees of covered air carriers. The regulations in this Part are issued to effectuate section 43(d) (1) and (2) of the Act (hereinafter referred to as the Rehire Program).

§ 220.03 Scope.

(a) The Rehire Program is applicable only to designated employees, as more fully set forth herein, and only those employees who are expressly granted a hiring preference under the Act and these regulations have any rights under the Rehire Program. The Secretary of Labor will also publish a comprehensive list of jobs available with air carriers.

§ 220.04 Responsibilities of the Secretary of Labor.

The Secretary of Labor is responsible for administering the Rehire Program, and the Deputy Under Secretary for Labor-Management Relations and Cooperative Programs, Bureau of Labor-Management Relations and Cooperative Programs (BLMRCP) has been delegated responsibility for the following:

(a) The development and promulgation of policies, regulations and procedures covering the first-right-of-hire provisions of Section 43(d)(1) of the Act;

(b) The development and promulgation of policies, regulations, and procedures covering the comprehensive job list required under Section 43(d)(2) of the Act; and

(c) The establishment and implementation of reporting requirements for air carriers to obtain pertinent information necessary for fulfilling the Secretary's responsibilities under Section 43(d)(2) of the Act.

Subpart B—Designated Employees' Eligibility and Rights

§ 220.10 Eligibility requirements.

(a) To qualify as a designated employee eligible for rights under this Part 220, an applicant must be a protected employee who is involuntarily placed on furlough or is terminated by a covered air carrier during the eligibility period.

(b) A protected employee shall not be deemed to be furloughed or terminated if such employee:

(1) Retired voluntarily;

(2) Was required to retire by virtue of reaching the mandatory retirement age, if any, established by a covered air carrier or as prescribed by any government agency with regulatory authority over a covered air carrier;

(3) Retired due to a disability;

(4) Is on strike or is withholding services in support of other employees who have struck the covered air carrier;

(5) Is terminated for cause as defined in § 220.01;

(6) Resigned or voluntarily quit for any reason.

(c) A designated employee who is recalled by his former carrier is no longer eligible under this section to exercise the first-right-of-hire. Such a person may become a designated employee in the future due to a subsequent termination or furlough which occurs on or prior to the expiration of the eligibility period.

§ 220.11 Designated employees' rights.

(a) A designated employee shall have a first-right-of-hire in such employee's occupational specialty, regardless of age, with any covered air carrier hiring additional employees; *Provided, however*, That each designated employee must satisfy all qualifications or other requirements established by the hiring carrier (subject to the limitations contained in Section 220.21) and must make a timely application in accordance with normal carrier procedures for any particular job vacancy.

(b) A designated employee hired by any covered air carrier pursuant to the provisions of the Act shall not be

required, as a condition of employment, or in any other manner, to relinquish, waive, or forfeit any seniority or recall rights which such person may possess with any other air carrier; *Provided, however,* That the provisions of this part shall not be deemed to create or prolong any such seniority or recall rights.

Subpart C—Carriers' Responsibilities

§ 220.20 Duty to hire.

(a) Subject to § 220.24, a covered air carrier shall have the duty to hire a designated employee, regardless of age, who otherwise meets the qualification requirements established by such carrier before it hires any other applicant when such carrier is seeking to fill a vacancy in the designated employee's occupational specialty from outside its work force. As used herein "work force" shall include all present employees and any furloughed or terminated employees who, at the time of furlough or termination, possessed recall or seniority rights.

(b) Subject to the provisions of § 220.24, a covered air carrier shall not fill a vacancy, which would otherwise be available to a designated employee, by promoting or reassigning a seasonal or temporary employee, *unless* such seasonal or temporary employee is a designated employee.

(c) When considering applications from more than one designated employee for a particular vacancy, a covered air carrier shall be entitled to offer employment to any such designated employee in its absolute discretion.

§ 220.21 Criteria for Employment.

(a) A covered air carrier shall be entitled to apply any prerequisites or qualifications determined by it for any vacancy, except that, solely with respect to the duty to hire created by the Act, a covered air carrier shall not be entitled to limit employment opportunities for designated employees on the basis of:

(1) Initial hiring age (provided that such prohibition shall not be applicable to retirement ages applicable to all of any class or craft of such air carrier's employees); or

(2) The existence of any seniority, recall rights or previous experience with any other air carrier; *Provided, however,* That covered air carriers shall be entitled to require prospective employees to disclose the existence of any such seniority or recall rights in making application for employment and to take the existence or nonexistence of such rights into account in selecting from among those qualified designated employees who have applied for a particular job vacancy.

(b) In filling job vacancies during the effective period, covered air carriers shall be entitled to require applicants to furnish evidence that they are designated employees.

§ 220.22 Listing a vacancy.

(a) During the effective period all air carriers shall be required to list each vacancy with the Center at the earliest practicable time, and to include with such listing a statement as to whether the carrier is subject to an equal employment opportunity requirement, as defined in these regulations, in filling the vacancy. In addition, any air carrier shall be entitled to list anticipated vacancies with the Center at any time.

§ 220.23 Content of vacancy listing.

Air carriers shall provide the Center with a description for each job listing, which shall include, but need not be limited to, the following—

(a) Job title;

(b) Type of position (full or part-time);

(c) Salary;

(d) Basic qualifications and/or training requirements;

(e) Brief description of duties;

(f) Location of vacancy (if known);

(g) Special requirements such as type rating, licensing, skill requirements, etc.;

(h) Whether the vacancy is subject to the duty to hire;

(i) Information on how to apply, such as contact peson, mailing address, and any special application procedures; and

(j) Whether the carrier is subject to an equal employment opportunity requirement, as defined in these regulations, in filling the vacancy.

(Approved by the Office of Management and Budget under OMB Control Number 1214-0002.)

§ 220.24 Filling a vacancy.

(a) A covered air carrier may fill a vacancy with a designated employee at any time after a vacancy has been listed with the Center.

(b) A covered air carrier may fill a vacancy with someone who is not a designated employee after the vacancy has been listed with the Center for at least 30 days; if

(1) No designated employee with the requisite occupational specialty has applied for the vacancy in accordance with § 220.30 within that time;

(2) No designated employee who did apply within that time period meets the carriers' criteria for employment as set forth in § 220.21; or

(3) The vacancy is subject to an equal employment opportunity requirement and the carrier cannot satisfy such equal employment opportunity requirement by hiring a designated employee.

(c) A covered air carrier may fill a vacancy on a temporary basis with someone who is not a designated employee while the carrier is considering applications for the vacancy which were received from designated employees during the listing period.

(d) The date of the listing shall be the date on which the listing is received by the Center.

§ 220.25 List of protected employees.

(a) Within 60 calendar days of the effective date of these regulations, each covered air carrier shall provide the Secretary with a list of all protected employees who were employed by it on October 24, 1978.

(Approved by the Office of Management and Budget under OMB Control Number 1214-0002.)

(b) The list shall contain the following information:

(1) Protected employee's name;

(2) Social Security number (if available); and

(3) Current occupational specialty for present employees or occupational specialty at the time of separation from employment for former employees.

(c) Not later than 90 calendar days after the effective date of these regulations, each covered air carrier shall provide a onetime notice to each employee with an employment relationship with the carrier on October 24, 1978, stating whether or not the carrier has determined that employee to be a protected employee within the meaning of these regulations, and if so that the carrier has reported his or her name to the Secretary. Employees who are determined to be not protected shall be advised of their rights to appeal.

(2) Employees who dispute the carrier's determination of protected status may submit evidence of their status to the covered air carrier within 60 calendar days of receiving the notice required by paragraph (c)(1).

(3) The covered air carrier shall consider the evidence submitted by the employee and shall inform the employee of its final determination within 15 calendar days of the submission of evidence. In the event the carrier determines that the employee qualifies as a protected employee, it shall forward the information required by paragraph (b) of this section to the Secretary.

§ 220.26 Appeals to the Secretary.

(a) If the employee disagrees with the carrier's final determination under § 220.25 that he or she is not a protected

employee within the meaning of this part, the employee (or his or her designated representative with express authorization) may appeal such determination to the Secretary within 60 calendar days of the carrier's final decision under § 220.25(c)(3) or the date when such decision was required.

(b) An appeal must be written, dated, and signed by the employee. It must set forth:

(1) The full name, address, and telephone number of the employee;

(2) The full name and address of the carrier making the determination; the full name of the individual(s) who made the determination for the carrier and the date of that determination;

(3) A summary of the pertinent events and circumstances concerning the employee's status and the basis of the disagreement, including the original date of hire, date of all periods of furlough, leave or termination, and copies of relevant documents; and

(4) Such other information as may be required by the Secretary.

(c) Any appeal hereunder may be filed with the Airline Employee Protection Program, Bureau of Labor-Management Relations and Cooperative Programs, Room N-5416, 200 Constitution Avenue, NW., Washington, DC 20210.

(d)(1) Upon receipt of an appeal, the Secretary will request information from the parties or conduct such other investigation as may be required.

(2) Upon review of the entire record, the Secretary shall determine either that—

(i) The employee qualifies for protected status, and the Secretary shall add the employee's name to the list of protected employees and so notify the parties; or

(ii) The employee does not qualify for protected status and so notify the parties.

§ 220.27 Notice of Rights.

(a) Not later than the date of separation from employment, a covered air carrier which furloughs or terminates a protected employee during the eligibility period, unless such furlough is limited to a specific period of less than 90 calendar days, shall furnish such protected employee with a notice of rights in the form of a letter or other written documentation that such employee is a designated employee and thereby is entitled to exercise a first-right-of-hire. Such notice of rights shall include, but not be limited to, the following information:

(1) Name;

(2) Social Security number (if available);

(3) Occupational specialty;

(4) Date of furlough or termination;

(5) An official of the covered air carrier who can verify the individual's status as a designated employee; and

(6) Signature, name, and location of the certifying official.

(b) As soon as practicable, but not later than 60 calendar days following the effective date of these regulations, each covered air carrier shall make a reasonable effort to provide the notice or rights required in paragraph (a) of this section to any designated employee who was furloughed or terminated by such carrier on or after October 24, 1978, and prior to the effective date of these regulations and who has not been recalled to employment by such covered air carrier.

(c) A covered air carrier shall provide a verified true copy of the notice of rights to a designated employee who has lost his or her original copy.

(Approved by the Office of Management and Budget under OMB Control Number 1214-0002.)

§ 220.28 Air carrier actions to be reported to the Secretary.

(a) A covered air carrier shall report to the Secretary:

(1) The names and Social Security numbers (if available) of all designated employees hired by it, and

(2) The filling of any vacancy with other than a designated employee.

With respect to any occurrences reported under paragraph (a)(2) of this section, the report of the covered air carrier shall contain the job order number assigned to that vacancy by the Center, the date of hire, and a certification by a corporate officer that the carrier complied with the provisions of this part and that no qualified designated employee with the requisite occupational specialty applied in a timely manner.

(b) Two copies of the reports required by this section shall be filed with the Secretary covering the six-month periods ending June 30 and December 31 of each calendar year in which these regulations are in effect and shall be submitted within 60 calendar days of the end of the reporting period.

(Approved by the Office of Management and Budget under OMB Control Number 1214-0002.)

§ 220.29 Equal Employment Opportunity.

(a) Where a covered air carrier is under an equal employment opportunity requirement, the covered air carrier shall, to the extent possible, satisfy this equal employment obligation by hiring qualified designated employees.

(b) Where a covered air carrier is under an equal employment opportunity requirement and cannot satisfy such requirement by hiring from the pool of qualified designated employees, the carrier may meet its equal employment requirement by hiring non-designated employees. *Provided, however,* That this provision shall not change or reduce the responsibilities of carriers in regard to the hiring procedures required by §§ 220.21, 220.22, 220.23, and 220.24.

Subpart D—Designated Employees' Responsibilities

§ 220.30 Designated employees' responsibilities.

It is the responsibility of each designated employee to:

(a) Make application to any covered air carrier for whom the designated employee desires to work in the time and manner required by such carrier.

(b) To insure that an application previously submitted to a covered air carrier which currently lists a vacancy is in an active status so as to be considered for such vacancy;

(c) To provide a copy, if requested, of the notice of rights to a potential employing air carrier; and

(d) To retain the original notice of rights for future use.

Subpart E—Department of Labor's Responsibilities

§ 220.40 Comprehensive job list.

(a) The Secretary shall establish a Center to maintain a comprehensive listing of all vacancies listed by air carriers in accordance with §§ 220.22 and 220.23.

(b) The Center will be accessible by telephone throughout the United States to facilitate the listing or modifying of vacancy information by air carriers.

(c) The Center shall provide an air carrier with an identifying number for each vacancy listed on the comprehensive listing.

(d) The comprehensive listing shall be compiled, published and distributed to each local office of the State Employment Security Agencies on a periodic basis as determined necessary by the Secretary, and it shall be distributed to such other individuals or organizations as may desire to receive copies thereof in accordance with criteria established by the Secretary from time to time.

§ 220.41 List of protected employees.

The Secretary shall establish and publish a list of protected employees as reported by covered air carriers under § 220.25. A copy of this list shall be sent to all covered air carriers as soon as available.

Subpart F—Administration

§ 220.50 Effective period of the program.

(a) *Beginning date.* (1) The requirements set forth in this part shall be effective thirty (30) days after publication in the **Federal Register.**

(b) *Ending date.* This program and these regulations terminate on the last day of the effective period.

(c) Nothing in this Part shall affect the rights and duties of protected employees and covered air carriers under the Act prior to the effectie date of this part.

§ 220.51 Disclosure of information.

The Department of Labor shall make available to covered air carriers and to designated employees or their authorized representatives, all reports, certifications, or lists collected under this Part, to the extent permitted by the Privacy Act (5 U.S.C. 552a) and the Department's regulations issued pursuant to that Act (29 CFR Part 70a).

Appendix I—U.S. Carriers Certificated as of October 23, 1978, Under Section 401 of the Federal Aviation Act of 1958, as Amended

(Annotations Reflect Operating Status as of December 2, 1985.)

1. Airlift International, Inc.
2. Air Micronesia, Inc.
3. Air Midwest
4. Air New England, Inc.*
5. Air Wisconsin, Inc.
6. Alaska Airlines, Inc.
7. Allegheny Airlines, Inc. (2)
8. Aloha Airlines, Inc.
9. American Airlines, Inc.
10. Aspen Airways, Inc.
11. Braniff Airways, Inc. (1)
12. Capitol International Airways, Inc.*
13. Chicago Helicopter Airways, Inc.*
14. Colonial Airlines, Inc.*
15. Continental Air Lines, Inc.
16. Delta Air Lines, Inc.
17. Eastern Airlines, Inc.
18. Evergreen International Airlines, Inc.
19. The Flying Tiger Line, Inc.
20. Frontier Airlines, Inc.
21. Hawaiian Airlines, Inc.
22. Hughes Air Corp.* (4)
23. Kodiak Western Alaska Airlines, Inc.*
24. Mackey International Airlines, Inc.*
25. McCulloch International Airlines, Inc.
26. Midway Airlines, Inc.
27. Midway (Southwest) Airways, Co.*
28. Modern Airways, Inc. (1)
29. Munz Northern Airlines, Inc.*
30. National Airlines, Inc.* (5)
31. New York Airways, Inc.*
32. North Central Airlines, Inc.* (4)
33. Northwest Airlines, Inc.
34. Overseas National Airways, Inc.* (6)
35. Ozark Air Lines, Inc.
36. Pan American World Airways, Inc.
37. Piedmont Aviation, Inc.
38. Reeve Aleutian Airways, Inc.
39. Rich International Airlines, Inc. (1)
40. Seaboard World Airways, Inc.* (7)
41. Southern Air Transport, Inc.
42. Southern Airways, Inc.* (4)
43. Texas International Airlines, Inc. (8)
44. Trans International Airlines, Inc. (9)
45. Trans World Airlines, Inc.
46. United Airlines, Inc.
47. Western Air Lines, Inc.
48. Wien Air Alaska, Inc.
49. World Airways, Inc.
50. Wright Air Lines, Inc.
51. Zantop International Airlines, Inc.

* No longer holds certificate.

(1) Holds certificate, but not operating.

(2) Renamed U.S. Air, Inc.

(3) Renamed Capitol Air, Inc.

(4) Merged into Republic Airlines, Inc.

(5) Merged into Pan American World Airways, Inc.

(6) Ceased operation in September 1978. United Air Carriers, Inc., dba National Airlines and dba Overseas National Airways, may be a successor.

(7) Merged into Flying Tiger Line, Inc.

(8) Merged into Continental Airlines.

(9) Renamed Transamerica Airlines, Inc.

Note.—This appendix will appear in the Code of Federal Regulations.

[FR Doc. 85-30644 Filed 12-26-85; 8:45 am]

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Federal Register

Friday
December 27, 1985

Part V

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources: Opacity Provisions; Final Rule and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2881-9(b)]

Standards of Performance for New Stationary Sources; Opacity Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Amendments to the opacity provisions affecting emissions from new stationary sources were proposed in the **Federal Register** on July 31, 1984 (49 FR 30676). This action promulgates the opacity amendments. These amendments implement Section 114 of the Clean Air Act and are based on the Administrator's determination that opacity recordkeeping and reporting are necessary to demonstrate compliance with the respective opacity standards. These data will also be used during reviews of the opacity standards so that EPA can make a sound judgment as to whether the standards are appropriate. The intended effect of these amendments is to require that owners or operators of affected facilities that are subject to opacity standards in 40 CFR Part 60 record and report the opacity of emissions during the initial performance test.

In addition to this final rulemaking action, a separate notice in this issue of the **Federal Register** is being proposed which would allow the use of continuous opacity monitors (COM) (transmissometers) as an alternative method of determining compliance with the opacity standards contained in 40 CFR Part 60.

EFFECTIVE DATE: December 27, 1985. Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Background Information Document.* The background information document (BID) for the promulgated opacity amendments may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Background Information for Promulgated Opacity Provisions," EPA-450/3-85-013. The BID contains (1) a summary of all the public comments made on the proposed amendments and the Administrator's responses to the comments, and (2) a summary of the changes made to the opacity provisions since proposal.

Docket. A docket, number A-83-43, contining information considered by EPA in development of the promulgated opacity provisions, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5778.

SUPPLEMENTARY INFORMATION:

I. The Opacity Provisions

The amendments to the opacity provisions apply to owners or operators of affected facilities that are subject to opacity standards in 40 CFR Part 60 and require that such owners or operators conduct opacity observations during the initial performance test, and record and report the results. For the purpose of demonstrating compliance with the opacity standard, the minimum total time for the observation is 3 hours (30 6-minutes averages). This is consistent with the item required for mass performance tests but also applies to observations at sources subject only to an opacity standard.

For the purpose of demonstrating initial compliance, opacity observations are to be conducted concurrently with the initial performance test required in 40 CFR 60.8, unless one of the following conditions apply. If no performance test under § 60.8 is required, then the opacity observations are to be conducted within 60 days after achieving the maximum reduction rate at which the affected facility will be operated but no later than 180 days after initial startup of the facility. If visibility or other conditions prevent the opacity observations from being conducted concurrently with the initial performance test required under § 60.8, the opacity observation is to be rescheduled as soon after the initial performance test as possible, but not later than 30 days after the initial test. In these cases, the amendments allow the 30-day prior notice to the Administrator of the opacity observation test to be waived. The rescheduled opacity observations will be conducted (to the extent possible) under the same operating conditions that existed during the initial performance test conducted under § 60.8. The visible emissions observer will determine whether visibility or other conditions prevent the opacity observations from being made concurrently with the initial performance test. This determination will be made in accordance with procedures contained in Method 9 of Appendix B (40 CFR Part 60) and the observer's experience in reading opacity.

As allowed under § 60.11(e)(1), the Administrator may request the records necessary to determine the conditions under which the visual observations were made. The opacity amendments also require the owner or operator of an affected facility collecting Method 9 data to provide to the Administrator evidence indicating proof of current visible observer emission certification.

The amendments allow a source owner or operator to request the Administrator to use an EPA-certified visible emissions observer, if available, to conduct and to record to opacity observations. These requests will be included in the notification required under § 60.7(a)(6). If, for some reason, EPA cannot furnish a certified observer, then the source owner or operator must obtain a certified observer to conduct and record the opacity. In either case, it is the responsibility of the source owner or operator to report the opacity results. The inability of a source owner or operator to secure a visible emissions observer will not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.

In addition, the amendments require owners or operators of affected facilities already required to monitor opacity continuously by COM to report the opacity monitoring data for the duration of the initial performance test required in § 60.8. The COM must be certified according to Performance Specification 1 contained in Appendix B of 40 CFR Part 60 before the performance test is conducted.

II. Public Participation

The amendments to the opacity provisions were proposed in the **Federal Register** on July 31, 1984 (49 FR 30676). Public comments were solicited at the time of proposal. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed amendments, a public hearing was

scheduled to be held on August 28, 1984, at Research Triangle Park, North Carolina. However, a public hearing was not held because it was not requested.

The public comment period was from July 31 to October 1, 1984. Nineteen comment letters were received concerning issues relative to the proposed opacity amendments. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the proposed opacity amendments.

III. Significant Comments and Changes to the Proposed Standards

Comments on the proposed opacity provisions were received from industry, State and local air pollution control agencies, and a law firm representing members of the Utility Air Regulatory Group (UARG). A detailed discussion of these comments and responses can be found in the promulgation BID, which is referred to in the ADDRESSES section of this preamble. The summary of comments and responses in the BID serves as the basis for the revisions that have been made to the opacity provisions between proposal and promulgation. The major comments and responses are summarized in this preamble.

In response to public comments received on the proposed rulemaking and as a result of EPA reevaluation, three major changes were made in the proposed opacity provisions prior to promulgation. The proposed requirement to conduct opacity observations and to record and report the opacity results during each performance test has been changed to require that these tasks be performed during the initial performance test only.

The promulgated revisions allow a source owner or operator to request the Administrator to use an EPA-certified visible emissions observer, if available, to conduct and record the opacity observations. However, if for some reason, EPA cannot furnish a certified observer, then the source owner or operator must obtain a certified observer to conduct and record the opacity. In either case, it is the responsibility of the source owner or operator to report the opacity results.

The promulgated revisions also allow the 30-day prior notice to the Administrator of the opacity observation test for compliance purposes to be waived if visibility or other conditions prevent the opacity observations from being taken concurrently with the initial performance test. In these cases, the opacity observation test would be rescheduled as soon after the performance test as possible.

In addition to the previously discussed changes which are being promulgated, a separate revision to the opacity provisions in 40 CFR Part 60 is being proposed in this issue of the **Federal Register** in response to public comments and EPA reevaluation. The proposed revision would allow a source owner or operator the option of submitting to the Administrator the results of continuous opacity monitoring by transmissometer for the purpose of determining compliance with the respective opacity standard in lieu of Method 9 results for the initial performance test. If monitoring results are submitted for compliance purposes, the owner or operator would not be required to conduct an opacity observation test using Reference Method 9.

Most of the comment letters contained multiple comments. Eight major comments and responses are summarized in this preamble.

Comment: One commenter suggested that EPA consider adding a provision to allow for the waiver of opacity tests after the initial performance test. Another commenter felt that the statement in proposed § 60.11(e)(1) which indicates additional Method 9 observations shall be taken "at such times as may be required by the Administrator" should be clarified to state that Method 9 observations are not required during periodic particulate emission tests conducted after the initial performance test. The commenter went on to say many States which have received delegation authority from EPA to carry out the new source performance standards (NSPS) program do require sources to perform periodic particulate emission tests for compliance purposes, in addition to requiring excess emission reports based on continuous opacity monitoring.

Response: In consideration of these comments and in an effort to reduce the recordkeeping and reporting costs associated with periodic opacity observations, the final rule has been revised to require that the owner or operator of an affected facility, to which an opacity standard applies, conduct, record, and report opacity observations during the initial performance test only. (Generally, NSPS require only an initial compliance test for each affected facility. Therefore, the opacity recordkeeping and reporting requirements have been limited to the initial compliance test.) However, this limitation does not affect either the EPA's or the States' authority to require a source owner or operator to conduct periodic emission and opacity observation tests after the initial performance test.

Comment: A trade association questioned whether the 30-day prior notification to EPA of the opacity observation was practical because there is no assurance that the plant would actually be operating on a specific day, or that visibility conditions would permit opacity observations on that date. The commenter felt that the uncertainty of operating and visibility conditions at a future date did not justify the cost of this procedure and, therefore, recommended that the 30-day prior notice to EPA of the opacity observation not be implemented. A second commenter felt that requiring advance notification of opacity observations in all instances was unnecessary, but offered no support for this conclusion.

Another commenter was concerned about the provision which states ". . . if visibility conditions prevent opacity observations [concurrently with the performance test], then observations shall be conducted within 60 days after achieving the maximum production rate . . . but no later than 180 days after initial startup . . ." The commenter stated that startup problems could delay a facility from achieving the maximum production rate or otherwise force a facility to conduct the intitial performance test near the end of the 180-day period. For example, if weather conditions did not permit the opacity observation to be taken simultaneously with the performance test and there was not enough time to reschedule the opacity observation within the 180-day time period, a source could fail to meet the provision through no fault of its own. Further, such a situation might not permit a source to give the 30-day notice required. Thus, the commenter recommended that the provision be revised to allow the opacity observations to be rescheduled within 60 days of the completion of the performance test if visibility conditions prevent opacity observations concurrently with the performance test.

Response: The purpose of the 30-day prior notification to EPA of the opacity observation test is to allow time for the appropriate EPA, State, or local enforcement agency to have an observer present during testing. Once a source reaches its maximum production level and the level at which the opacity observation would be performed, it can be assumed that it will continue to operate at that level on a daily basis unless something unforseen occurs, such

as a breakdown in the process or emission control equipment or adverse weather conditions. However, the prediction of these types of occurrences is beyond the control of both the source owner or operator and the EPA. The Agency cannot justify eliminating the 30-day prior notification requirement based on the likelihood that something unforeseen might prevent the opacity observation from taking place on the scheduled date. The Administrator believes the 30-day prior notification requirement is practical and necessary. However, if visibility or other conditions prevent the opacity observation from being taken on a scheduled date or prevent the opacity observation from being taken simultaneously with the initial performance test required under 40 CFR 60.8, then the opacity observation should be rescheduled as soon after the mass emission performance test as possible, depending on the particular circumstances. In these cases, the 30-day prior notice to EPA would be waived and the source owner or operator would advise EPA of the rescheduled date for the opacity observation. Also, if the affected facility is already using a COM, an amendment to Section 60.11(b) is being proposed to allow the submittal of those monitoring results for compliance purposes along with the mass emission test results in lieu of conducting an opacity observation.

In addition, it does not appear that the cost of this procedure would be a significant factor because (1) the 30-day notification would be required only for the initial opacity observation test, and (2) if an EPA, State or local official is present during the opacity observation, the owner or operator may elect to request that official to record the opacity readings in lieu of contracting for that function, thus eliminating the cost of an observer. The Administrator believes that the 30-day prior notification to EPA of the opacity observation is necessary for effective enforcement and, therefore, this requirement has not been changed in the promulgated revision.

Comment: Several commenters requested that consideration be given to reducing the proposed minimum opacity observation period of 30 6-minute averages (3 hours) for each performance test for the following reasons:

1. A 3-hour period probably would not produce better data and may decrease the quality of the data by increasing the burden on the opacity observer, i.e., visual fatigue, and a corresponding reduction in the validity of the Method 9 results.

2. This quantity of testing is not necessary to determine compliance with opacity limitations.

3. It would require several extra persons on every test in order to take readings every 15 seconds over a 3-hour period.

4. A 3-hour period is excessive and redundant. If a unit is operating smoothly and at a steady production rate, the opacity should not be fluctuating over the course of 3 hours.

5. The requirement to conduct 720 opacity readings (30 6-minute averages) without concurrent performance testing appears unreasonable.

The commenters offered the following alternatives for minimum opacity observation periods:

1. Seventy-five opacity readings (three Method 9 runs).

2. One hour of observations taken concurrently with one of the three particulate runs.

3. A minimum of two representative 6-minute average opacity readings taken concurrently with each one of the required three particulate sampling runs.

4. Four 6-minute average opacity observations during a performance test.

5. One hour of observations during the same time period as required for performance tests in Section 60.8 or as approved by the Administrator.

6. Thirty 6-minute readings only for the initial performance test, not for subsequent performance tests.

Response: The EPA has considered the reasons given for reducing the minimum opacity observation period of 30 6-minute averages (3 hours) for a performance test and the alternatives offered by the commenters and has decided that a minimum of 30 6-minute averages for the opacity observation test is necessary in order to provide the Agency with enough data upon which to determine compliance with the opacity standard.

During the standard-setting process, opacity data from many different emission sources are obtained. An analysis of the opacity data from many different emission sources are obtained. An analysis of the opacity data will result in identifying the highest opacity levels reached by one or more emission sources. The opacity standard is based on considertion of the highest opacity levels normally expected from complying sources within the source category.

The Administrator does not agree that a 3-hour period would result in visual fatigue for the observer, a corresponding reduction in the validity of the Method 9 results, or would require extra persons for every test. Most sources subject to an opacity standard are also subject to a mass emission limit. In these cases, the initial performance tests to determine compliance with both standards should, if possible, be conducted simultaneously. The performance tests would consist of three separate runs using the applicable test method. Generally, each run would last at least one hour but these three test runs would seldom be made without a break in between. It would be necessary to allow time after each run to prepare for the next one, which would also provide a rest period for the opacity observer. Even if the opacity observation test were not conducted concurrently with a mass emission performance test (for example, some affected facilities are subject only to an opacity standard), the opacity observer should take periodic breaks during the 3-hour period to avoid any visual fatigue as described in the method. This procedure would ensure the validity of the Method 9 results and would alleviate any need for extra persons in conducting the opacity observation test.

Another reason given by the commenters for reducing the 3-hour period was that the opacity should not fluctuate over the course of 3 hours. However, it has been the Agency's experience that opacity does sometimes vary during the 3-hour period. For example, in the NSPS for lime manufacturing plants promulgated on April 6, 1984 (49 FR 18076), the opacity standard for kilns was revised from 10 to 15 percent based upon available data. A total of over 1,200 Method 9 6-minute averages were gathered simultaneously with Reference Method 5 mass emission tests (each test lasted 3 hours); 889 were zero, but 4 of the 6-minute average opacities exceeded 10 percent. All opacity averages were normalized to a 3.0 meter stack diameter. Test data for one facility showed that there were two 6-minute average opacities at 10.6 percent during the 3-hour period. This clearly illustrates that opacity does sometimes vary during a 3-hour period. Consequently, it is important to conduct enough observations to assure variations during the performance test to ensure that representative opacity data are collected.

Although the comments offered several alternative minimum time periods of 1 hour or less, the Administrator does not believe that these time periods are of sufficient length to obtain enough data to ensure that representative results are obtained.

For these reasons, the Administrator believes that a 3-hour observation period is reasonable and has not

reduced the minimum opacity observation period of 30 6-minute averages. However, as discussed previously, the opacity observation, recordkeeping, the reporting requirements apply only to the initial performance test, not to any subsequent performance tests.

Comment: Several commenters recommended that facilities required to install COM be exempt from the opacity observation test for the following reasons:

1. Opacity monitors cannot be used as an enforcement tool; the opacity monitor could supply opacity data which, however, would indicate whether revisions to opacity limits are needed.

2. The opacity monitor results should be more reliable than opacity observations. The proposal requires 30 6-minute average visible emissions observations (720 15-second observations), whereas the opacity monitor can record continuous readings (unaffected by the normal problems encountered with opacity observations (meteorological conditions, fatigue)).

3. Requiring opacity observations during performance tests would require using additional testing personnel. The costs in terms of time and money outweigh any perceived benefit from the data collected. Use of the opacity monitor to obtain the necessary data would eliminate this expense to the source operator.

4. Requiring opacity observations is of particular concern for owners or operators of facilities with tall stacks, which must be observed at a significant distance from the stack. In some cases, a transmissometer may be the only accurate method for obtaining opacity readings from tall and large diameter stacks and plumes which contain condensed, uncombined water vapor.

5. The use of opacity monitors would be less costly, especially in the Northwest where clouds often preclude visual readings. Since the transmissometer is used to calibrate/certify the Method 9 observers, it seems appropriate to permit its use for sources which do not contain significant condensable matter.

6. Continuous opacity monitors are already required by EPA at affected facilities. Therefore, to require Method 9 visual observations also would place another burden on owners/operators to collect data already being recorded by the COM.

Response: After review and consideration of these comments, the Administrator has determined that sources required to use COM should be allowed the option of submitting monitoring results in lieu of conducting a Method 9 visual observation during the initial performance test or any subsequent performance test requested by the Administrator for the purpose of determining compliance. Recent studies (Docket A–85–08, Item II–A–1) have shown that continuous opacity monitoring results are reliable if the monitors have been properly operated and maintained. Since COM are capable of producing reliable data, it is, therefore, reasonable to allow those results to be used in lieu of Method 9 results. In a separate **Federal Register** notice, the agency is proposing to revise the General Provisions, 40 CFR 60.11 (b), to allow for the alternative of submitting opacity monitoring results for compliance determination in lieu of conducting an opacity observation during any performance test requested by the Administrator.

Comment: One commenter asked EPA to consider the proposed requirement for facility owners or operators to conduct opacity observations rather than EPA furnishing qualified observers for the following reasons. Observers would have to come from engineering consultants, test firms, or from the owner or operator's own staff if the Agency were to discontinue furnishing them. Such observers would likely never achieve the experience level of the present EPA observers because they would probably conduct opacity observations much less frequently. As a result, EPA would be required to train and certify a significantly larger, nonagency observer force than would otherwise be required, and the present quality of opacity compliance observations would be at risk.

Another commenter stated that 40 CFR 60.11(e)(1) presently allows an owner or operator of an affected facility to request the Administrator to determine the opacity of emissions. The commenter added that EPA, State, and local agencies already have certified visible emissions readers on staff. The owner or operator may not have this capability and, therefore, would have to train someone or contract someone to collect the data requested. The commenter cited a specific example of a recent performance test where the local Agency had a certified reader inspector record opacity, and the owner/operator contracted for a certified reader to also record opacity because he thought that was required by the proposal.

A third commenter expressed concern over the objectivity of industry-collected opacity data, especially in instances where it is used to demonstrate compliance with opacity standards. The Agency believed that Method 9 observations either by the firm conducting the emission test or by State/local air officials would be a more viable alternative.

Response: It is the source owner or operator's responsibility to conduct the opacity observations and to record and report the opacity during the initial performance test. In order to accomplish this, the owner or operator may (1) request a certified visible emissions observer from the EPA, State, or local agency to conduct the test, (2) conduct the opacity test in-house, or (3) hire a contractor to conduct the test.

Prior to today's revision of § 60.11(e)(1), an owner or operator could request the Administrator to determine the opacity of emissions from the affected facility during the initial performance tests, but there was no specification as to the number of observations or provision for recording and reporting the results. The proposed revision of § 60.11(e)(1) would have required that the owner or operator of an affected facility subject to an opacity standard conduct opacity observations, record, and report the opacity results. It was not the Agency's intent that an owner or operator should contract for a certified visible emissions reader if an EPA, State, or local certified reader were available during the test to record the opacity; therefore, the final rule § 60.11(e)(3)] has been clarified to indicate that the owner or operator of an affected facility may use a certified visible emissions reader from the EPA, State, or local agency, if available, to conduct opacity observations and to record the opacity readings. However, if for some reason, the EPA, State or local official cannot be present during the test or cannot conduct the opacity observation, then it is the responsibility of the owner or operator to obtain a certified reader to conduct and record the opacity. In addition, the owner or operator is responsible for maintaining the data file and reporting the test results.

Comment: One commenter referred to docket item II–F–1 which contains the estimated annual industry burden hours associated with the proposed recordkeeping and reporting. The estimate for steam generators (Subparts D and Da) was 128 hours per year, based on a total of 32 respondents. The commenter stated that the estimated burden seemed low for two reasons: (1) EPA had omitted the burden that would accompany Subpart Db regulations, and (2) the estimate appeared to ignore the fact that the revision would apply to compliance determinations made at any time not just those at initial startup, and would include pollutants in addition to

particulate matter. The commenter claimed that there are over 160 steam generators subject to the NSPS and that compliance determinations are made approximately once per year. Therefore, the burden for the electric utility industry could be five times higher than estimated. A second commenter (IV-D-10) believed that EPA had significantly underestimated the average annual industrywide recordkeeping and reporting burden because it did not include approximately 800 new steam generators proposed to be regulated over a 5-year period under 40 CFR Part 60, Subpart Db, and possibly an equal number of affected sources under the advanced notice of proposed rulemaking (ANPR) for industrial boilers smaller than 250 million Btu/hr.

Response: The estimated annual industry burden hours associated with the proposed recordkeeping and reporting requirements for steam generators (Subparts D and Da) did not include compliance determinations made after the initial compliance test. This is consistent with the final revision which requires opacity recordkeeping and reporting only during the initial compliance test; therefore, it is not necessary to recalculate the average annual industry-wide burden. The annual industry burden estimate included only source categories for which opacity standards had been promulgated as of January 1984. Therefore, the opacity recordkeeping and reporting requirement for Subpart Db sources and sources under the ANPR for industrial boilers smaller than 250 million Btu/hr were not included in the estimate. Rather, the opacity recordkeeping and reporting burden associated with these source categories, as well as other source categories promulgated after January 1984, will be calculated and submitted to the Office of Management and Budget (OMB) for review and approval on a standard-by-standard basis.

The OMB agreed to review one information collection requirement (ICR) for the opacity recordkeeping and reporting to cover 20 source categories. It was also agreed that once OMB approves the ICR and the final opacity provisions are promulgated, the appropriate burden hours from this ICR will be moved to the ICR's for each of the 20 source categories. Any necessary adjustments in the opacity recordkeeping and reporting burden will be made in the ICR for the individual source category.

Comment: One commenter stated that EPA apparently did not consider the total costs associated with the proposal. Travel time and expenses for a Method 9 observer would be in addition to the 3 hours for plume viewing. If the particulate testing results were found to be unacceptable or could not be carried out as scheduled or, for some reason, the Method 9 observation could not be conducted, the observer would have to return. According to the commenter, some industrial facilities may have a certified observer on site who could be used for the Method 9 observations. However, this observer would have to maintain his or her qualification by being recertified every 6 months, which normally involves travel and expenses for attending a government-run smoke reading certification program.

Another commenter was also concerned about the costs for obtaining a certified observer. This commenter estimated that a 2-day compliance test would cost between $1,000–2,000. This cost could double because of delays attributable to poor reading conditions. According to the commenter, most facilities cannot justify the costs involved in keeping a reader certified and, therefore, would require the use of consultants.

In addition, one commenter requested that EPA identify for OMB review the costs to train additional certified observers or hire consultants and the costs of scheduling the necessary tests. It was requested that EPA address these cost considerations prior to promulgating the proposed requirements.

Response: The final opacity provisions allow a source owner or operator to use an EPA-certified visible emissions observer, if available, to conduct and record the opacity observations. However, if an EPA observer is not available, it is estimated that the certification costs for a visible emissions observer employed by the source would be about $1,400 (includes travel, per diem, hotel, and wages for 2 days, twice a year; the twice-a-year assumption is very conservative in that only a one-time test is being required and no more than one certification would be necessary); the visible emission observation costs for a 3-hour test would be about $100 (includes 1 hour for data reduction). Therefore, the maximum total certification and observation costs are estimated to be about $1,500. If the source's observer is employed at a central facility off-site (for example, in the headquarters' environmental department), there would be travel time but this would be offset by the fact that the certification cost would be prorated among the various plants owned by the firm.

The Administrator believes that, in many cases, an EPA, State or local agency certified opacity observer would be available to conduct and record the opacity observations during the performance test and there would be no costs involved for the source owner or operator. In the event one is not available, the Administrator believes the total costs would be reasonable and, in addition, would be only a fraction of the total cost of a performance test conducted under § 60.8.

Comment: One commenter asked EPA to consider the proposed requirement to record and report continuous opacity monitoring data during compliance testing. The commenter stated that monitor certification typically involves 1 or 2 weeks of field activity, about 30 days for report preparation and about an equal amount of time for Agency analysis and response. Since compliance demonstrations are required to be conducted within 60 days after achieving the maximum production rate, certification procedures may not be complete at the time the demonstration is conducted. Therefore, EPA may have to accept opacity compliance demonstration reports pending the outcome of instrument certification.

Response: The General Provisions for NSPS (40 CFR 60.13) currently require that (1) all continuous monitoring systems be installed and operational prior to conducting a performance test, (2) verification of operational status must include, as a minimum, completion of the manufacturer's requirements for installation, operation, and calibration of the monitoring device, and (3) monitoring system performance evaluations must be conducted during the performance test or within 30 days thereafter and a written report of the results must be submitted within 60 days.

Much of the certification of opacity monitors is performed initially by the manufacturer; that is, the manufacturer certifies that the monitor does meet design criteria in Performance Specification 1 (Appendix B, 40 CFR Part 60). However, as required in Performance Specification 1 and in Section 60.13, after the monitor is installed, it must be operated for a specified length of time and its performance evaluated to ensure conformance with specific operational criteria. This evaluation requires a week to complete. This period of evaluation should take place before the opacity compliance test is conducted to ensure the accuracy of the monitoring results. Therefore, a change to § 60.13(c) is being made to specify that the continuous

opacity monitor be ceritified according to Performance Specification 1 in Appendix B before the compliance test is conducted.

It is important to note that continuous opacity monitoring provides the only means through which an owner or operator can with precision assess the relative performance of a control device (Docket A-83-43, entry IV-J-1). As such, the monitor represents a valuable tool which can be used to optimize control equipment and process operations during the time these are coming on line. In most cases, it is to the advantage of the source to utilize the monitor for such purposes before performing the mass compliance test.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated opacity provisions and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review [section 307(d)(7)(A)].

These amendments become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal (July 31, 1984).

Information collection requirements associated with these amendments (those included in 40 CFR 60.7 and 60.11) have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2060-0076.

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to the requirements of a regulatory impact analysis (RIA). The Agency has determined that the amendments to the opacity provisions would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The Agency has, therefore, concluded that these amendments are not a "major rule" under Executive Order 12291. This rulemaking was submitted to OMB for review as required by the Executive Order. Any written comments from OMB to EPA and any EPA response to those comments will be included in the docket.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because these amendments impose only a one-time testing, recordkeeping, and reporting requirement and would result in no adverse economic impacts, a Regulatory Flexibility Analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Reporting and recordkeeping requirements, Incorporation by reference, and Intergovernmental relations.

Dated: December 18, 1985.

Lee M. Thomas,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60, Subpart A, is amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Sec. 101, 111, 114, 116, 301, Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. In § 60.7, a new paragraph (a)(6) is added to read as follows:

§ 60.7 Notification and recordkeeping.

(a) * * *

(6) A notification of the anticipated date for conducting the opacity observations required by § 60.11(e)(1) of this part. The notification shall also include, if appropriate, a request for the Administrator to provide a visible emissions reader during a performance test. The notification shall be postmarked not less than 30 days prior to such date.

* * * * *

3. In § 60.11: 1. Paragraph (b) is revised. 2. Paragraphs (e)(1) and (e)(2) are revised. 3. Paragraphs (e)(3) and (e)(4) are redesignated as paragraphs (e)(6) and (e)(7). 4. New paragraphs (e)(3), (e)(4), and (e)(5) are added.

* * * * *

§ 60.11 Compliance with standards and maintenance requirements.

* * * * *

(b) Compliance with opacity standards in this part shall be determined by conducting observations in accordance with Reference Method 9 in Appendix A of this part or any alternative method that is approved by the Administrator. For purposes of determining initial compliance, the minimum total time of observations shall be 3 hours (30 6-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard). Following initial compliance, the minimum period of time allowed for determining compliance with the opacity standard using Method 9 shall be one 6-minute period.

* * * * *

(e)(1) For the purpose of demonstrating initial compliance, opacity observations shall be conducted concurrently with the initial performance test required in § 60.8 unless one of the following conditions apply. If no performance test under § 60.8 is required, then opacity observations shall be conducted within 60 days after achieving the maximum production rate at which the affected facility will be operated but no later than 180 days after initial startup of the facility. If visibility or other conditions prevent the opacity observations from being conducted concurrently with the initial performance test required under § 60.8, the source owner or operator shall reschedule the opacity observations as soon after the initial performance test as possible, but not later than 30 days thereafter, and shall advise the Administrator of the rescheduled date. In these cases, the 30-day prior notification to the Administrator required in § 60.7(a)(6) shall be waived. The rescheduled opacity observations shall be conducted (to the extent possible) under the same operating conditions that existed during the initial performance test conducted under § 60.8. The visible emissions observer shall determine whether visibility or other conditions prevent the opacity observations from being made concurrently with the initial performance test in accordance with procedures contained in Reference Method 9 of Appendix B of this part. Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determing compliance with opacity standards. The owner or operator of an affected facility shall make available, upon request by the Administrator, such records as may be necessary to determine the conditions under which the visual observations

were made and shall provide evidence indicating proof of current visible observer emission certification. The results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in Appendix B of this part, has been properly maintained and (at the time of the alleged violation) calibrated, and that the resulting data have not been tampered with in any way.

(2) Except as provided in paragraph (e)(3) of this section, the owner or operator of an affected facility to which an opacity standard in this part applies shall conduct opacity observations in accordance with paragraph (b) of this section, shall record the opacity of emissions, and shall report to the Administrator the opacity results along with the results of the initial performance test required under § 60.8. The inability of an owner or operator to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.

(3) The owner or operator of an affected facility to which an opacity standard in this part applies may request the Administrator to determine and to record the opacity of emissions from the affected facility during the initial performance test and at such times as may be required. The owner or operator of the affected facility shall report the opacity results. Any request to the Administrator to determine and to record the opacity of emissions from an affected facility shall be included in the notification required in § 60.7(a)(6). If, for some reason, the Administrator cannot determine and record the opacity of emissions from the affected facility during the performance test, then the provisions of paragraph (e)(1) of this section shall apply.

(4) An owner or operator of an affected facility using a continuous opacity monitor (transmissometer) shall record the monitoring data produced during the initial performance test required by § 60.8 shall furnish the Administrator a written report of the monitoring results along with Method 9 and § 60.8 performance test results.

(5) Upon receipt from an owner or operator of the written reports of the results of the performance tests required by § 60.8, the opacity observation results and observer certification required by § 60.11(e)(1), and the continuous opacity monitoring results, if applicable, the Administrator will make a finding concerning compliance with opacity and other applicable standards. If the Administrator finds that an affected facility is in compliance with all applicable standards for which performance tests are conducted in accordance with § 60.8 of this part but during the time such performance tests are being conducted fails to meet any applicable opacity standard, he shall notify the owner or operator and advise him that he may petition the Administrator within 10 days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility.

* * * * *

4. In § 60.13, paragraph (c) is amended by replacing the first sentence with three sentences to read as follows:

§ 60.13 Monitoring requirements.

* * * * *

(c) It shall be demonstrated that the continuous opacity monitoring system meets the specifications in Performance Specification 1 in Appendix B of this part before the performance test required under § 60.8 is conducted. Other continuous emission monitoring systems shall be evaluated during any performance tests required under § 60.8 or within 30 days thereafter. The owner or operator of an affected facility shall conduct continuous emission monitoring system performance evaluations at such other times as may be required by the Administrator under Section 114 of the Act and shall furnish the Administrator within 60 days thereof two or, upon request, more copies of a written report of the results of all tests referenced in this paragraph.* * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2881-9(a)]

Standards of Performance for New Stationary Sources; Amendment to Opacity Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: This action proposes to amend the opacity provisions in 40 CFR Part 60 affecting emissions from new stationary sources. This action implements Section 114 of the Clean Air Act and provides for the use of continuous opacity monitors (COM) as an alternative method of determining compliance with the opacity standards contained in 40 CFR Part 60.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentations of data, views, or arguments concerning the proposed amendments.

DATES: *Comments.* Comments must be received on or before March 12, 1986.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by January 17, 1986, a public hearing will be held on February 10, 1986, beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by January 17, 1986.

ADDRESSES: *Comments:* Comments should be submitted (in duplicate if posssible) to: Central Docket Section (LE-131), Attention: Docket Number A-85-08, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons wishing to present oral testimony should notify Ms. Shelby Journigan, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Docket. Docket No. A-85-08, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell, (919) 541-5624, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Background and Rationale for Proposed Amendments

On July 31, 1984, the EPA proposed a requirement in the **Federal Register** (49 FR 30676) for owners and operators of affected facilities subject to opacity standards in 40 CFR Part 60 to conduct opacity observations record, and report the opacity of emissions during a performance test. This requirement was proposed under the authority of section 114 of the Clean Air Act, as amended, and was based on the Administrator's determination that the recordkeeping and reporting were necessary to demonstrate compliance with the repective opacity standards. The data would also be used during 4-year reviews of standards of performance for new stationary sources. The proposed opacity provisions included a public comment period from July to October 1, 1984. A total of 19 comment letters were received. The comments that were submitted, along with responses to these comments, are summarized in a document entitled "Background Information for Promulgated Opacity Provisions" (EPA-450/3-85-013). The document may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777.

Changes were made in the proposed opacity provisions, and the promulgated opacity provisions appear in this issue of the **Federal Register.** Several of the comment letters recommended that facilities already required to install COM be allowed to use COM in lieu of Method 9 and presented reasons for this recommendation.

In the past, Method 9, "Visual Determination of the Opacity of Emissions from Stationary Source," contained in 40 CFR Part 60, Appendix A, has been the only method specified for determining compliance with opacity limitations in new source performance standards (NSPS) (40 CFR 60.11(b)). However, after review and consideration of these comments, the Administrator has determined that sources using COM (transmissometers) should be allowed the option of submitting monitoring results in lieu of conducting a Method 9 visual observation during any performance test required under § 60.8 for the purpose of determining compliance with the respective opacity standard. Continuous opacity monitor results submitted in accordance with this option would be used by EPA to determine compliance. Recent studies (Docket No. A-85-08, Item II-A-1) have shown that COM results are reliable if the monitors (transmissometers) have been properly operated and maintained. Therefore, the Agency is proposing a revision to the opacity provisions, 40 CFR 60.11, to allow for the alternative of submitting COM results in lieu of conducting a Method 9 opacity observation during any performance test required under Section 60.8 for the purpose of determining compliance with opacity standards.

Any decision to elect the COM option would be made by the source owner or operator before the initial performance test is conducted and would be included in the 30-day prior notification required under 40 CFR 60.7(a)(6). After the initial performance test is conducted, the opacity provisions in § 60.11 do not require opacity testing on a routine basis. However, the EPA, State, or local enforcement agency may require that a mass emission performance test and opacity test be conducted for compliance purposes subsequent to the initial performance test. If a source owner or operator elects the COM option for compliance purposes during the initial performance test, the enforcing agency can use future COM data collected from that source during a subsequent performance test to document a violation, unless the Administrator is notified otherwise. That is, if after the initial performance test, a source owner or operator decides to use Method 9 or an alternative method for determining compliance with the opacity standard, he must notify EPA, in writing, before any subsequent compliance test is conducted.

The minimum period of time allowed for any opacity compliance test conducted after the initial performance test would be one 6-minute period in case where Method 9 is used. In cases

where a COM is used, the minimum time required for an opacity compliance test would be the same period of time as the initial performance test.

In order for the COM results to be reliable, the COM must be operated and maintained at all times in accordance with the requirements under § 60.13. In addition, the source owner or operator must evaluate the performance of the COM according to procedures in Performance Specification 1 of Appendix B, 40 CFR Part 60, before the initial performance test is conducted. Also, at a minimum, the procedures specified in paragraph 7.2.1 or 7.2.2 of Performance Specification 1 must be completed at least one time during each quarterly period subsequent to the initial performance test. It is the responsibility of the source owner or operator to ensure that these requirements are completed as specified. Otherwise, the source would be cited in violation of these requirements in addition to a possible violation of the opacity standard.

It is not the intent of this notice to alter current Agency policy on the use of quarterly excess emissions reports required under 40 CFR 60.7(c). Excess opacity data are used as an indicator of the compliance status of the source and may be used to target inspections, performance tests, or other enforcement activities, but not as the sole evidence of a violation of the standard. Neither is this notice intended, in any way, to negate the authority of the enforcing agency in determining a source's compliance with the opacity standard. The enforcing agency has the authority to use Method 9 at any time to determine a source's compliance with the opacity standard. This notice is intended to allow the use of COM as an alternative means of determining compliance with the opacity standard during performance tests required by EPA or the enforcing agency.

II. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed amendments in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble and should refer to Docket No. A-85-08.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, DC (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of these amendments. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review (except for interagency review materials (section 307(d)(7)(A)).

C. Office of Management and Budget Reviews

1. *Paperwork Reduction Act.* There are no information collection requirements associated with this proposed rulemaking.

2. *Executive Order 12291 Review.* Under Executive Order 12291, EPA must judge whether a regulatory action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The proposed amendment is not major because it would result in none of the adverse economic effects set forth in section 1 of the Order. This proposed rulemaking is amending the general provisions for NSPS in 40 CFR Part 60 to provide an alternative means of compliance, and there would be no significant adverse effects associated with the amendment.

This proposed rulemaking was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA response to those comments will be included in Docket A-85-08. This docket is available for public inspection at EPA's Central Docket Section that is listed under the **ADDRESSES** section of this notice.

D. Regulatory Flexibility Act Compliance

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), I hereby certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small business entities because the impact of the proposed rule is not significant.

List of Subjects in 40 CFR Part 60

Air pollution control, Reporting and recordkeeping requirements, Incorporation by reference, and Intergovernmental relations.

Dated: December 18, 1985.

Lee M. Thomas,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60, Subpart A, be amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 116, 301, Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. In § 60.11: 1. Paragraph (b) is revised. 2. Paragraph (e)(1) is amended by revising the last sentence as set forth below. 3. Paragraphs (e)(6) and (e)(7) are redesignated as paragraphs (e)(7) and (e)(8). 4. Paragraph (e)(5) is redesignated as paragraph (e)(6) and revised. 5. New paragraph (e)(5) is added.

§ 60.11 Compliance with standards and maintenance requirements.

* * * * *

(b) Compliance with opacity standards in this part shall be determined by conducting observations in accordance with Reference Method 9 in Appendix A of this part, any alternative method that is approved by the Administrator, or as provided in paragraph (e)(5). For purposes of determining initial compliance, the minimum total time of observations shall be 3 hours (30 6-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard). Following initial compliance, the minimum period of time allowed for determining compliance with the opacity standard using Method 9 shall be one 6-minute period.

* * * * *

(e)(1) * * * Except as provided in paragraph (e)(5) of this section, the results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in Appendix B of this part, has been properly maintained and (at the time of the alleged violation) calibrated, and

that the resulting data have not been tampered with in any way.

* * * * *

(5) An owner or operator of an affected facility subject to an opacity standard may submit, for compliance purposes, continuous opacity monitor (COM) data results produced during the initial performance test required under § 60.8 in lieu of conducting Method 9 observations.

(i) For purposes of determining initial compliance with the opacity standard using a COM, averages of all 6-minute continuous periods within the duration of the mass emission performance test shall be submitted along with the results of the performance test required under § 60.8. If COM data results are to be used for compliance purposes, the source owner or operator shall meet the burden of proving that the COM used meets Performance Specification 1 of Appendix B of this part, that it has been properly maintained and calibrated, and that the resulting data have not been altered in any way.

(ii) If a source owner or operator subject to an opacity standard is required to conduct a performance test under § 60.8 subsequent to the initial performance test, COM data, in lieu of Method 9, may be used to determine compliance with the opacity standard. The COM compliance period shall be the same period of time as the performance test conducted under § 60.8. If COM results are to be used for compliance purposes after the initial performance test is conducted, the procedures specified in paragraph 7.2.1 or 7.2.2 of Performance Specification 1 of Appendix B of this part shall be completed at least one time during each quarter subsequent to the initial performance test and the COM shall, at all times, be properly maintained and calibrated.

(6) Upon receipt from an owner or operator of the written reports of the results of the performance tests required by § 60.8, the opacity observation results and observer certification required by § 60.11(e)(1), and the COM results, if applicable, the Administrator will make a finding concerning compliance with opacity and other applicable standards. If COM data results are used to comply with an opacity standard, only those results are required to be submitted along with the performance test results required by § 60.8. If the Administrator finds that an affected facility is in compliance with all applicable standards for which performance tests are conducted in accordance with § 60.8 of this part but during the time such performance tests are being conducted fails to meet any applicable opacity standard, he shall notify the owner or operator and advise him that he may petition the Administrator within 10 days of receipt of notification to make appropriate adjustment to the opacity standard for the affected facility.

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Friday
December 27, 1985

Part VI

Department of Health and Human Services

Social Security Administration

20 CFR Parts 404 and 416
Personal Appearance Demonstration Projects; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors, and Disability Insurance; Supplemental Security Income for the Aged, Blind, and Disabled; Personal Appearance Demonstration Projects

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing regulations describing how we will carry out the personal appearance demonstration projects which are required by section 6 of Pub. L. 98–460, the Social Security Disability Benefits Reform Act of 1984. The demonstration projects will test, on a limited basis, the use of personal appearance interviews in connection with initial determinations about disability or blindness which are made by State agencies. The demonstration projects will involve disability cases under title II of the Social Security Act (the Act) as well as blindness and disability cases in the Supplemental Security Income (SSI) program under title XVI of the Act. Participants in the demonstrations will be selected randomly from among individuals who have applied for benfits but have not received an initial determination about their eligibility, and from among individuals who have been receiving benefits but whose condition is being reviewed to determine whether they are still disabled or blind.

Under the demonstration projects, individuals who are selected to participate will be provided an opportunity for an interview with a State agency disability examiner prior to any initial determination of ineligibility. In some locations a State agency medical consultant may participate in the interview together with the disability examiner, although the rest of this preamble will refer only to the disability examiner. Medical examinations will not be conducted as part of the interview process. The demonstration projects will be conducted in several States. Their purpose is to test whether an interview with the State agency disability examiner at this stage of the decisionmaking process will result in a better evaluation of the person's condition and simplify and expedite the decisionmaking process.

DATES: We will consider your comments if we receive them no later than January 27, 1986.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Office of Regulations, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7519.

SUPPLEMENTARY INFORMATION: Pub. L. 98–460, the Social Security Disability Benefits Reform Act of 1984, enacted October 9, 1984, addresses selected aspects of the standards and procedures for determining whether people are disabled or blind for purposes of eligibility for benefits under titles II and XVI of the Act. (In the rest of this preamble, we use "disability" and "disabled" to include blindness.) A much-discussed issue in the past few years has been the process of reviewing the condition of people already receiving disability benefits to determine whether they continue to be disabled. One point of concern in that process has been the fact that the initial determination as to whether an individual's disability has ceased is based on a paper review of the evidence in the individual's case record, and is usually made without the adjudicator having personally observed the individual or having heard firsthand the individual's own description of his or her condition. The decisionmaking process is the same for new applications for disability benefits, and the same concerns have been voiced about it.

Section 6 of Pub. L. 98–460 calls for demonstration projects to test the use of personal appearance interviews at the initial stage of the decisionmaking process for continuing disability reviews and for initial disability claims under both title II and title XVI of the Act. Under section 6 of Pub. L. 98–460, the Secretary of Health and Human Services is required to conduct demonstration projects in which beneficiaries who are undergoing continuing disability review, and claimants who have just applied for disability benefits, and provided an opportunity for an interview with the State agency disability examiner prior to any initial determination of ineligibility.

Existing Procedures

Our first level of decisionmaking about a person's eligibility or continuing eligibility for benefits is called an "initial determination." The initial determination of whether a person is disabled for purposes of title II or title XVI benefits is usually made by a State agency under the regulations at 20 CFR Part 404, Subpart Q, and Part 416, Subpart J. The State agency employees who make the determination are a physician or psychologist called a medical consultant and a non-physician called a disability examiner. the disability examiner must be qualified to interpret and evaluate medical reports and other evidence relating to a person's physical or mental impairments and, as necessary, to determine the capacities of the person to perform substantial gainful activity as defined at 20 CFR 404.1572 and 416.972. A person who is dissatisfied with the initial determination in his or her case usually has three levels of administrative appeal available. Except for certain title XVI and concurrent title II/XVI cases described below, the first level of appeal is called reconsideration. The second and third levels, respectively, are a hearing before an administrative law judge and a review by the Appeals Council.

For title XVI and concurrent title II/XVI cases in which the initial determination is that a person's benefits must be terminated because his or her disability has ceased due to medical reasons, the first level of appeal is an administrative law judge hearing, and the second level is a review by the Appeals Council. By "medical reasons" we mean both what the existing disability program regulations call "medical considerations" (§§ 404.1525—404.1530 and 416.925—416.930) and what they call "vocational considerations" (§§ 404.1560—404.1569 and 416.960—416.969).

Section 4 of Pub. L. 97–455, enacted January 12, 1983, effective with reconsiderations requested after 1983, provides a new reconsideration process which we call a disability hearing. The statute makes disability hearings available to title II beneficiaries who request reconsideration of an initial determination that the physicial or mental impairment on the basis of which benefits have been payable has ceased, did not exist, or is no longer disabling. The disability hearing is a face-to-face evidentiary hearing before a disability hearing officer, usually a State agency

employee. Under the Secretary's rulemaking authority, our Notice of Proposed Rulemaking published August 15, 1983 (48 FR 36831) proposed to provided the same kind of hearing in comparable title XVI cases.

A principal goal of the disability program is to provide benefits under the law in as accurate and timely a manner as possible. To accomplish this, the Social Security Administration (SSA) has operated under procedures designed to assure that all relevant evidence is obtained and considered in making disability determinations at the State agency level of decisionmaking and to provide an opportunity for face-to-face appeal of an initial unfavorable State agency decision at a later stage in the decision process.

Under existing procedures, an initial determination as to whether the claimant (the person who has applied for benefits) or beneficiary (the person whose entitlement has been established) is disabled or continues to be disabled is usually made by the State agency on the basis of the evidence (written medical and vocational reports) in the person's case file. Currently, the claimant or beneficiary can give us or have us get any additional or new informaiton on paper, including reports from doctors, hospitals, emloyers or others, that he or she believes we should have before the determination is made. The claimant or beneficiary also talks to an SSA district office employee, but the SSA employee does not make the disability determination in the great majority of cases, namely those where the determination is based on medical/vocational factors. The SSA employee writes down all pertinent information the claimant or beneficiary tells the emplyee, and anything the employee observes by seeing and hearing the claimant or beneficiary that may be relevant in evaluating his or her condition. The SSA employee then sends this information and any information or evidence the claimant or beneficiary provided on paper to the State agency.

The State agency evaluates the available evidence and obtains any additional evidence necessary, including reports from the individual's own medical sources as well as reports from physicians who examined the individual at the State agency's request. The state agency they makes an initial determination as to whether the individual is disabled on the basis of the evidence in the case file. In the process of appealing an unfavorable determination, at a later stage in the decisionmaking process, a beneficiary or claimant is entitled to a face-to-face meeting with a decisionmaker (a disability hearing officer or an administrative law judge).

The Demonstration Projects

In passing Pub. L. 98–460, Congress decided we should test potential changes in the disability determination process by offering a face-to-face interview between the claimant or beneficiary and the State agency disability examiner at the first stage of decisionmaking. The Ways and Means Committee of the House of Representatives stated:
"The committee believes that such a meeting at the initial stage in the adjudicative process would permit State agency disability examiners to better assess the individual's residual functional capacity and assure that all relevant medical and vocational information has been obtained. Moreover, an interview at the initial State agency level, rather than at some later stage, would both simplify and expedite the decisionmaking process." (H. R. Rep. No. 618, 98th Cong., 2d Sess. 17 (1984)).

Accordingly, sections 6(d) and (e) of Pub. L. 98-460 require us, as soon as practicable after October 9, 1984, the date of enactment, to implement demonstration projects in which the opportunity for a personal appearance is provided to disability claimants and beneficiaries prior to an initial disability denial or periodic review cessation determination by a State agency under titles II and XVI of the Act.

For determinations in continuing disability review cases, the provision specifies that the opportunity for a personal appearance at the initial level of decisionmaking takes the place of the evidentiary hearing at the reconsideration level of review which is required under section 205(b)(2) of the Act. For initial claims, the statute does not specify that the opportunity for a personal appearance at the initial level of decisionmaking will replace the reconsideration level of review, but the legislative history indicates that this was Congress's intent. Additionally, we see no advantage to maintaining the reconsideration level of appeal for these initial claims. By providing the claimant with a pre-decision notice followed by the opportunity to submit additional evidence and to meet face-to-face with the decisionmaker, we are, in effect, folding the reconsideration process into the initial step of adjudication. To offer a reconsideration in such cases would only delay cases from moving through the appeals process.

The demonstrations involving claimants are to be conducted in at least five States and the demonstrations involving beneficiaries are to be conducted in at least five States. We are required to report to Congress on the demonstration projects, together with any recommendations, by December 31, 1986.

Section 6(d) of Pub. L. 98–460 requires us to implement these demonstration projects in continuing disability review cases where the review is required by section 221(i) of the Act (periodic review cases) or is made under title XVI of the Act. However, our proposed regulations also include "medical diary" cases in the demonstrations. These are the cases which are selected for continuing disability review because medical improvement was expected. We decided to include these cases because the issues to be decided are the same as in the periodic review cases, and excluding medical diary cases would lengthen the time required to obtain adequate sample sizes with which to assess the results of the demonstrations. We believe this decision is supportable based on the Conference Committee report, which indicates that the section 6(d) demonstration projects will provide for "face-to-face pre-termination interviews for continuing disability review issues at the initial rather than the reconsideration level," suggesting congressional intent to include continuing disability review cases of any kind. (H.R. Rep. No. 1039, 98th Cong., 2d Sess. 32 (1984).)

We are proposing regulations to inform people who may be selected to participate in the demonstration projects of the change in the procedures for deciding their cases and of the change in their appeal rights. We emphasize, however, that the demonstration projects are only tests of a different method of getting evidence of disability; the projects do not involve changes in standards used for determining whether or not a person is disabled.

Our proposed regulations describe the demonstration projects and explain the procedures and the individual's rights in connection with the interview.

The proposed regulations specify that, in connection with his or her interview, the claimant or beneficiary has the right to—

(1) Meet face-to-face with a State agency disability examiner before a medical/vocational denial or cessation determination is made;

(2) Have us or the State agency assist in getting evidence;

(3) Be represented at the interview;

(4) Review the evidence in the file either on or before the date of the interview;

(5) Present additional evidence at the interview; and

(6) Present witnesses at the interview.

The claimant or beneficiary and his or her representative or witnesses may be eligible for reimbursement under the State agency's rules for travel expenses incurred in connection with the interview if the distance from the person's residence or office (whichever he or she travels from) to the interview site exceeds 75 miles.

The proposed regulations specify that the first level of appeal from the State agency initial determination following the opportunity for an interview (regardless of whether or not the claimant or beneficiary takes advantage of the opportunity) is a hearing before an administrative law judge.

We will select people to participate in the demonstrations from among claimants in all or part of at least five States and from among beneficiaries in all or part of at least five States. We will select participants randomly from among individuals who will have their initial determinations about disability made by a State agency under §§ 404.1613 or 416.1013. Thus, people whose disability determinations will not be made by a State agency will not be included in the projects. For example, SSA offices (rather than State agencies) determine that people are not disabled if they are in fact performing substantial gainful activity in spite of their medical condition. We plan to include in the demonstrations all kinds of State agency cases expect those described in items (4)–(6) below, but because unforeseen circumstances may arise, we have provided in item (7) for exclusion of any cases we may find it would be impractical in include.

For people in the followng categories, State agencies will continue to make disability determinations without the interviews required by Pub. L. 98–460:

(1) People not randomly selected to participate in the demonstration projects;

(2) People who can be determined to be disabled on the basis of the evidence in their files;

(3) People who, without good cause, fail to make a timely reply to (or who decline) the offer of an interview (however, their first level of appeal of our disability determination in these cases will also be a hearing before an administrative law judge);

(4) People who have been determined not disabled but whose cases are being reexamined under the new disability standards in accordance with the Social Security Disability Benefits Reform Act of 1984;

(5) Claimants who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for claimants;

(6) Beneficiaries who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for beneficiaries; and

(7) People the Social Security Administration finds it would be impractical to include in the projects.

We are excluding the people described in item (4) above from the demonstration projects because these people, although their cases are being reexamined, have already been through a disability determination process (including, in some cases, several levels of administrative review) and including them in the demonstration could possibly deter the expeditious processing of their cases and might bias the results of the demonstrations.

As item (2) above implies, the State agency will offer the opportunity for an interview only after concluding that a determination based only on the written reports in the case record would be a denial or cessation. The proposed regulations indicate that where this occurs, the State agency will mail the individual a notice informing him or her of the preliminary unfavorable determination and of the opportunity for an interview before a formal determination is made. The notice will state that the individual has 30 days from the date he or she receives the notice to request an interview but explain that this deadline can be extended for good cause under the standards in §§ 404.91 and 416.1411. (The existing regulations at §§ 404.901 and 416.1401 explain that the date the individual receives notice means "5 days after the date on the notice, unless you show us that you did not receive it within the 5-day period.")

If the claimant or beneficiary makes a timely request for an interview, the State agency will mail a notice of its time and place at least 20 days in advance, unless the claimant or beneficiary waives (in writing) his or her right to the 20-day advance notice. The claimant or beneficiary will be informed that he or she should not waive the right to the 20-day advance notice if he or she needs time to get ready for the interview. It a claimant or beneficiary waives (in writing) his or her right to the 20-day advance notice, an interview will be scheduled as soon as possible and the State agency will mail a notice of the time and place of the interview at least 10 days in advance, unless the interview is scheduled by telephone as explained below.

Occasionally, for the convenience of all parties involved, an interview may be scheduled by telephone. In such instances, the State agency will mail a notice of the time and place of the interview only if it is scheduled for a date not less than 5 days from the date the telephone arrangements were made. If an interview was scheduled by telephone and the claimant or beneficiary does not appear for the interview, the disability examiner will take one of the following actions:

(1) If a notice of the time and place of the interview was not mailed at least 20 days before the scheduled date of the interview and the claimant or beneficiary did not waive (in writing) his or her right to the 20-day advance notice, the disability examiner will schedule another interview. The State agency will mail a notice of the time and place of the interview at least 20 days in advance.

(2) If a notice of the time and place of the interview was not mailed to the claimant or beneficiary and he or she waived (in writing) his or her right to the 20-day advance notice, the disability examiner will schedule another interview. The State agency will mail a notice of the time and place of the interview at least 10 days in advance.

In any case where the 20-day advance notice (or, if the right to the 20-day advance notice is waived, the 10-day or 5-day notice) or the interview was mailed to the claimant or beneficiary and he or she does not appear for the interview, the disability examiner will make a determination as to whether the claimant or beneficiary is disabled based on the evidence in his or her case file. A written notice of that determination will be mailed to the claimant or beneficiary at his or her last known address.

At the request of the claimant or beneficiary, the State agency may allow up to 15 days after the interview for receipt of additional evidence which was not available at that time. The State agency may also obtain additional evidence, including a consultative medical examination as described in §§ 404.1517 and 416.917, after the interview if it believes it is necessary for a sound determination.

In preparing our report to Congress on the demonstration projects, we will evaluate them primarily by comparing the demonstration procedures with our usual procedures in terms of such things as—

(1) Elapsed time to final decision either from the claimant's application or

from starting the review of the beneficiary's continued eligibility;

(2) Acceptance rate for interviews offered;

(3) Frequency of favorable determinations;

(4) Accuracy of determinations;

(5) Appeal rates;

(6) Reversal rates on appeal; and

(7) Program and administrative costs.

Regulatory Procedures

Executive Order 12291

These proposed regulations have been reviewed under Executive Order 12291. They will not have an annual effect on the economy of $100 million or more and and do not meet any of the other criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because the regulations will affect 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 proposed rule contains information collection requirements in §§ 404.906(d) and 416.1406(d). As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attention: Desk Officer for HHS.

(Catalog of Federal Domestic Assistance Program Nos. 13.802—Social Security—Disability Insurance and 13.807—Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors, and Disability Insurance.

20 CFR Part 416

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

Dated: May 16, 1985.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: July 2, 1985.

Margaret M. Heckler,

Secretary of Health and Human Services.

Subpart J of Part 404 and Subpart N of Part 416 of 20 CFR are amended as follows:

PART 404—[AMENDED]

1. The authority citation for Subpart J of Part 404 is revised to read as follows:

Authority: Secs. 205 and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, sec. 6 of Pub. L. 98-460; 53 Stat. 1368, 49 Stat. 647, 98 Stat. 1802 (42 U.S.C. 405 and 1302).

2. Section 404.906 is added to read as follows:

§ 404.906 Opportunity for personal appearance interview before initial disability denial or cessation determination—demonstration projects.

(a) *Applicability and scope.* Notwithstanding any other provision in this Part or Part 422, we are establishing the procedures set out in this section for demonstration projects involving certain initial determinations about eligibility or continued eligibility for benefits based on disability. There will be two types of demonstration projects: projects involving individuals who have applied for benefits but have not received an initial determination about their eligibility, and projects involving individuals who have been receiving benefits but whose condition is being reviewed to determine whether they are still disabled. Each of the two types of projects will be conducted in at least five States. Projects may be conducted on a Statewide basis or in only part of the State. Participants will be selected randomly from among individuals who will have their initial determinations about disability made be a State agency (see §§ 404.1503 and 404.1613), excluding—

(1) Individuals who have been determined not disabled but whose cases are being reexamined under the new disability standards in accordance with Pub. L. 98-460;

(2) Claimants who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for claimants;

(3) Beneficiaries who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for beneficiaries; and

(4) Individuals the Social Security Administration finds it would be impractical to include in the projects.

(b) *Summary of procedure.* The individuals selected to participate will be given an opportunity, before any initial determination is made that they are not disabled, for a personal appearance interview with the State agency disability examiner who will make the disability determination. In some locations, a State agency medical consultant may participate in the interviews together with the disability examiner, although the rest of this section will refer only to the disability examiner. Medical examinations will not be conducted as part of the interview process. The reconsideration level of review will be eliminated for individuals who are given the opportunity for an interview under the demonstration projects. Thus, for individuals who are given the opportunity for an interview, whether or not they take advantage of the opportunity, the first level of appeal from the initial determination will be a hearing before an administrative law judge. Determinations for individuals not included in the projects will be made under current usual procedures. The demonstration projects will begin as soon as practicable and will end as soon as a large enough sample of cases is completed to permit proper evaluation of the demonstration projects, but no later than December 31, 1987.

(c) *Authority and purpose.* The demonstration projects are required by section 6 of Pub. L. 98-460, the Social Security Disability Benefits Reform Act of 1984. Their purpose is to test whether a face-to-face interview with the State agency disability examiner at this stage of the decisionmaking process will result in a better evaluation of the person's condition, assure that all relevant information is obtained, and simplify and expedite the decisionmaking process. The projects are only tests of a different method of getting evidence of disability; they do not involve changes in standards used for determining whether or not a person is disabled.

(d) *Procedures for cases included in the projects.* If you are selected to participate in the projects, the State agency disability examiner will review all medical and vocational evidence in your file, including any you provided and any the State agency obtained, just as under the usual procedures. If the disability examiner then determines that you are disabled, you will receive a

written notice of that determination as under usual procedures. But if the disability examiner believes the evidence in your file requires a determination that you are not disabled, the disability examiner will mail a written notice to you at your last known address telling you his or her preliminary conclusion and why he or she believes that such a determination is required. The notice will also tell you that before a formal determination about your disability is made, you may have an interview with the State agency disability examiner if you request it within 30 days after the date you receive the notice. If you make a late request for an interview but show in writing that you had good cause under the standards in § 404.911 for missing the deadline, the disability examiner will extend the deadline. If you do not request an interview, or if you requested an interview and notice of its time and place was mailed to you as provided in this paragraph (or paragraph (e)(2) of this section) but you do not appear for the interview, the disability examiner will make a determination as to whether you are disabled based on the evidence in your case file. A written notice of that determination will be mailed to you at your last known address. The notice will state the reasons for the determination and its effects, and will inform you of the right to a hearing before an administrative law judge. If you do request an interview within the 30-day time period (or if you make a late request and the disability examiner extends the time period under the good cause provision as provided above), the disability examiner will mail a notice to you at your last known address informing you of the time and place of your interview. The notice will be mailed at least 20 days before the date of the interview, unless you waive (in writing) your right to the 20-day advance notice. You should not waive this right if you need time to get ready for the interview. If you do waive this right, an interview will be scheduled for you as soon as possible and a notice of the time and place of your interview will be mailed to you at your last known address. In this instance, the notice will be mailed at least 10 days before the date of the interview, unless arrangements for the interview are made by the telephone as explained in paragraph (e) of this section.

(e) *Interviews scheduled by telephone.* Notwithstanding paragraph (d) of this section, occasionally, for the convenience of all parties involved and as a means of processing your case sooner, arrangements for the time and place of the interview may be made by telephone. If such arrangements are made and the interview is scheduled for a date not less than 5 days from the date of the telephone arrangements, a notice will be mailed to you at your last known address, confirming the time and place of the interview. If an interview is scheduled for a date less than 5 days from the date of the telephone arrangements, a notice confirming the interview will not be mailed to you. If an interview is scheduled by telephone and you do not appear for the interview, the disability examiner will take one of the following actions:

(1) If a notice of the time and place of the interview was not mailed at least 20 days before the scheduled date of the interview and you did not waive (in writing) your right to the 20-day advance notice explained in paragraph (d) of this section, the disability examiner will schedule another interview for you. A notice informaing you of the time and place of the rescheduled interview will be mailed to you at your last known address. The notice will be mailed at least 20 days before the date of the interview.

(2) If a notice of the time and place of the interview was mailed to you, and you waived (in writing) your right to the 20-day advance notice explained in paragraph (d) of this section, the disability examiner will make a determination as to whether you are disabled based on the evidence in your case file. A written notice of that determination will be mailed to your last known address.

(3) If a notice of the time and place of the interview was not mailed to you, and you waived (in writing) your right to the 20-day advance notice explained in paragraph (d) of this section, the disability examiner will schedule another interview for you. A notice informing you of the time and place of the rescheduled interview will be mailed to you at your last known address. The notice will be mailed at least 10 days before the date of the interview.

(f) *Change in time or place of interview.* If you are unable to travel or have some other reason why you cannot attend your interview at the scheduled time or place, you should request at the earliest possible date that the time or place be changed. The disability examiner will change the time or place if there is good cause for doing so under the standards in § 404.936 (c) and (d).

(g) *Your rights.* In connection with your interview—

(1) You may request that we or the State agency assist you in obtaining pertinent evidence about your disability;

(2) You may have a representative, appointed under Subpart R of this Part, at your interview, or you may represent yourself;

(3) You or your representative may review the evidence in your case file, either on the date of your interview or at an earlier time at your request;

(4) You or your representative may present additional evidence and bring witnesses to support your case at your inteview; and

(5) You, your representative, and your witnesses may be eligible for reimbursement under the State agency's rules for travel expenses incurred in connection with your interview if the distance from the person's residence or office (whichever he or she travels from) to the interview site exceeds 75 miles.

(h) *After your interview.* At your request, the disability examiner may allow up to 15 days after your interview for receipt of evidence which was not available at the time of the interview. This disability examiner may also obtain additional evidence, including a consultative medical examination as described in § 404.1517, after the interview if he or she believes it is necessary for a sound determination. The disability examiner will then follow the sequential evaluation guidelines in § 404.1520(a)–(f) and the disability standards in Pub. L. 98–460, and determine whether you are disabled. A written notice of the determination made in your case will be mailed to you at your last known address. The notice will state the reasons for the determination and its effect, and will inform you of the right to a hearing before an administrative law judge.

(i) *Effect of the State agency's determination for project participants.* The State agency disability examiner's determination is an initial determination that is binding unless—

(1) You request a hearing before an administrative law judge within the time period described in paragraph (j) of this section, and a decision is made; or

(2) The initial determination is revised as provided in § 404.987.

(j) *Appeal rights for project participants.* If you were given the opportunity for an interview (whether or not you requested or appeared for the interview) and you ar dissatisfied with the initial determination, you may request a hearing before an administrative law judge. You must file your request for the hearing within 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in § 404.933(c)). Section 404.933 explains how to request a

hearing before an administrative law judge. (See §§ 404.929–404.961 for the rules concerning administrative law judge hearings.)

3. The authority citation for Subpart N of Part 416 is revised to read as follows:

PART 416—[AMENDED]

Authority: Secs. 1102, 1631(c), and 1633 of the Social Security Act, section 6 of Pub. L. 98–460; 49 Stat. 647, 86 Stat. 1457, 86 Stat. 1478, 98 Stat. 1802 (42 U.S.C. 1302, 1383, 1383b).

4. Section 416.1406 is added to read as follows:

§ 416.1406 Opportunity for personal appearance interview before initial disability denial or cessation determination—demonstration projects.

(a) *Applicability and scope.* Notwithstanding any other provision in this Part or Part 422, we are establishing the procedures set out in this section for demonstration projects involving certain initial determinations about eligibility or continued eligibility for benefits based on disability. (For purpose of this section, "disability" and "disabled" include blindness.) There will be two types of demonstration projects: projects involving individuals who have applied for benefits but have not received an initial determination about their eligibility, and projects involving individuals who have been receiving benefits but whose condition is being reviewed to determine whether they are still disabled. Each of the two types of projects will be conducted in at least five States. Projects may be conducted on a Statewide basis or in only part of the State. Participants will be selected randomly from among individuals who will have their initial determinations about disability made by a State agency (see §§ 416.903 and 404.1013), excluding—

(1) Individuals who have been determined not disabled but whose cases are being reexamined under the new disability standards in accordance with Pub. L. 98–460;

(2) Claimants who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for claimants;

(3) Beneficiaries who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for beneficiaries; and

(4) Individuals the Social Security Administration finds would be impractical to include in the projects.

(b) *Summary of procedure.* The individuals selected to participate will be given an opportunity, before any initial determination is made that they are not disabled, for a personal appearance interview with the State agency disability examiner who will make the disability determination. In some locations, a State agency medical consultant may participate in the interviews together with the disability examiner, although the rest of this section will refer only to the disability examiner. Medical examinations will not be conducted as part of the interview process. The reconsideration level of review will be eliminated for individuals who are given the opportunity for an interview under the demonstration projects. Thus, for individuals who are given the opportunity for an interview, whether or not they take advantage of the opportunity, the first level of appeal from the initial determination will be a hearing before an administrative law judge. Determinations for individuals not included in the projects will be made under current usual procedures. The demonstration projects will begin as soon as practicable and will end as soon as a large enough sample of cases is completed to permit proper evaluation of the demonstration projects, but no later than December 31, 1987.

(c) *Authority and purpose.* The demonstration projects are required by section 6 of Pub. L. 98–460, the Social Security Disability Benefits Reform Act of 1984. Their purpose is to test whether a face-to-face interview with the State agency disability examiner at this stage of the decisionmaking process will result in a better evaluation of the person's condition, assure that all relevant information is obtained, and simplify and expedite the decisionmaking process. The projects are only tests of a different method of getting evidence of disability; they do not involve changes in standards used for determining whether or not a person is disabled.

(d) *Procedures for cases included in the projects.* If you are selected to participate in the projects, the State agency disability examiner will review all medical and vocational evidence in your file, including any you provided and any the State agency obtained, just as under the usual procedures. If the disability examiner then determines that you are disabled, you will receive a written notice of that determination as under usual procedures. But if the disability examiner believes the evidence in your life requires a determination that you are not disabled, the disability examiner will mail a written notice to you at your last known address telling you his or her preliminary conclusion and why he or she believes that such a determination is required. The notice will also tell you that before a formal determination about your disability is made, you may have an interview with the State agency disability examiner if you request it within 30 days after the date you receive the notice. If you make a late request for an interview but show in writing that you had good cause under the standards in § 416.1411 for missing the deadline, the disability examiner will extend the deadline. If you do not request an interview, or if you requested an interview and notice of its time and place was mailed to you as provided in this paragraph (or paragraph (e)(2) of this section) but you do not appear for the interview, the disability examiner will make a determination as to whether you are disabled based on the evidence in your case file. A written notice of that determination will be mailed to you at your last known address. The notice will state the reasons for the determination and its effect, and will inform you of the right to a hearing before an administrative law judge. If you do request an interview within the 30-day time period (or within the extended time period if you make a late request and the disability examiner extends the time period under the good cause provision as provided above), the disability examiner will mail a notice to you at your last known address informing you of the time and place of your interview. The notice will be mailed at least 20 days before the date of the interview, unless you waive (in writing) your right to the 20-day advance notice. You should not waive this right if you need time to get ready for the interview. If you do waive this right, an interview will be scheduled for you as soon as possible and a notice of the time and place of your interview will be mailed to you at your last known address. In this instance, the notice will be mailed at least 10 days before the date of the interview, unless arrangements for the interviews are made by the telephone as explained in paragraph (e) of this section.

(e) *Interviews scheduled by telephone.* Notwithstanding paragraph (d) of this section, occasionally, for the convenience of all parties involved and as a means of processing your case sooner, arrangements for the time and place of the interview may be made by telephone. If such arrangements are made and the interview is scheduled for a date not less than 5 days from the date of the telephone arrangements, a notice will be mailed to you at your last known address, confirming the time and place of the interview. If an interview is scheduled for a date less than 5 days

from the date of the telephone arrangements, a notice confirming the interview will not be mailed to you. If an interview is scheduled by telephone and you do not appear for the interview, the disability examiner will take one of the following actions:

(1) If a notice of the time and place of the interview was not mailed at least 20 days before the scheduled date of the interview and you did not waive (in writing) your right to the 20-day advance notice explained in paragraph (d) of this section, the disability examiner will schedule another interview for you. A notice informing you of the time and place of the rescheduled interview will be mailed to you at your last known address. The notice will be mailed at least 20 days before the date of the interview.

(2) If a notice of the time and place of the interview was mailed to you, and you waived (in writing) your right to the 20-day advance notice explained in paragraph (d) of this section, the disability examiner will make a determination as to whether you are disabled based on the evidence in your case file. A written notice of that determination will be mailed to you at your last known address.

(3) If a notice of the time and place of the interview was not mailed to you, and you waived (in writing) your right to the 20-day advance notice explained in paragraph (d) of this section, the disability examiner will schedule another interview for you. A notice informing you of the time and place of the rescheduled interview will be mailed to you at your last known address. The notice will be mailed at least 10 days before the date of the interview.

(f) *Change in time or place of interview.* If you are unable to travel or have some other reason why you cannot attend your interview at the scheduled time or place, you should request at the earliest possible date that the time or place be changed. The disability examiner will change the time or place if there is good cause for doing so under the standards in § 416.1436(c) and (d).

(g) *Your rights.* In connection with your interview—

(1) You may request that we or the State agency assist you in obtaining pertinent evidence about your disability;

(2) You may have a representative, appointed under Subpart O of this Part, at your interview, or you may represent yourself;

(3) You or your representative may review the evidence in your case file, either or the date or your interview or at an earlier time at your request;

(4) You or your representative may present additional evidence and bring witnesses to support your case at your interview; and

(5) You, your representative, and your witnesses may be eligible for reimbursement under the State agency's rules for travel expenses incurred in connection with your interview if the distance from the person's residence or office (whichever he or she travels from) to the interview site exceeds 75 miles.

(h) *After your interview.* At your request, the disability examiner may allow up to 15 days after your interview for receipt of evidence which was not available at the time of the interview. The disability examiner may also obtain additional evidence, including a consultative medical examination as described in § 416.917, after the interview if he or she believes it is necessary for a sound determination. The disability examiner will then follow the sequential evaluation guidelines in § 416.920(a) through (f) and the disability standards in Pub. L. 98–460, and determine whether you are disabled. A written notice of the determination made in your case will be mailed to you at your last known address. The notice will state the reasons for the determination and its effect, and will inform you of the right to a hearing before an administrative law judge.

(i) *Effect of the State agency's determination for project participants.* The State agency disability examiner's determination is an initial determination that is binding unless—

(1) You request a hearing before an administrative law judge within the time period described in paragraph (j) of this section, and a decision is made; or

(2) The initial determination is revised as provided in § 416.1487.

(j) *Appeal rights for project participants.* If you were given the opportunity for an interview (whether or not you requested or appeared for the interview) and you are dissatisfied with the initial determination, you may request a hearing before an administrative law judge. You must file your request for this hearing within 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in § 416.1433(c)) Section 416.1433 explains how to request a hearing before an administrative law judge. (See §§ 416.1429—416.1461 for the rules concerning administrative law judge hearings.)

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H.R. 664/Pub. L. 99-195

To amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States. (Dec. 23, 1985; 2 pages) Price: $1.00

H.R. 1534/Pub. L. 99-196

To convert the temporary authority to allow Federal employees to work on a flexible or compressed schedule under title 5, United States Code, into permanent authority. (Dec. 23, 1985; 1 page) Price: $1.00

H.R. 1627/Pub. L. 99-197

Kentucky Wilderness Act of 1985. (Dec. 23, 1985; 3 pages) Price: $1.00

H.R. 2100/Pub. L. 99-198

Food Security Act of 1985. (Dec. 23, 1985)

H.R. 2976/Pub. L. 99-199

To direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey United States mineral interests. (Dec. 23, 1985; 2 pages) Price: $1.00

H.R. 3085/Pub. L. 99-200

To clear title to certain lands along the California-Nevada boundary. (Dec. 23, 1985; 2 pages) Price: $1.00

H.R. 4006/Pub. L. 99-201

To extend until March 15, 1986, the application of certain tobacco excise taxes and certain medicare reimbursement provisions. (Dec. 23, 1985; 1 page) Price: $1.00

H.J. Res. 436/Pub. L. 99-202

To designated 1986 as "Save for the U.S.A. Year", and for other purposes. (Dec. 23, 1985; 2 pages) Price: $1.00

H.J. Res. 450/Pub. L. 99-203

To authorize and request the President to issue a proclamation designating April 20 through April 26, 1986 as "National Organ and Tissue Donor Awareness Week". (Dec. 23, 1985; 1 page) Price: $1.00

S. 947/Pub. L. 99-204

Overseas Private Investment Corporation Amendments Act of 1985. (Dec. 23, 1985; 9 pages) Price: $1.00

S. 1884/Pub. L. 99-205

Farm Credit Amendments Act of 1985. (Dec. 23, 1985; 35 pages) Price: $1.00

S.J. Res. 32/Pub. L. 99-206

To authorize and request the President to designate September 21, 1986, as "Ethnic American Day". (Dec. 23, 1985; 1 page) Price: $1.00

S.J. Res. 70/Pub. L. 99-207

To proclaim March 20, 1986, as "National Agriculture Day". (Dec. 23, 1985; 1 page) Price: $1.00

S.J. Res. 213/Pub. L. 99-208

To designate January 19 through January 25, 1986, "National Jaycee Week". (Dec. 23, 1985; 1 page) Price: $1.00

H.R. 729/Pub. L. 99-209

To amend the Panama Canal Act of 1979 in order that claims for vessels damaged outside-the-locks may be resolved in the same manner as those vessels damaged inside the locks, and for other purposes. (Dec. 23, 1985; 3 pages) Price: $1.00

H.R. 2694/Pub. L. 99-210

Designating the United States Post Office Building located at 300 Packerland Drive, Green Bay, Wisconsin, as the "John W. Byrnes Post Office and Federal Building". (Dec. 23, 1985; 1 page) Price: $1.00

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