AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

1-21-86
Vol. 51—No. 13
BOOK 1:
PAGES
2669-2810

Federal Register

Book 1 of 2 Books
Tuesday, January 21, 1986

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Civil Rights
Health and Human Services Department

Communications Common Carriers
Federal Communications Commission

Grant Programs—Education
Veterans Administration

Endangered and Threatened Species
Fish and Wildlife Service

Exports
International Trade Administration

Food Additives
Food and Drug Administration

Indians—Law
Indian Affairs Bureau

Loan Programs—Energy
Rural Electrification Administration

Medicare
Health Care Financing Administration

Milk Marketing Orders
Agricultural Marketing Service

CONTINUED INSIDE

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

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

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

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

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

How To Cite This Publication: Use the volume number and the page number. Example: 51 FR 12345.

Selected Subjects

Radio
Federal Communicaitons Commission

Radio Broadcasting
Federal Communications Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 51, No. 13
Tuesday, January 21, 1986

Agricultural Marketing Service
RULES
Milk marketing orders:
Great Basin, 2669
Oranges (navel) grown in Arizona and California, 2669

Agriculture Department
See Agricultural Marketing Service; Commodity Credit Corporation; Rural Electrification Administration

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; viticultural area designations:
Kanawha River Valley, WV, 2728

Army Department
NOTICES
Research and development; proposed contracts:
University research initiative program, 2748

Arts and Humanities, National Foundation
See National Foundation on Arts and Humanities

Census Bureau
NOTICES
Surveys, determinations, etc.:
Motor freight transportation and warehousing, 2746

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Georgia, 2745
(2 documents)
Hawaii, 2745
Virginia, 2745

Coast Guard
RULES
Ports and waterways safety:
Safety and security zones, etc.; list of temporary rules, 2693
PROPOSED RULES
Anchorage regulations:
Michigan, 2731

Commerce Department
See Census Bureau; Foreign-Trade Zones Board; International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration

Commodity Credit Corporation
NOTICES
Meetings; Sunshine Act, 2784

Commodity Futures Trading Commission
RULES
Trade timing standards and exchange audit trail systems, 2684

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 2784

Defense Department
See also Army Department
NOTICES
Meetings:
Electronic Devices Advisory Committee, 2748

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Carranza, William H., M.D., 2771
Knarr, William M., D.O., 2772

Economic Regulatory Administration
NOTICES
Natural gas exportation and importation petitions:
PGC Marketing Inc., 2750

Employment and Training Administration
NOTICES
Adjustment assistance:
Allied Chemical Co. et al., 2773
AT&T Network Systems et al., 2773
Seamless Hospital Products Co., Inc., 2774

Endangered Species Committee
NOTICES
Consolidated Grain & Barge Co.; exemption application withdrawn, 2750

Energy Department
See Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission

Energy Research Office
NOTICES
Meetings:
High Energy Physics Advisory Panel, 2751

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources:
Equipment leaks from synthetic organic chemical manufacturing industry, benzene equipment leaks, etc.; flare requirements, 2669
Air quality implementation plans; approval and promulgation; various States:
Florida, 2697
North Carolina, 2695
South Carolina, 2698
Hazardous waste:
Identification and listing—
Solvent mixtures; correction, 2702
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Cyano (3-phenoxylphenyl) Methyl-4-chloro-alpha-(1-methyl) Benzeneacetate
Correction, 2702

Toxic substances:
Health and safety data reporting—
Vinyl acetate; correction, 2702
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Indiana, 2732
Toxic substances:
Testing requirements; polyhalogenated dibenzofurans Correction, 2736
NOTICES
Air quality; prevention of significant deterioration (PSD):
Permit determinations, etc.—
Region II, 2755
Pesticide registration, cancellation, etc.:
E.I. du Pont de Nemours & Co. et al.
Correction, 2755
Toxic and hazardous substances control:
Premanufacture exemption approvals, 2756

Federal Aviation Administration
RULES
Aircraft products and parts, certification:
Avions Marcel Dassault-Breguet Aviation, 2671
Airworthiness directives:
Bell Helicopter Textron, Inc., 2679
DeHavilland, 2676
King, 2677, 2678
(2 documents)
Jet routes, 2683
Restricted areas, 2682
VOR Federal airways, 2682
PROPOSED RULES
Jet routes, 2721
NOTICES
Advisory circulars, availability, etc.:
Reduced and derated takeoff thrust (power) requirements, 2781

Federal Communications Commission
RULES
Common carrier services:
International competitive carrier policies—
Correction, 2708
MTS and WATS market structure, etc., 2708
Radio broadcasting:
AM stations—
Technical and operational requirements, 2704
Radio services, special:
Amateur service—
Frequencies and emissions, etc. (WARC implementation), 2712
Private operational-fixed microwave service—
Procedural amendments, 2702
Radio stations; table of assignments:
Florida; correction, 2711

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Michigan Power Co., et al., 2753
Natural gas companies:
Small producer certificates, applications, 2752
Small power production and cogeneration facilities; qualifying status:
Alexandria Power Corp., et al., 2754
Applications, hearings, determinations, etc.:
Champlin Petroleum Co., 2751
Commonwealth Edison Co., 2751
Michigan Gas Storage Co. et al., 2752
West Texas Gas, Inc., 2753

Federal Home Loan Mortgage Corporation
NOTICES
Meetings; Sunshine Act, 2784

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 2784

Federal Reserve System
NOTICES
Agency information collection activities under OMB review, 2757
Applications, hearings, determinations, etc.:
Egyptian Bancshares, Inc., 2757
First Springfield National Corp. et al., 2757
Liberty Bancorporation, Inc., 2758
Louisiana Bancshares, Inc., 2758
MWA Bancorporation, 2758
Norban Financial Group, Inc., et al., 2759
Western Bancshares, Inc., 2759

Federal Trade Commission
NOTICES
Premerger notification waiting periods; early terminations, 2759

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Ringed sawback turtle, 2741
NOTICES
Endangered and threatened species permit applications, 2767

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Tioxidazole granules—
Correction, 2693
Food additives:
Polyhydric alcohol diesters of oxidatively refined montan wax acids, 2692
NOTICES
Medical devices; premarket approval:
Permeable Contact Lenses, Inc., 2761
Meetings:
Advisory committees, panels, etc., 2760
Consumer information exchange, 2761
Nutrition goals, 1990; PHS implementation plan; study announcement and meeting, 2762

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Florida, 2746

Health and Human Services Department
See also Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration; Public Health Service
PROPOSED RULES
Nondiscrimination requirements applicable to block grants and other programs, 2806

General Accounting Office
Notice
Budget Reductions for fiscal year 1986 - a report to the President, the Senate and the House 2811

Health Care Financing Administration
PROPOSED RULES
Medicare:
Processing of claims by electronic means, 2736

Health Resources and Services Administration
NOTICES
Health manpower shortage areas (dental)
Correction, 2762

Housing and Urban Development Department
NOTICES
Mortgage and loan insurance programs:
Debenture interest rates, 2766

Indian Affairs Bureau
PROPOSED RULES
Tribal government:
Attorney contracts with tribes; payment of fees with Federally appropriated funds, 2722

Interior Department
See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office
NOTICES
Meetings:
Alaska Land Use Council, 2767

Internal Revenue Service
PROPOSED RULES
Income taxes:
Public sector employees and persons in service of international organizations; reporting allowances or reimbursements for travel and business expenses
Correction, 2726
Puerto Rico and possession tax credit; qualified possession source investment income, 2726

International Development Cooperation Agency
See Overseas Private Investment Corporation

International Trade Administration
RULES
Export licensing:
Commodity control list—
Organic chemicals, 2683
NOTICES
Antidumping:
Fuel ethanol from Brazil, 2746
Antidumping and countervailing duties:
Administrative reviews, 2747
(2 documents)

Interstate Commerce Commission
PROPOSED RULES
Rail carriers:
Demurrage charges; exemption, 2740
NOTICES
Railroad operation, acquisition, construction, etc.:
Des Moines Union Railway Co. et al., 2770

Justice Department
See Drug Enforcement Administration; Parole Commission

Labor Department
See Employment and Training Administration

Land Management Bureau
NOTICES
Closure of public lands:
California, 2768
Survey plat filings:
Colorado, 2768
Wilderness areas; characteristics, inventories, etc.:
Sids Cabin and South Needles, UT, 2768

Maritime Administration
NOTICES
Applications, hearings, determinations, etc.:
Farrell Lines Inc., 2782

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
Gulf of Mexico OCS—
Mineral exploration and production proposals, 2769
Outer Continental Shelf operations:
Alaska—
Proposed lease sale; hearings, 2769

Minority Business Development Agency
NOTICES
Financial assistance application announcements:
Indiana
Correction, 2748

National Foundation on Arts and Humanities
NOTICES
Agency information collection activities under OMB review, 2775
(2 documents)
Meetings:
Arts National Council, 2775

National Oceanic and Atmospheric Administration
NOTICES
Permits:
Marine mammals, 2748
(2 documents)

National Park Service
NOTICES
Historic Places National Register; pending nominations:
California et al., 2770

Nuclear Regulatory Commission
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 2778–2780
(4 documents)
Applications, hearings, determinations, etc.:
Dairyland Power Cooperative, 2776
Florida Power & Light Co., 2777
General Public Utilities Nuclear Corp., 2778

Overseas Private Investment Corporation
NOTICES
Meetings; Sunshine Act, 2784

Parole Commission
NOTICES
Meetings; Sunshine Act, 2785
(2 documents)

Public Health Service
See also Food and Drug Administration; Health Resources and Services Administration
NOTICES
Privacy Act; systems of records, 2762, 2764 (2 documents)

Rural Electrification Administration
RULES
Electric and telephone borrowers:
Audit policies and procedures, 2788

Securities and Exchange Commission
NOTICES
Applications, hearings, determinations, etc.:
Worldmasters Corp., 2781

Small Business Administration
NOTICES
Disaster loan areas:
West Virginia, 2781

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission:
Kentucky, 2731

Transportation Department
See also Coast Guard; Federal Aviation Administration; Maritime Administration; Urban Mass Transportation Administration
NOTICES
Meetings:
Minority Business Resource Center Advisory Committee, 2781

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service

Urban Mass Transportation Administration
NOTICES
Environmental statements; availability, etc.:
Omni and Brickell areas, Miami, FL, 2782

Veterans Administration
RULES
Vocational rehabilitation and education:
Veterans education—
Post-Vietnam era veterans educational assistance program, 2694
NOTICES
Agency information collection activities under OMB review, 2783
Meetings:
Environmental Hazards Advisory Committee, 2783

Separate Parts In This Issue

Part II
Department of Agriculture, Rural Electrification Administration, 2788

Part III
Department of Health and Human Services, 2806

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
907 2669
1136 2669
1789 2788

14 CFR
21 2671
39 (4 documents) 2676–2679
71 2682
73 2682
75 2683

Proposed Rules:
75 2721

15 CFR
399 2683

17 CFR
1 2684

21 CFR
172 2692
520 2693

25 CFR

Proposed Rules:
89 2722

26 CFR

Proposed Rules:
1 (2 documents) 2726
7 2726

27 CFR

Proposed Rules:
9 2728

30 CFR

Proposed Rules:
917 2731

33 CFR
100 2693
165 2693

Proposed Rules:
110 2731

38 CFR
21 2694

40 CFR
52 (3 documents) 2695–2698
60 2699
61 2699
180 2702
261 2702
716 2702

Proposed Rules:
52 2732
766 2736

42 CFR

Proposed Rules:
405 2736

45 CFR

Proposed Rules:
92 2806

47 CFR
1 2702
2 2704
63 2708
67 2708
73 (2 documents) 2704, 2711
94 2702
97 2712

49 CFR

Proposed Rules:
Ch. X 2740

50 CFR

Proposed Rules:
17 2741

Rules and Regulations

Federal Register
Vol. 51, No. 13
Tuesday, January 21, 1986

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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 622]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 622 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period January 17 through January 23, 1986. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATE: Regulation 622 (§ 907.922) is effective for the period January 17–23, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. The Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This rule is issued under Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1985–86 adopted by the Navel Orange Administrative Committee. The committee met publicly on January 14, 1986, at Los Angeles, California, to consider the current and prospective conditions of supply and demanded and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports that the market for fresh navel oranges has become slightly better. The regulation is needed to continue providing stability in the market and promote orderly marketing.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. To effectuate the declared purposes of the act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

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

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read:

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

2. Section 907.922 Navel Orange Regulation 622 is hereby added to read:

§ 907.922 Navel Orange Regulation 622.

The quantities of navel oranges grown in California and Arizona which may be handled during the period January 17, 1986, through January 23, 1986, are established as follows:

(a) District 1: 1,850,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

Dated: January 15, 1986.

Joseph A. Gribbin,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–1246 Filed 1–17–86; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 1136

Milk in the Great Basin Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues for the months of January through April 1986 a suspension of the provisions of the Great Basin milk order that limit the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Also continued for the same period is a suspension of the requirement that 6 days' production of each producer whose milk is diverted to nonpool plants be received at pool plants in order for the diverted milk to be priced and pooled under the order. The suspension was requested by Western General Dairies, Inc., a cooperative association representing most of the producers supplying the market. These provisions were suspended during July through December 1985, also at Western General's request. The continued suspension is needed to prevent uneconomic movements of milk.

EFFECTIVE DATE: January 21, 1986.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued December 2, 1985; Published December 9, 1985 (50 FR 50159).

Notice of Proposed Suspension (Correction): published December 12, 1985 (50 FR 50794).

The Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action

lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Great Basin marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on December 9, 1985 (50 FR 50159) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded opportunity to file data, views, and arguments thereon. No comments opposing the suspension were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of January through April 1986 the following provisions do not tend to effectuate the declared policy of the Act:

(1) Section 1136.13(c)(2).

(2) In § 1136.13(c)(3), the language "*Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;", and

(3) In § 1136.13(c)(4), the language "*Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;".

Statement of Consideration

This action continues to make inoperative for January through April 1986 the requirement that at least 6 days' production of each producer whose milk is diverted to nonpool plants be received at pool plants in order for the diverted milk to be priced and pooled under the order. In addition, this action continues a suspension that has been in effect since January 1985 of the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that a cooperative association may divert up to 25 percent of its member milk physically received at pool plants in any month of March through August, and up to 20 percent of its member milk physically received at pool plants in any month of September through February. Similarly, the operator of a pool plant may divert up to 25 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of March through August, and 20 percent during the months of September through February.

The suspension was requested by Western General Dairies, Inc. (Western General), a cooperative association that supplies most of the market's fluid milk needs and handles most of the market's reserve milk supplies. Western General also requested the earlier suspension of these provisions for July through December 1985.

Western General stated that milk production has increased to a level of 57.4 percent above last year's, while fluid demand has increased only 11.5 percent. In the absence of the suspension, the cooperative expects that for the foreseeable future some of the milk of its member producers who regularly have supplied the fluid market will have to be moved, uneconomically, first to pool plants and then to nonpool manufacturing plants in order to achieve pool status for such milk.

The suspension is necessary because of the increased amount of milk surplus to the fluid needs of the market which must be handled by Western General. Consequently, for the foreseeable future the cooperative's reserve milk supplies are expected to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations.

In addition, milk must to be moved uneconomically from distant production areas in order to meet the 6-day delivery requirement, only to displace milk produced at locations nearer the pool plants. The close-in milk must then be moved, uneconomically, to distant nonpool plants for manufacturing use.

The percentage limitations on the amount of milk that may be diverted to nonpool plants under the Great Basin order are quite restrictive in comparison to most other Federal orders. Under the Great Basin order during months when the 20-percent limitation on diversions to nonpool plants is in effect, not more than 17 percent of the producer milk can be diverted to nonpool plants while in excess of 83 percent of the producer milk supply must be received at pool plants.

Western General has requested that a public hearing be held to merge the Great Basin and Lake Mead orders, and expects that the diversion provisions contained in the proposed merged order would offer a long-term solution to the problems of operating within the order's present diversion limits. A decision on whether such a hearing will be held has not yet been reached. However, if a hearing is held, continuation of the proposed suspension beyond April, if necessary, would be based on the record of the public hearing.

In view of these circumstances, it is concluded that the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. The suspension will provide greater flexibility in the handling of the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the marketing area;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. No views in opposition to the proposed suspension were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1136

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, that the aforesaid provisions of § 1136.13(c) of the Great Basin milk order are hereby suspended for the months of January through April 1986, as follows:

PART 1136—MILK IN THE GREAT BASIN MARKETING AREA

1. The authority citation for 7 CFR Part 1136 continues to read as follows:

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

§ 1136.13 [Amended]

2. Section 1136.13(c)(2) is suspended.

3. In § 1136.13(c)(3), the language "*Provided,* That the total quantity of milk so diverted that exceeds 25 percent

of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;", and

4. In § 1136.13(c)(4), the language "*Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;".

Effective Date: January 21, 1986.

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

Signed at Washington, D.C., on January 14, 1986.

Alan T. Tracy,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 86–1197 Filed 1–17–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. NM–17; Special Conditions No. 25–ANM–8]

Special Conditions; Avions Marcel Dassault-Breguet Aviation Model Mystere-Falcon 900 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.17 of the Federal Aviation Regulations (FAR) to Avions Marcel Dassault-Breguet Aviation for the Model Mystere-Falcon 900 series airplane. The airplane will have novel or unusual design features associated with an unusually high operating altitude (51,000 feet) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. These special conditions contain the safety standards which the Administrator finds necessary, because of these design features, to establish a level of safety equivalent to that established in the regulations.

EFFECTIVE DATE: February 20, 1986.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Transport Standards Staff, ANM–110, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168; telephone (206) 431–2134.

SUPPLEMENTARY INFORMATION:

Background

On January 12, 1982, Avions Marcel Dassault-Breguet Aviation (AMD–BA), 33 rue du Professeur Victor Pauchet, 92420 Vaucresson, France, filed for an amended type certificate in the transport category for the airplane designated as the Avions Marcel Dassault-Breguet Aviation Mystere-Falcon 900. The Mystere-Falcon 900 is a derivative version of the AMD–BA Mystere-Falcon 50 for which FAA Type Certificate No. A46EU was issued. Compared to the Mystere-Falcon 50, the Mystere Falcon 900 has an increased length and diameter, three Garrett model TFE 731–5 engines, increased fuel capacity, increased weight, systems changes, and an increase in operating altitude from 45,000 to 51,000 feet.

The oxygen equipment protective capability is limited. If failure occurs leading to cabin altitudes in excess of the capability of the oxygen equipment to provide physiological protection, the event can be catastrophic. To reduce the probability of the catastrophic event, special conditions are required in addition to the existing regulations.

Discussion of Comments

A notice of proposed special conditions was published in the **Federal Register** (50 FR 36437; September 6, 1985) for comment. One commenter responded. The commenter does not understand the basis for the "CONCLUSION" paragraph, which did not exist in previous special conditions. The commenter states that the Mystere-Falcon 900 has no design features specific to this model, and this condition is a rule of general applicability affecting, on a nondiscriminatory basis, all new airplanes designed to be operated at high altitudes when the certificated altitude exceeds the capability of the oxygen system. For example, the IAI Model ASTRA has the same condition with the same use of the damage tolerance method.

FAA Response: The "CONCLUSION" paragraph referred to by the commenter was, in fact, contained in previous special conditions as the "NOTE" paragraph. That paragraph reads as follows: "This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane."

In accordance with § 21.16 of the FAR, specific special conditions are applicable to only one model of airplane; these special conditions are not "a rule of general applicability," even though they are identical to special conditions for other models of airplanes.

Type Certification Basis

The type certification basis for the Mystere-Falcon 900 airplane is as follows: Section 21.29 of Part 21 of the FAR; Part 25 of the FAR effective February 1, 1965, including Amendments 25–1 through 25–34, and certain portions of Amendments 25–35 through 25–56 with which AMD–BA has elected to show compliance; Part 36 of the FAR, including Amendments 36–1 through current amendment; Special Federal Aviation Regulation 27, dated February 1, 1974, including Amendments 27–1 through 27–5; and the special conditions contained herein.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special conditions, as appropriate, are now issued after public notice in accordance with §§ 11.28 and 11.49, and will become part of the type certification basis in accordance with § 21.17(a)(2).

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

PART 21—[AMENDED]

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued to Avions Marcel Dassault-Breguet Aviation for the Mystere-Falcon 900 series airplane:

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et. seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

A. Pressure Vessel Integrity.

1. The maximum extent of failure and pressure vessel opening that can be demonstrated to comply with paragraph D of this Special Condition (Pressurization) must be determined. It must be demonstrated by crack propagation and damage tolerance analysis supported by testing that a larger opening or a more severe failure than demonstrated will not occur in normal operations.

2. Inspection schedules and procedures must be established to assure that cracks and normal fuselage leak rates will not deteriorate to the extent that an unsafe condition could exist during normal operation.

3. With regard to the fuselage structural design for cabin pressure capability above 45,000 feet altitude, the following apply:

a. The pressure vessel structure, including doors and windows, must comply with § 25.365(d) of the FAR using a factor of 1.67 in lieu of the 1.33 factor prescribed therein.

b. In addition to the requirements of § 25.365, the fuselage pressure vessel should be capable of withstanding maximum regulated pressure combined with 1 g flight loads with a frame or stringer failed and two adjacent panels cracked, without total failure of the fuselage or floor collapse.

B. Ventilation

In lieu of the requirements of § 25.831(a), the ventilation system must be designed to provide a sufficient amount of uncontaminated air to enable the crewmembers to perform their duties without undue discomfort or fatigue and to provide reasonable passenger comfort during normal operating conditions and also in the event of any probable failure of any system which could adversely affect the cabin ventilating air. For normal operations, crewmembers and passengers must be provided with at least 10 cubic feet of fresh air per minute per person or the equivalent in filtered, recirculated air based on the volume and composition at the corresponding cabin pressure altitude of not more than 8,000 feet.

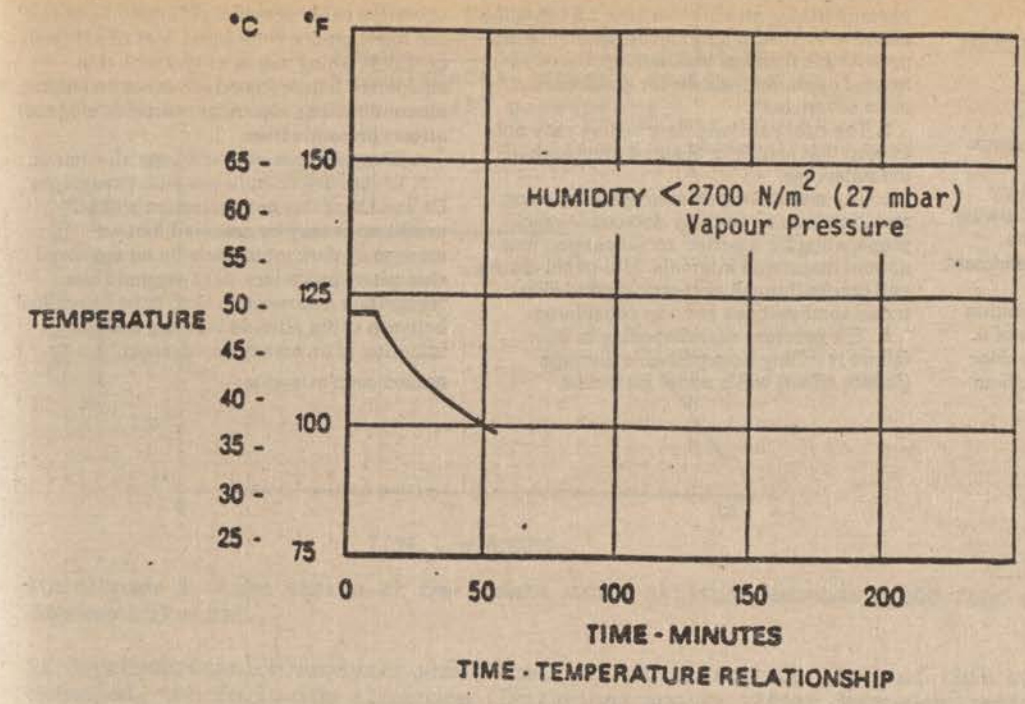
C. Air Conditioning

In addition to the requirements of § 25.831, paragraphs (b) through (e), the cabin cooling system must be designed to meet the following conditions during flight above 15,000 feet mean sea level (MSL):

1. After any probable failure, the cabin temperature-time history may not exceed the values shown in Figure 1.

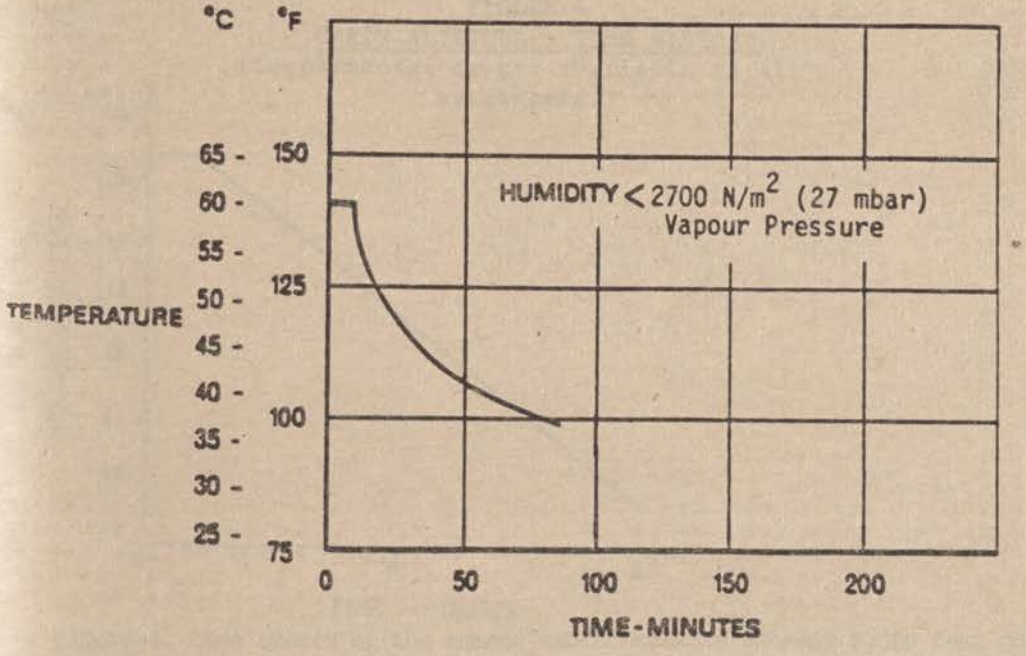
2. After any improbable failure, the cabin temperature-time history may not exceed the values shown in Figure 2.

BILLING CODE 4910-13-M



TIME - TEMPERATURE RELATIONSHIP

FIGURE 1



MAXIMUM TIME-TEMPERATURE RELATIONSHIP

FIGURE 2

BILLING CODE 4910-13-C

D. Pressurization

In addition to the requirements of § 25.841, the following apply:

1. The pressurization system, which includes for this purpose bleed air, air conditioning, and pressure control systems, must prevent the cabin altitude from exceeding the cabin altitude-time history shown in Figure 3 after each of the following:

a. Any probable double failure in the pressurization system (§ 25.1309, Amendment 41, may be applied).

b. Any single failure in the pressurization system combined with the occurrence of a leak produced by a complete loss of a door seal element, or a fuselage leak through an opening having an effective area 2.0 times the effective area which produces the maximum permissible fuselage leak rate approved for normal operation, whichever produces a more severe leak.

2. The cabin altitude-time history may not exceed that shown in Figure 4 after each of the following:

a. The maximum pressure vessel opening resulting from an initially detectable crack propagating for a period encompassing four normal inspection intervals. Mid-panel cracks and cracks through skin-stringer and skin-frame combinations must be considered.

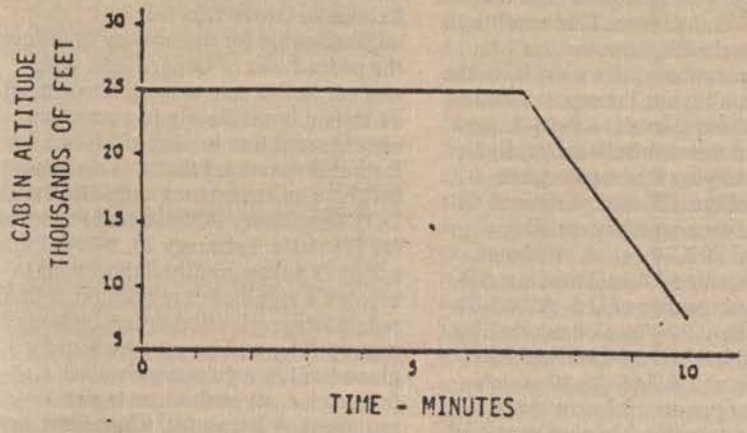
b. The pressure vessel opening or duct failure resulting from probable damage (failure effect) while under maximum operating cabin pressure differential due to a tire burst, engine rotor burst, loss of antennas or stall warning vanes, or any probable equipment failure (bleed air, pressure control, air conditioning, electrical source(s), etc.) that affects pressurization.

c. Complete loss of thrust from all engines.

3. In showing compliance with paragraphs D1 and D2 of this pressurization special condition, it may be assumed that an emergency descent is made by an approved emergency procedure. A 17-second crew recognition and reaction time must be applied between cabin altitude warning and the initiation of an emergency descent.

BILLING CODE 4910-13-M

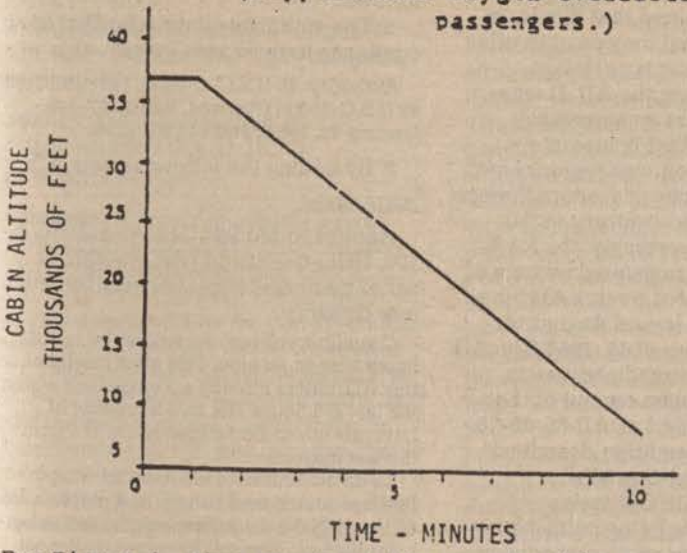
FIGURE 3
CABIN ALTITUDE - TIME HISTORY
(Supplemental oxygen available to all passengers.)



For Figure 3, time starts at the moment cabin altitude exceeds 8,000 feet during depressurization.

If depressurization analysis shows that the cabin altitude limit of this curve is exceeded, the following alternate limitations apply: After depressurization, the maximum cabin altitude exceedence is limited to 30,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is two minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.

FIGURE 4
CABIN ALTITUDE - TIME HISTORY
(Supplemental oxygen available to all passengers.)



For Figure 4, time starts at the moment cabin pressure exceeds 8,000 feet during depressurization.

If depressurization analysis shows that the cabin altitude limit of this curve is exceeded, the following limitations apply: After depressurization, the maximum cabin altitude exceedence is limited to 40,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is two minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.

BILLING CODE 4910-13-C

E. Oxygen Equipment and Supply

1. A continuous flow oxygen system must be provided for the passengers.

2. A quick-donning pressure demand mask with mask-mounted regulator must be provided for the pilots. Quick-donning from the stowed position must be demonstrated to show that the mask can be withdrawn from stowage and donned within 5 seconds.

Issued in Seattle, Washington, on December 26, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-1160 Filed 1-17-86; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 85-CE-40-AD; Amdt. 39-5216]

Airworthiness Directives; DeHavilland Models DHC-6-1, DHC-6-100, DHC-6-200 and DHC-6-300 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD-85-16-10, applicable to DeHavilland Model DHC-6 series airplanes and codifies the corresponding emergency AD letter 85-16-10 issued August 14, 1985, and dated August 15, 1985, into the **Federal Register**. This AD is necessary because cracks have been found on the inner faces of two forward wing fuselage attachment fittings on two Model DHC-6 airplanes. The AD requires dye penetrant inspections of the fittings and replacement if cracks are discovered. This action will preclude possible separation of the wing from the airplane.

DATES:

Effective Date: January 27, 1986, to all persons except those to whom it has already been made effective by priority letter from the FAA issued August 14, 1985, and dated August 15, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: DeHavilland Alert Service Bulletin No. A6/476 dated August 16, 1985, applicable to this AD may be obtained from DeHavilland Aircraft of Canada Limited, Downsview, Ontario, Canada M3K1Y5. A copy of the information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Lester Lipsius, Federal Aviation Administration, New York Aircraft Certification Office, ANE-172, Room 202, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: This AD is necessary because cracks have been found on the inner faces of two forward wing fuselage attachment fittings on two Model DHC-6 airplanes. This condition, if not detected and corrected, could result in separation of the wing from the airplane. As a result, Transport Canada has issued Canadian AD CF-85-12 and DeHavilland Service Bulletin (S/B) No. A6/476 specifying a dye penetrant inspection of the affected parts and replacement as necessary on all DeHavilland DHC-6 series airplanes. The FAA examined this Canadian AD and the requirements of U.S. AD 69-02-01 (Amendment 39-709 as amended by Amendment 39-714, 39-1871 and 39-2347) and issued AD 85-16-10 which required dye penetrant inspections of the fittings on applicable airplanes and replacement if cracks are discovered. The repetitive inspection requirements of this AD are based upon the initial inspections detailed in Canadian AD CF-85-12. AD 85-16-10 does not authorize rework of cracked fittings as specified in S/B No. A6/476 because substantiating engineering data is not currently available. The FAA, Transport Canada, and DeHavilland are continuing to investigate this situation and the scope of this AD may be changed based upon these investigations and the reported results of this AD.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by priority mail letter issued August 14, 1985, and dated August 15, 1984. The AD became effective immediately as to these individuals upon receipt of that letter and is identified as AD 85-16-10. Since the unsafe condition described therein may still exist on other DeHavilland and DHC-6 series airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification. Because a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, 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 major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 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 document 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 regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket at the location under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

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); and 14 CFR 11.89.

2. By adding the following new AD:

DeHavilland:

Applies to Models DHC-6-1, DHC-6-100, DHC-6-200 and DHC-6-300 (all serial numbers) airplanes certificated in any category.

Compliance: Required within the next 25 hours time-in-service (TIS) after receipt of this AD, unless already accomplished within the last 475 hours TIS, and thereafter at intervals not to exceed 500 hours TIS from the last inspection.

To detect cracks in the forward wing-fuselage attachment fittings and preclude loss of the airplane to accomplish the following:

(a) Visually inspect the wing attachment fittings as follows:

(1) Remove both left and right upper wing-fuselage fairings.

(2) Visually inspect the top inner faces of the left and right forward wing attachment fittings (either P/N C6WM1031-1 and -2, or P/N C6WM1133-1 and -2 for cracks using dye penetrant and at least a 10-power magnifying glass.

Note.—The area of concern is at the forward lug aft inner face where the top corner blends into the fitting.

(b) If a crack is found during any inspection required by this AD, prior to further flight, replace the cracked part with a P/N C6WM1133–1 or P/N C6WM1133–2 fitting.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) Report, in writing, all defects found including crack length, to the Manager, New York Aircraft Certification Office, FAA, New England Region, within 48 hours of the inspection. (Reporting approved by the Office of Management and Budget under OMB No. 2120–0056).

(e) An equivalent means of compliance or an adjustment of the compliance time which provides an equivalent level of safety, may be used if approved by the Manager, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581.

This amendment becomes effective on January 27, 1986, to all persons except those to whom it has already been made effective by priority letter from the FAA issued August 14, 1985, and dated August 15, 1985, and is identified as AD 85–16–10.

Issued in Kansas City, Missouri, on January 10, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86–1155 Filed 1–17–86; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 85–CE–41–AD; Amdt. 39–5217]

Airworthiness Directives; King KFC 150, KAP 150 and KAP 100 Autopilot Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action adopts a new Airworthiness Directive (AD), AD 85–23–07, applicable to certain King KFC 150, KAP 150, and KAP 100 autopilot systems and codifies the corresponding emergency AD letter dated November 20, 1985, into the Federal Register. This AD requires rendering the autopilot and electric trim systems inoperative and modification of a flight computer circuit card to remove a transistor and install a circuit jumper. The AD is prompted by the manufacturers discovery of a software problem that caused failure of the aural trim fail warning. Occurrence of an undetected trim system malfunction could result in a significant mistrim condition and subsequent loss of control of the aircraft.

DATES:

Effective Date: January 27, 1986, as to all persons except those persons to whom it was made immediately effective by priority letter from the FAA dated November 20, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: King Radio Corporation Alert Service Bulletin KC 190/191/192–9 dated November 6, 1985, may be obtained from King Radio Corporation, 400 North Rogers Road, Olathe, Kansas 66062. A copy of the Alert Service Bulletin is contained in the Rules Docket at the FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph W. Rissmiller, Jr., Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, 67209; telephone (316) 946–4419.

SUPPLEMENTARY INFORMATION: This AD applicable to certain King KFC 150, KAP 150 and KAP 100 autopilot systems, was prompted by the manufacturers discovery of a software problem that caused failure of the aural trim fail warning. Even though a visual trim fail indication is contained in the autopilot mode control panel, this panel is usually located some distance from the pilot's primary field of vision and could easily remain unnoticed, particularly during high pilot workload conditions. This AD requires rendering the autopilot and electric trim systems inoperative and modification of a flight computer circuit card to remove a transistor and install a circuit jumper.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed and that immediate corresponding action was required, and that notice and public procedure thereon were impracticable and contrary to public interest. Accordingly, the FAA notified all known owners and operators affected by this AD by priority mail letter dated November 20, 1985. The AD became effective immediately as to those individuals upon receipt of that letter and is identified as AD 85–23–07. Since the unsafe condition described herein may still exist on other certain King KFC 150, KAP 150, and KAP 100 autopilot systems, and the AD is hereby published in the Federal Register as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective as to all persons who did not receive the priority letter notification.

Because a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, 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 major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 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 regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket at the location under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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 AD:

King Radio Corporation

Applies to Models KFC 150, KAP 150 and KAP 100 autopilot systems which use the following flight computers and are certificated to the applicable requirements of Technical Standard Orders C9c and C52a (*):

Model	Part No.	Serial No.
KC 190	065–0055–00	All serial numbers.
	065–0055–01	Do.
	065–0055–02	1474 and below.
	065–0055–03	10095 and below.
KC 191	065–0054–00	All serial numbers.
	065–0054–01	Do.
	065–0054–02	20754 and below.
	065–0054–03	30227 and below.
	065–0054–04	20754 and below.

(*) Units with serial numbers above those stated comply with this AD at time of shipment from King Radio Corporation.

Compliance: Required as indicated unless already accomplished.

Model	Part No.	Serial No.
KC 192	065-0054-05	30227 and below.
	065-0042-00	All serial numbers.
	065-0042-01	Do.
	065-0042-02	40614 and below.
	065-0042-03	50464 and below.
	065-0042-04	40614 and below.
	065-0042-05	50464 and below.

To prevent undetected trim malfunctions that may result in significant mistrim conditions, accomplish the following:

(a) For affected flight computers not installed in an aircraft, prior to further use, modify the computer in accordance with the instructions contained in King Radio Corporation Alert Service Bulletin KC 190/191/192-9 dated November 6, 1985.

(b) For affected flight computers installed in the following airplanes:

Aircraft make and model	STC No.
Mooney M20J, M20K	SA1561CE-D
Piper PA-28RT-201, PA-28RT-201T	SA1563CE-D
Piper PA-28-161, PA-28-181, PA-28-236	SA1565CE-D
Piper PA-32-301, PA-32-301T	SA1567CE-D
Cessna 172RG	SA1568CE-D
Cessna U206G, TU206G (landplane, seaplane, and amphibian)	SA1569CE-D
Cessna 172P	SA1570CE-D
Cessna R182, TR182	SA1571CE-D
Piper PA-32R-301, PA-32R-301T	SA1572CE-D
Beech A36, A36TC, B36TC	SA1574CE-D
Piper PA-34-200T, PA-34-220T	SA1575CE-D
Cessna 182P, 182Q, 182R, T182	SA1770CE-D
Cessna 172L S/N 17256631	SA1772CE-D
Piper PA-46-310P	SA1778CE-D
Reims-Cessna FR182	SA1783CE-D
Partenavia AP68TP 300	SA1784CE-D
SOCATA TB20	SA1785CE-D
Beech F33A	SA1789CE-D
Partenavia P68C, P68C-TC	SA1791CE-D
Reims-Cessna F182P, F182Q	SA1794CE-D
Cessna 210R, T210R	SA2050CE-D

(1) Within the next 10 hours time-in-service (TIS) after the effective date of this AD, deactivate the autopilot and electric trim by pulling the respective circuit breakers and banding by placing a tie wrap or equivalent around the circuit breaker stem.

(2) Fabricate and install on the instrument panel in clear view of the pilot the following placard using letters of a minimum 0.10 inch in height: "AP AND ELECTRIC TRIM INOPERATIVE PER AD 85-23-07" and operate the aircraft accordingly.

(3) Within 50 hours TIS or 120 calendar days, whichever comes first, after the effective date of this AD, modify the flight computer in accordance with the instructions contained in King Radio Corporation Alert Service Bulletin KC 190/191/192-9 dated November 6, 1985.

(4) The requirements of paragraphs (b)(1) and (b)(2) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FARs) on any airplane owned or operated by him. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(5) The requirements of paragraph (b)(1) and (b)(2) of this AD are no longer required when paragraph (b)(3) of this AD has been accomplished.

(c) For affected flight computers installed in the following airplanes:

Aircraft make and model	STC No.
Piper PA-60-700P	SA1777CE-D

(1) Within the next 10 hours TIS after the effective date of this AD, deactivate the autopilot by pulling the respective circuit breaker and banding open by placing a tie wrap or equivalent around the circuit breaker stem.

(2) Fabricate and install on the instrument panel in clear view of the pilot the following placard using letters of a minimum 0.10 inch in height: "AP INOPERATIVE PER AD 85-23-07", and operate the aircraft accordingly.

(3) Within 50 hours or 120 days time-in-service, whichever comes first, following the effective date of this AD, modify the flight computer in accordance with the instructions contained in King Radio Corporation Alert Service Bulletin KC190/191/192-9 dated November 6, 1985.

(4) The requirements of paragraphs (c)(1) and (c)(2) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FARs) on any airplane owned and operated by him. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(5) The requirements of paragraphs (c)(1) and (c)(2) of this AD are no longer required when paragraph (c)(3) of this AD has been accomplished.

(d) The modification requirements of paragraphs (b)(3) and (c)(3) of this AD must be accomplished by an appropriate FAA certified radio repair station.

(e) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(f) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to King Radio Corporation, 400 North Rogers Road, Olathe, Kansas 66062, or the FAA, Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective January 27, 1986, as to all persons except those persons to whom it was made immediately effective by priority letter AD 85-23-07, issued November 20, 1985, which contained this amendment. Issued in Kansas City, Missouri, on January 10, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-1157 Filed 1-17-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-CE-42-AD; Amdt. 39-5218]

Airworthiness Directives; King Models KFC 200, KFC 150, KAP 150 and KAP 100 Autopilot Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action adopts a new Airworthiness Directive (AD), AD 85-25-02 applicable to certain King Models KFC 200, KFC 150, KAP 150 and KAP 100 autopilot systems and codifies the corresponding emergency AD letter dated December 11, 1985, into the **Federal Register**. This AD requires modification of the pitch and/or roll servo cable guard installation to provide safetying of the attaching hardware. The AD is prompted by a report of jamming of primary pitch control in flight which could result in loss of control of the aircraft.

DATES:

Effective Date: January 27, 1986, to all persons except those to whom it has already been made effective by priority letter from the FAA dated December 11, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: King Alert Installation Bulletin KS 177/178-3 dated December 4, 1985, may be obtained from King Radio Corporation, 400 North Rogers Road, Olathe, Kansas 66062. A copy of this bulletin is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph W. Rissmiller, Jr., Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, 67209; Telephone (316) 946-4419.

SUPPLEMENTARY INFORMATION: This AD, applicable to certain King Models KFC 200, KFC 150, KAP 150 and KAP 100 autopilot system, was prompted by a report of jamming of primary pitch control in flight. The manufacturer subsequently determined that an installation problem existed which could cause jamming of primary pitch and/or roll control, and in turn result in loss of control of the airplane. This AD requires modification of the pitch and/or roll servo cable guard installation to provide safetying of the attaching hardware.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was

also determined that an emergency condition existed and that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known owners and operators affected by this AD by priority mail letter dated December 11, 1985. The AD became effective immediately as to those individuals upon receipt of that letter and is identified as AD 85-25-02. Since the unsafe condition described herein may still exist on other certain King Models KFC 200, KFC 150, KAP 150 and KAP 100 autopilot systems, the AD is hereby published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective as to all persons who did not receive the priority letter notification. Because a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, 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 major under Section 8 of Executive Order 12291. It is impracticable for the FAA to follow the procedures of Order 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 document 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 regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket at the location under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, safety.

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); and 14 CFR 11.89.

2. By adding the following new AD:

King Radio Corporation:

Applies to Models KFC 200, KFC 150, KAP 150 and KAP 100 autopilot systems utilizing Model KS 177 pitch servo, P/N 065-0050-04 and -012 and/or Model KS 178 roll servo, P/N 065-0051-01 and -02, S/N 2461 and below. These autopilot systems have been installed in accordance with Supplemental Type Certificates (STC) shown in the following table. Some airplane logbooks may not show evidence of the STC number:

Autopilot model	Airplane model	STC	Axis affected
KFC 200	Mooney M20J, M20k	SA1771CE-D*	Pitch and roll
KFC 150, KAP 150	Mooney M20J, M20k	SA1561CE-D	Do.
KAP 100	Mooney M20J, M20k	SA1561CE-D	Roll.
KFC 150, KAP 150	SOCATA Model TB-20	SA1765CE-D	Pitch.

*Note.—KFC 200 installations in Mooney Models M20J, S/N 24-1418 and earlier except S/N 24-1368, and M20K, S/N 25-0790 and earlier except S/N 25-0740, airplanes (STCs SA1212CE and SA1464CE) are not affected by this AD.

Compliance: Required as indicated unless already accomplished.

To prevent loss of primary pitch and/or roll control, accomplish the following:

(a) Within the next 5 hours time-in-service or within the next 10 calendar days after the effective date of this AD, whichever occurs first, modify the affected servo actuator(s) to provide for safetying of the cable guard attaching hardware in accordance with King Radio Alert Service Bulletin KS 177/178-3 dated December 4, 1985, as supplemented. (These servos are used on all affected KFC 150, KAP 150, and KAP 100, as well as some KFC 200 [see NOTE above] installations.)

(b) Aircraft may be flown in accordance with Federal Aviation Regulation (FAR) 21.197 to a location where this AD can be accomplished.

(c) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to King Radio Corporation, 400 North Rogers Road, Olathe, Kansas 66062, or the FAA, Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective January 27, 1986, as to all persons except those persons to whom it was made immediately effective by priority letter AD 85-25-02, issued December 11, 1985, which contained this amendment.

Issued in Kansas City, Missouri, on January 10, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-1158 Filed 1-17-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-ASW-53; Amendment 5193]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), which currently requires a weekly check, a 100-hour repetitive inspection, and repair or replacement, as necessary, of certain tail rotor blades on Bell Model 206A/B/L series helicopters. This AD requires that the existing tail rotor tip block rivets be replaced with titanium brazier head rivets utilizing special washers and continuance of the 100-hour repetitive inspection. The AD is needed to prevent tail rotor tip block separation which would cause a severe tail rotor imbalance sufficient to separate the tail rotor gearbox from the helicopter leading to uncontrollability and subsequent loss of the helicopter.

EFFECTIVE DATE: January 31, 1986.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of January 31, 1986.

Compliance: As indicated in body of the AD.

ADDRESSES: The applicable alert service 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, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Tyrone D. Millard, Helicopter Certification Branch, ASW-170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877-2594.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which would supersede an existing airworthiness directive by requiring that the existing tail rotor tip block rivets be replaced with titanium brazier head rivets utilizing special washers and continuance of the 100-hour repetitive inspection on certain tail rotor blades used on Bell Model 206A/B/L series helicopters was published in the **Federal Register** on October 4, 1985 (50 FR 40562).

The proposal was prompted by two reports where the tail rotor tip block separated in flight causing a severe tail rotor imbalance which in turn caused the failure of the tail rotor gear box attachment studs. The resulting loss of directional control led to forced landings which resulted in injury to occupants in one of the accidents. Since this condition is likely to exist or develop on other helicopters of the same design, the AD requires that the existing tail rotor tip block rivets be replaced with titanium brazier head rivets utilizing special washers and continuance of the 100-hour repetitive inspection on certain tail rotor blades used on Bell Model 206A/B/L series helicopters. Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation involves approximately 4,000 helicopters at a cost of $6 per helicopter for the inspection and a labor cost for the rivet and special washer installation of approximately $105 per helicopter. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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:

PART 39—[AMENDED]

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 superseding Amendment 39-4819 (49 FR 7796), AD 82-17-04, as amended by Amendment 39-4890 (49 FR 31661), as follows:

Bell Helicopter Textron, Inc.: Applies to Model 206A, 206A-1, 206B, 206B-1, 206L, 206L-1, and 206L-3 helicopters certificated in any category. (Airworthiness Docket No. 83-ASW-53)

Compliance is required as indicated (unless already accomplished).

To prevent possible loss of the tail rotor tip block and resulting tail rotor imbalance which could lead to tail rotor gearbox and stud failure and subsequent separation of the tail rotor gearbox from the helicopter tailboom, accomplish the following:

(a) Within the next 7 days after the effective date of this AD, and thereafter at intervals not to exceed 7 days, check tail rotor blades, Part Numbers (P/N) 206-016-201-001, -103, and -107, for serviceability with special emphasis on the tip block area as follows (see Figure 1):

(1) Visually check for corroded or missing rivet heads.

(2) Visually check for rivet heads that have pulled through the skin shell in the tip block area.

(3) Visually check for voids or separations between the skin shell and tip block.

(4) Check for any movement or displacement of the tip block outboard of the tip of the skin shell.

(b) The check required by paragraph (a) of this AD is not considered to be maintenance or preventive maintenance. However, the person performing this check shall make an entry in the aircraft's maintenance records containing the following information:

(1) If no discrepancies are noted, make an entry referencing the check required by paragraph (a) of this AD, the name of the person who performed the check, the date the check was accomplished, the signature, certificate number, and kind of certificate held by the person performing the check.

(2) If any discrepancies are noted, make an entry referencing the check as required in paragraph (a) of this AD, the name of the person who performed the check, the date the check was accomplished, and the nature of the discrepancy. In addition to this entry, the inspection required by paragraph (d) of this AD must be performed before further flight.

(c) The checks required by paragraph (a) of this AD may be performed by the pilot provided his logbook is endorsed by an appropriately rated mechanic stating that the pilot has been properly trained to conduct the check.

(d) Within the next 100 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 100 hours' time in service, inspect tail rotor blades, P/N's 206-016-201-001, -103, and -107 for serviceability with special emphasis on the tip block area as follows (see Figure 1):

(1) Visually inspect for corroded rivets and/or missing rivet heads.

(2) Replace corroded or missing rivets per instructions in paragraph (e) of this AD before further flight.

(3) Visually inspect for rivet heads that have pulled through the skin shell in the tip block area.

Note.—A rivet head that has pulled through the skin will require replacement of the blade before further flight.

(4) Visually inspect for voids or gaps between the shell and the tip block. Limits for voids or gaps between the shell and the tip block are as follows:

(i) A void (or gap) no wider than 0.25 inch (chordwise) at the leading edge is acceptable but must be sealed (see Figure 1). Seal with EC-2216 or EA934 in accordance with the appropriate Model 206 maintenance manual or FAA-approved equivalent.

(ii) A void (or gap) no wider than 0.12 inch (chordwise) between the shell and the aft end of the tip block is acceptable but must be sealed (see Figure 1). Seal with EC-2216 or EA934 in accordance with the appropriate Model 206 maintenance manual or FAA-approved equivalent.

(iii) With the exception of paragraphs (d)(4)(i) and (d)(4)(ii) of this AD, voids between the shell and the tip block that are visible at the tip are unacceptable.

(iv) Replace any blade with voids in excess of these limitations before further flight.

(v) Any movement or displacement of the tip block outboard of the tip of the skin shell shall require replacement of the blade before further flight.

(e) Within the next 30 days after the effective date of this AD, replace the five aluminum rivets in the tail rotor tip block area with five titanium brazier head rivets, P/N CSR903B4-14, and special washers, P/N 206-016-213-101, in accordance with Part II of Bell Alert Service Bulletin 206-85-28, Rev. "B," dated June 21, 1985, or 206L-85-34, Rev. "B," dated June 21, 1985, whichever applies.

Note.—Tail rotor blades modified in accordance with Part II of the Bell Alert Service Bulletin 206L-85-34, Rev. "A," dated April 2, 1985, or Bell Alert Service Bulletin 206-85-28, Rev. "A," dated April 2, 1985, have been determined to be in compliance with the requirements of this AD and the weekly check required in paragraph (a) of this AD is no longer in effect for modified blades. However, the 100-hour repetitive inspection described in paragraph (d) of this AD remains in effect.

(f) Upon compliance with paragraph (e) of this AD, the weekly check as described in paragraph (a) of this AD is no longer in effect. However, the 100-hour repetitive inspection described in paragraph (d) of this AD remains in effect.

(g) In accordance with FAR §§ 21.197 and 21.199, the helicopter may be flown to a base where the requirements of this AD can be accomplished.

(h) Any alternative method of compliance which provides an equivalent level of safety with this AD may be used when approved by the Manager, Helicopter Certification Branch, Southwest Region, Federal Aviation Administration.

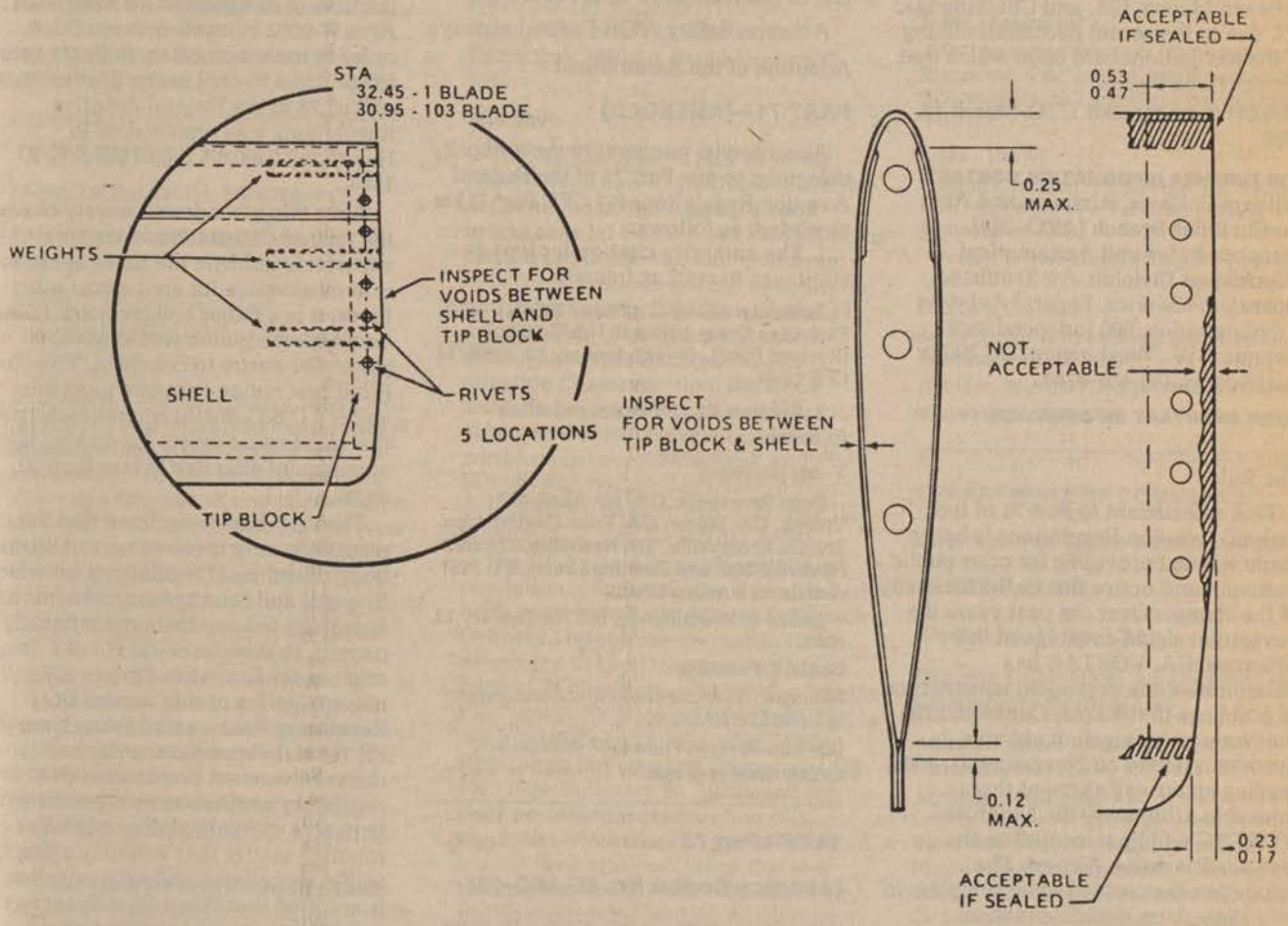
The manufacturer's specifications and procedures identified and described in this directive and incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. The documents also may be examined in Room 158, Building 3B, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106, between 8 a.m. and 4 p.m., weekdays, except Federal holidays.

This amendment becomes effective January 31, 1986.

Issued in Fort Worth, Texas, on December 11, 1985.

F.E. Whitfield,

Acting Director, Southwest Region.



TAIL ROTOR BLADE INSPECTION

FIGURE 1

[FR Doc. 86-1159 Filed 1-17-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ASO-25]

Alteration of VOR Federal Airway V-362-GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action eliminates the segment of Federal Airway V-362 between Macon, GA, and Chattanooga, TN, due to the recent decommissioning of the navigational aid upon which that segment was based.

EFFECTIVE DATE: 0901 UTC, March 13, 1986.

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

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to Part 71 of the Federal Aviation Regulations is being made without providing for prior public comment and notice due to the necessity of the change. Over the past years the navigation signal coverage of the Norcross, GA, VORTAC has deteriorated due to gradual construction of buildings in the area. Consequently, the Norcross navigation aid was decommissioned on November 21, 1985, leaving an airway segment that is unusable. Ultimately the Norcross VORTAC will be relocated on the DeKalb-Peachtree Airport. The relocation is expected to be complete in July 1986. After the relocation is complete, V-362 will be considered for realignment via the VORTAC's new location. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

For the above reasons, I find that notice and public procedure are impracticable and contrary to the public interest.

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

List of Subjects in 14 CFR Part 71

Aviation Safety, VOR Federal airways

Adoption of the Amendment

PART 71—[AMENDED]

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

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

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

2. Section 71.123 is amended as follows:

V-362 [Revised]

From Brunswick, GA, via Alma, GA; Vienna, GA; Macon GA. From Chattanooga, TN, via Shelbyville, TN; Nashville, TN; INT Nashville 355° and Bowling Green, KY, 219° radials; to Bowling Green.

Issued in Washington, D.C. on January 13, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-1156 Filed 1-17-86; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 73

[Airspace Docket No. 85-ASO-22]

Alteration of Restricted Area R-6002 Poinsett-Sumter, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the time of designation for Restricted Area R-6002 at the request of the Department of the Air Force. This action will more accurately indicate the times of use for the restricted area and return airspace for civil use.

DATE: Effective date—0901 UTC, February 13, 1986.

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

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to amend the time of designation for Restricted Area R-6002 Poinsett-Sumter, SC, in order to more accurately indicate actual usage times to civil users. Section 73.60 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

Since this amendment merely changes the time of designation to more accurately indicate the times of use and returns airspace for civil use at other times, it is a minor technical amendment on which the public would have no particular desire to comment. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and rountine 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 rountine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted Areas.

PART 73—[AMENDED]

Adoption of the Amendment

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

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

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

2. Section 73.60 is amended as follows:

R–6002 Poinsett-Sumter, SC

By removing "Sunrise to 2,400 hours local time." and substituting "Intermittent 0600–2400 Local Monday–Friday, 0800–1600 Local Saturday; other times by NOTAM at least 8 hours in advance."

Issued in Washington, D.C., on January 13, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–1151 Filed 1–17–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 75

[Airspace Docket No. 85–AWA–41]

Alteration and Establishment of Jet Routes, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters two Jet Routes and establishes one new Jet Route located in the vicinity of Richmond, VA. The realignment alleviates congestion and compression of traffic in the airspace between New England and Florida. This rule is part of the Expanded East Coast Plan (EECP) that is designed to make optimum use of limited airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, New York, Miami, Chicago and Atlanta areas; and eliminates delays, saves fuel and reduces controller workload. The EECP proposal will be implemented in several segments until completed.

EFFECTIVE DATE: 0901 UTC, March 13, 1986.

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

SUPPLEMENTARY INFORMATION:

History

On October 16, 1985, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter three Jet Routes and establish two new Jet Routes located in the vicinity of Richmond, VA, (50 FR 41905). The realignment alleviates congestion and compression of traffic in the airspace between New England and Florida. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for Jet Routes J–79 and J–193 being removed from this docket and being effective on the next charting date in ASD 85–AWA–52 due to technical and engineering problems, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the descriptions of J–174 and J–40 and establishes Jet Route J–191 located in the vicinity of Richmond, VA. Currently, east coast traffic flows are so saturated and compressed in the New York, NY, metropolitan area that substantial delays are experienced daily. To alleviate this congestion, the EECP would provide optimum use of airspace along the heavily traveled coastal corridors between New York and Florida and reduce departure/arrival delays in the Boston, MA, Chicago, IL, Atlanta, GA, and New York areas.

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 75

Aviation Safety, Jet Routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as amended (50 FR 16075), is further amended, as follows:

1. The authority citation for Part 75 continues to read as follows:

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

2. Section 75.100 is amended as follows:

J–174 [Amended]

By removing the words "From Snow Hill, MD, via" and substituting the words "From Jacksonville, FL; via INT Jacksonville 020° and Charleston, SC, 214° radials; Charleston; Wilmington, NC; Norfolk, VA; INT Norfolk 023° and Snow Hill, MD, 211° radials; Snow Hill;"

J–40 [Amended]

By removing the words "Wilmington, NC; Richmond, VA;" and substituting the words "Wilmington, NC; Tar River, NC; Richmond, VA;"

J–191 [New]

From Coyle, NJ, via Kenton, DE; Patuxent, MD; Hopewell, VA; Tar River, NC; to Wilmington, NC.

Issued in Washington, D.C., on January 10, 1986.

Daniel J. Peterson,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 86–1150 Filed 1–17–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 51188–5188]

Organic Chemicals; Amendment to the Commodity Control List

AGENCY: Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: Export Administration maintains the Commodity Control List, which identifies those items subject to Department of Commerce export controls. This rule removes national security controls on three organic chemicals—Isononyl Alcohol, Triisononyl Trimellitate, and Triisooctyl Trimellitate. The Department of Commerce, in consultation with the Departments of Defense, State and Energy, has determined that such controls are no longer necessary.

These chemicals have been added to Supp. No. 1 to § 399.2, Interpretation 24. As a result, these chemicals are now covered by entry 6799G and a validated license is required for export to Country Groups S and Z only.

EFFECTIVE DATE: This notice is effective January 21, 1986.

FOR FURTHER INFORMATION CONTACT: Cheryl D. White, Export Administration, Department of Commerce, Washington, DC 20230, Telephone: (202) 377–2588.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, Export Administration has 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. This regulation involves a foreign affairs and military function of the United States.

2. This rule removes a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* by eliminating the requirement for a validated license to Country Groups Q, W, Y, PRC and Afghanistan. The reporting requirement for validated licenses has been approved by the Office of Management and Budget under control number 0625–0001.

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 and is not subject to the requirements of that Act. Accordingly, no preliminary of final Regulatory Flexibility Analysis has been or will be prepared.

4. Because this rule concerns a foreign affairs and military function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 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.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 399

Exports.

PART 399—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Part 368–399) are amended as follows:

1. The authority citation for 15 CFR Part 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. In Interpretation 24, Chemicals, of Supplement No. 1 to § 399.2, under the heading of "Organic Chemicals", the words "Isononyl Alcohol" are inserted between "Isoniazid" and "Isooctyl Alcohol"; the words "Triisononyl Trimellitate" are inserted between "Triisohexylaluminum" and "Triisopropanolamine"; and the words "Triisooctyl Trimellitate" are inserted between "Triisononyl Trimellitate" and "Triisopropanolamine".

Dated: January 15, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration, International Trade Administration.

[FR Doc. 86–1230 Filed 1–17–86; 8:45 am]

BILLING CODE 3510-DT-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Trade Timing Standards and Exchange Audit Trail Systems

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has amended § 1.35 to require each contract market to meet an improved performance standard for the recording of trade times on the record required by § 1.35(e) ("trade register") and for effective trade reconstruction. The performance standard stated in the amended regulation requires that the time of execution of each futures and option trade be stated on the trade register in increments of no more than one minute in length. The rule has been amended to make clear that the actual time of execution need not be obtained by the trader himself but could be a time otherwise obtained that meets the Commission's performance standard and in some cases a single time for a transaction need only be obtained.

The amended regulation does not specify the method for meeting the performance standard, but instead permits a wide range of approaches and permits each contract market to comply with the standard in the manner it chooses. If a contract market meets the performance standard, it could use, for example, manual recordation, a technology-assisted system, exchange-recorded times, order "exit" times, or a combination of these or other approaches.

Amended § 1.35(g) also permits a contract market to submit rules to the Commission pursuant to section 5a(12) of the Commodity Exchange Act ("Act") and Commission regulation 1.41 defining and separately identifying opening and closing time periods. If such rules are approved, the contract market may use separate designations representing the opening and closing time periods to indicate execution times for trades executed during those periods.

The Commission also is amending § 1.35 by adding § 1.35(i)(1), which will become effective three months after the standard itself and which requires that a contract market, in order to demonstrate due diligence in maintaining its compliance program, demonstrate the ability to reconstruct trading rapidly and accurately using trade register data to identify and prove or disprove trading abuses. The amended regulation requires compliance with the performance standard on the effective date of that standard; thereafter, the contract markets will have the affirmative duty to demonstrate empirically compliance with the performance standard.

EFFECTIVE DATES: Amendments to § 1.35 (d), (e), and (g), and new regulation (i)(2) become effective October 1, 1986. New § 1.35(i)(1) becomes effective January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas M. McGivern, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

Since its inception, the Commission consistently has maintained that accurate timing data are essential for effective trade reconstruction.[1]

[1] The Commission's efforts to achieve effective trade reconstruction through the use of improved timing data began with its formation in 1975. See 49 FR 50190, 50190–93 (December 27, 1984), and a September 26, 1984 memorandum by the Commission's Division of Trading and Markets regarding thirty-minute bracketing and exchange audit trail systems at pp. 2–16. After a series of advisory committee meetings on this issue in 1975 and 1976, the Commission adopted former § 1.35(g), which, among other things, required each contract market to show on the record of each futures trade "the mechnically or electronically verified [recorded] time of execution of such futures trade to at least the nearest minute." 41 FR 56134 (December 23, 1976). However, due to perceived inadequacies

Continued

These timing data are part of the totality of records essential to effective enforcement of the Act. Complete, accurate, and precise records, including trade timing data, discourage unlawful practices, prevent the concealment of illegal activity, and permit the disproof of such practices.

On December 27, 1984, the Commission published for coment in the **Federal Register** proposed amendments to its § 1.35(g). 49 FR 50190. These proposed amendments were developed in response to a recommendation in the Congressionally-mandated Commission study of insider trading that the contract markets improve their trade reconstruction capabilities by requiring more precise trade timing data,[2] and would have required the contract markets to adopt rules and implement improved trade reconstruction systems. Specifically, the proposed amendments would have required the verifiable mechanically or electronically recorded time of trade execution to the nearest minute by or for each party to every transaction. In addition to the mechanical or electronic recordation of these times on the § 1.35(d) record (trading card or order ticket), these times also would have been required to be recorded on the § 1.35(e) record (trade register). Under the proposed amendments, if rules for a verifiable mechanical or electronic system could not be submitted to the Commission within a specified time frame, contract markets instead, pursuant to a two-step process, could submit interim rules which required both parties to each transaction to record manually the trade execution time to the nearest minute, followed by implementation of an electronic or mechanical trade time recording system.

Although the comment period of the proposed amendment originally was due to expire on February 25, 1985, following a request from certain affected parties, the Commission determined to extend the comment period to April 26, 1985. See 50 FR 8639 (March 4, 1985). By June 3, 1985, the Commission had received 58 comment letters from industry participants, public users of the contract markets, and other interested parties.

in technological systems required to implement this regulation in a multiple broker auction market, the one-minute trade timing standard was not implemented by the Commission. Instead, after several delays, the present § 1.35(g) was adopted, which substituted a thirty-minute bracketing requirement for the one-minute timing standard. 45 FR 79753 (December 2, 1980).

[2] *See* "A Study of the Nature, Extent and Effects of Futures Trading by Persons Possessing Material, Nonpublic Information," Commodity Futures Trading Commission, September 1984, pp. 104–07.

These comments included proposed audit trail alternatives submitted by the Chicago Board of Trade ("CBT"), the Chicago Mercantile Exchange ("CME"), and the New York Cotton Exchange ("NYCE"). The Commission staff prepared a "Summary of Comments" ("Summary"), dated June 13, 1985, which was distributed within the Commission and to two Commission advisory committees, and made available to the public upon request. The Summary did not discuss or evaluate the comments, but instead identified the issues addressed in the comments, and whether the commenter supported or opposed the proposed amendments.

In addition, the Commission staff: requested and received additional detailed information from each of the contract markets regarding their particular trading environments and technical systems and, where applicable, their proposed audit trail alternatives; made numerous fact-finding visits to commodities, securities and option exchanges; and developed data and critical analyses related to improved contract market audit trails. The Commission in its promulgation of the amended regulation has relied, among other things, on the analyses and data presented by the staff.[3]

II. Issues Addressed in the Comments

Although the commenters generally agreed that contract market audit trails needed improvement, there was disagreement regarding current audit trail capabilities, the extent to which audit trails should be improved, and the methods for such improvement. For instance, a number of commenters who supported the proposed amendments stated that inadequacies in current trade reconstruction capabilities adversely affected their perceptions of the fairness of the markets.

As noted above, three exchanges submitted alternative audit trail proposals. In addition, several exchanges described their current or proposed computer-assisted trade surveillance systems, and the benefits of these systems for trade surveillance and reconstruction.

In general, the comments opposing the Commission's proposal focused on the proposed requirement that trade execution times be mechanically or electronically recorded. Opposing commenters claimed that currently there is no technology for such recording compatible with the auction process. The commenters also addressed the potential impact of audit trail improvements on market liquidity and efficiency.

The Commission considered carefully all of the comments, each audit trail alternative, and the additional information developed by the contract markets and Commission staff. In respose to the comments received, the amendments the Commission adopted significantly modify the Commission's original proposal.

A. "Mechanical or Electronic" Requirement Deleted

Many of the commenters which addressed the requirement that trade times be recorded mechanically or electronically stated that technology compatible with a multiple broker auction market trading environment presently is not available, would take years to develop, and would be prohibitively expensive. These commenters further stated that an adverse impact on market liquidity and efficiency would result if contract markets were required to adopt mechanical or electronic trade time recording systems.

After careful consideration of all comments concerning this issue, the Commission determined to delete from the amendments the requirement that verifiable mechanical or electronic means be used to record a time of execution. The Commission's purpose in proposing that such a reasonably independent means be employed to verify the accuracy of execution times can be achieved by other methods.[4]

[3] Those staff analyses are set forth in six memoranda to the Commission: two previously confidential memoranda from the Division of Trading and Markets dated December 24 and November 19, 1985, three other memoranda from that Division dated August 23, September 25, and October 2, 1985, and a memorandum from the ADP Section dated August 14, 1985.

[4] For example, and without limiting other means, exchanges can determine the accuracy of the time submitted by a member by comparing it to the time submitted by the opposite party to the trade, the time the relevant trade price occurs on the time and sales register, and other times affixed to trade documents. Commission § 1.35(h) requires each contract market to maintain a record showing all price changes in futures and option transactions executed on the floor of the contract market. This record also must include the time of these price changes in increments of ten seconds or less. (All exchanges record price changes to the second except the CME, which records price changes in ten second intervals.) Each time any sales entry is referred to as a "print," and shows a trade price, and the time, in intervals of ten seconds or less, at which that trade price is entered into the exchange price reporting system. Most contract markets record price changes by stationing exchange employees ("pit reporters") in the trading pit, or in the pulpit on the edge of the pit, who observe prices at which trades are executed, and report or themselves keypunch the prices into an exchange data system which automatically records the time at which the prices are entered into the system.

Continued

Nonetheless, research indicates that technological components could be used to fulfill the performance standard.

The Commission also determined to accommodate concerns that the requirement of verifiable mechanical or electronic recordation could not be met in a timely manner without significant expense. The final amendments do not require a technology-assisted trade timing system, but permit each contract market to use technology to the extent it determines is appropriate to meet the one-minute performance standard. In addition, the deletion of this requirement eliminates the potential expense of the proposed two-step implementation process for those contract markets which initially could not comply with the technological requirement.

B. Proposed Alternative Audit Trail Systems

Some exchange commenters stated that current audit trail systems or proposed alternatives adequately addressed the Commission's goal of improving surveillance and trade reconstruction capabilities. After considering these comments, the Commission modified its proposal to widen the range of methods by which its performance standard could be met.

As noted above, the CBT, CME, and NYCE submitted alternative audit trail proposals as part of their comments on the proposed amendments. The CBT alternative would have required that "exit" times [5] from order tickets for all customer type indicator ("CTI") [6] 2, 3, and 4 trades be submitted to clearing, instead of the current thirty-minute bracket information. The Exchange stated that these exit times are close to the actual time of execution, and that its computerized compliance system could assign time and sales times to all trades, including CTI 1 trades (which would continue to be submitted to clearing with thirty-minute bracket data) for surveillance purposes.

The CME's audit trail proposal is similar to the CBT's proposal in its reliance on order "exit" times for CTI 2, 3, and 4 trades, but differs from the CBT's proposal in four respects. First, the Exchange would have required "regular" dual traders to record the minute of execution for all of their CTI 1 trades. In addition, "non-regular" dual traders would have been required to record the minute of execution for their CTI 1 trades from that point in time during the trading day when they first received for execution a CTI 2, 3, or 4 order until the end of that trading day, or longer, if the order was "live," but not yet executible. Otherwise, the execution time of trades by non-regular dual traders would have been stated as a thirty-minute bracket.

Second, the CME proposed to make the submission of a time denominated in minutes a clearing edit criterion (*i.e.*, trades would not be accepted for matching and clearing if not submitted with a time denominated in minutes) for CTI 2, 3, and 4 trades (a proposal CBT officials orally have stated also would be a requirement under their alternatives). Third, the CME would have required the submission of accurate account identification numbers with each trade. Finally, the CME would not have assigned presumptive time and sales times to trades for purposes of surveillance. However, CME officials orally stated that the Exchange would have the ability to use its computer system to compare the times submitted by members to time and sales register times for purposes of attempting to determine more precisely when a trade occurred (a practice this and other exchanges currently perform manually).

The NYCE, as part of its audit trail alternative, proposed that thirty-minute bracket periods currently used for trade timing be reduced to fifteen-minute periods. The Exchange also proposed that both entry and exist times be submitted to clearing for customer orders, that trading cards be numbered and sequenced, and that members be required to record trades on their trading cards in the exact order of execution.

The Commission finds that all of these exchange proposals include a number of positive elements, and therefore has modified its proposal generally to accommodate these elements. First, the Commission has determined to permit the use of exit times to the extent that an exchange can demonstrate that the time recorded on the trade register is accurate to within one minute of the actual time of execution of the trade. Based on a Commission staff investigation, it appears, for example, that the standard could be met by exit times on orders that are hand-signalled ("flashed") from the trading pit to the order desk. The Commission staff's investigation of flashing indicates that it is used to relay order, execution, and price information on the CBT, CME, New York Futures Exchange ("NYFE"), and other exchanges. Current data from the contract markets, however, indicate that on the average, exit times for flashed and non-flashed orders considered together are not affixed until at least five minutes after trade execution. Thus, improvements in these exit times (those not within a minute of execution) or, exit times in combination with an alternate timing approach, would be necessary to satisfy the performance standard.

Second, the amendments being adopted, by permitting manual trade time recordation, will permit implementation of the CME's proposal insofar as it would require certain dual traders to record execution times manually. Nonetheless, the Commission has determined that, among other factors, due to the significant amount of CTI 1 trades, including CTI 1—CTI 1 trades, the contract markets must obtain the minute of execution for all market participants by an acceptable means.[7] Such times are necessary to deter, detect, prove and disprove the wide range of trading and market abuses identified by the Commission (*see* 49 FR

As an example of a trade time verification program, for trading in the Kansas City Board of Trade ("KCBT") Value Line Average Stock Index contract, the Exchange's "Time Audit Listing," a compliance program generated for every trading day, compares the times (in minutes) submitted by members to the times submitted by opposite parties to the trade, and identifies those times that are not within two and a half minutes of each other. This program also compares the time submitted by the buy side of the trade to time and sales data, and identifies those trades that are not within two minutes of the time reported for the trade price on the time and sales register. Of course, the particular verification system used by each contract market will depend on the type of trade timing system implemented by the contract market.

[5] Commission § 1.35(a–1)(2) currently requires that a written record (order ticket) be prepared for each customer order received on an exchange floor, including the date and time, to the nearest minute, the order is received ("entry" time). Regulation 1.35(a–1)(4) requires an exit time, again to the nearest minute, to be stamped on the order ("exit" time) upon the report of an execution of that order from the exchange floor.

[6] "CTIs" or "customer type indicators," are required by Commission regulation 1.35(e) to be included in each exchange's trade register (and, therefore, to be recorded for all transactions). The four CTIs, which are recorded by members on clearing submission media, indicate whether the member was trading for:

(1) His own account (CTI 1);

(2) His clearing member's house account (CTI 2);

(3) Another member present on the exchange floor or an account controlled by such member (CTI 3); or

(4) Any other type of customer (CTI 4).

For CTI 3 trades not originating with a written, time-stamped order ticket, the minute of execution must be recorded by the executing broker pursuant to regulation 1.35(a–1)(3); however, this time is not required to be submitted to clearing—only the thirty-minute bracket in which the trade occurred is submitted.

[7] The Commission notes that the NYFE, where a relatively high number of transactions occur, stated in its comments its willingness to require all of its members, both brokers and traders, to record the minute of execution for their trades.

50194–95).[8] Further, requiring only selected categories of market participants (*i.e.*, "regular" dual traders) to meet the performance standard would result not only in disparate trade timing obligations, but also would lessen the potential for detection and proof of certain types of abuses (*e.g.*, wash trading).

Lastly, the Commission finds that other elements of the alternatives proposed by the contract markets also would improve audit trails.[9] The computer-assisted trade surveillance systems in use and being developed at a number of exchanges will aid in the effective surveillance of the improved data required under the Commission's performance standard. In addition, the CME proposal to require submission of account numbers to clearing will aid significantly in the identification of certain trading abuses.

C. Economic Aspects of Audit Trail Improvement

Commenters generally expressed mixed views on whether the direct and indirect benefits of improved audit trails outweighed direct and indirect costs. In this connection, two exchange commenters commissioned studies addressing certain costs and benefits of the Commission's proposal. Commission staff also investigated and analyzed both direct and indirect benefits, and direct and indirect costs, including the impact of audit trail improvements on liquidity. The Commission carefully considered these comments, studies, and staff investigations and analyses, and concludes that the overall benefits to trade reconstruction and the ability to demonstrate more fully the fairness of the markets outweigh overall associated costs. In addition, the Commission amended the regulation in a manner which should reduce direct costs substantially, as discussed below.

A number of commenters stated that the proposed requirement that the contract markets implement verifiable mechanical or electronic execution time recordation systems would be prohibitively expensive. The final regulation does not require such a system. Consequently, direct costs of implementing the final regulation are reduced and will depend upon the method selected by each contract market to meet the performance standard stated therein.

The commenters in general have not identified significant direct costs of manual trade time recordation systems. However, estimates of direct costs supplied by one contract market and similar information developed by Commission staff showed that an improved manual trade timing requirement could be implemented relatively inexpensively.[10] In addition, the Commission notes that for some exchanges these direct costs will be very limited, because the exchanges currently have readily-adaptable systems in place.[11]

With respect to the potential indirect costs of the proposed amendments, the commenters presented no persuasive data that improved contract market audit trails would materially, adversely affect liquidity, or materially increase transaction costs. Indirect costs discussed by the commenters, such as members' cost of learning "new" trade timing systems, can be expected to depend heavily on the type of system the contract market elects to use to meet the Commission's performance standard. For instance, the expected cost of "learning" a manual system of recording timing data should be low because the addition of trade timing data represents only a small increase in the amount of trade data that currently must be recorded manually to identify each trade.[12]

The direct benefits of an improved trade timing requirement include decreased surveillance and investigative costs because under the amendments being adopted this enhanced information will be required to be on the exchange's trade register. Consequently, routine surveillance and initial determinations regarding whether to review further suspect trades should be possible in most instances without the usually expensive and time-consuming reference to underlying trade documents.

As with indirect costs, indirect benefits are difficult to quantify, and both will not be determinable until after the exchanges implement improved audit trail systems. The Commission notes that some commodities market participants and other investors, including sophisticated financial managers, continue to harbor suspicions as to the fairness of the commodities markets. Thus, an indirect benefit of the contract markets' announcing and implementing materially improved trade timing systems may be an improved public perception of the fairness of these markets, thereby increasing public confidence and participation in the markets. Increased participation, in turn, should increase market liquidity and efficiency. Another indirect benefit that cannot be quantified, but which likely will result from improved surveillance

[8] As an example, more precise trade timing data are needed for all CTI 1 trades. According to data supplied by the contract markets, CTI 1 trades are on one or both sides of 60 to over 95 percent of all transactions executed during the opening thirty-minutes of trading, when trading is generally heavy. Precise CTI 1 trade timing data are necessary for the detection and proof or disproof of trading abuses which may involve those trades alone, such as wash trading, intra-day speculative position limit violations, and both delivery and non-delivery month price manipulation. CTI 1 trades also may be involved with customer trades in indirect bucketing, where a broker wishing to take the opposite side of a customer order that broker is holding will offer the order to an accommodating member, who records the trade as CTI 1. The accommodating member then offers the originating broker a trade identical to the customer order, resulting in a wash sale for the accommodating member and an indirect bucket for the broker.

In addition, without one-minute timing data for CTI 1 trades, the times for many trades executed during this time period, regardless of CTI, could not be verified adequately, because of the lack of a time denominated in minutes from both sides of the trade. This difficulty impacts not only the ability to reconstruct trading involving CTI 1 transactions, but also the ability to reconstruct trading involving other trades.

Finally, the CBT proposal, as currently constituted, to assign to trades for surveillance purposes times from the time and sales register in many instances would result in a presumptive time that would not be a reasonably reliable indication of the execution time, especially for CTI 1 trades.

[9] Exchange comment letters noted other positive aspects of current audit trail systems, such as the more frequent (within 30 minutes of the bracket period in which trades are executed) submission of trade data to clearing at the Commodity Exchange, and the practice at the Coffee, Sugar & Cocoa Exchange of attempting to capture *all* transaction prices, not just price changes, on the time and sales register.

[10] For example, direct costs of implementing a manual trade timing system might include: the reprogramming by clearing members of trade data submission systems to accommodate two or three additional characters representing the hour and minute of trade execution (currently one character representing the thirty-minute bracket is recorded); an incremental, continual cost to clearing members represented by the addition of two to three extra characters to clearing; the cost to clearing organizations of reprogramming clearing systems to accommodate a time denominated in minutes, and keypunching or otherwise placing that time on the exchange's trade register; and the related costs of reprogramming certain exchange compliance programs to integrate effectively the improved trade timing data (this last cost would be applied to any changed system).

Of course, there may be different direct costs for other trade timing systems which meet the Commission's performance standard.

[11] At the Amex Commodities Corporation, KCBT, Minneapolis Grain Exchange, and the Philadelphia Board of Trade one-minute trade timing systems currently are in use, although limited additional direct costs may need to be incurred in order for these systems to comply with the amendments being adopted. On the New York Mercantile Exchange, the "pit card" system of trade timing now in use also may be modified readily to comply with the Commission's performance standard.

[12] Currently, approximately ten characters are used to record essential trade data for each trade. This is the case even when traders may execute multiple transactions during a minute; one exchange estimated that as many as ten transactions per minute may be executed by some members on its markets.

incident to improved reconstruction capabilities, is the deterrence of trading abuses based on the greater likelihood of their detection.

III. Amendments to Regulation 1.35

A. Outline of Amendments

The amendments to § 1.35 the Commission is adopting to implement the improved trade timing performance standard consist of changes to existing §§ 1.35(d) and (g), and the addition of § 1.35(i).[13] Amended §1.35(g) deletes the thirty-minute bracketing requirement of former § 1.35(g)(1) and adds a one-minute performance standard. New § 1.35(g) also requires that the minute of trade execution be obtained from both sides of each transaction, unless a contract market identifies a trade and records the time of the transaction, in which case that single time (in one-minute increments) may be used for purposes of satisfying the standard. These trade execution times, pursuant to amended § 1.35(g), must be shown on a contract market's trade register. Accordingly, amended § 1.35(g) includes two basic elements: (1) The one-minute trade timing performance standard, and (2) the requirement that trade execution times be shown on a contract market's trade register.

Regulation 1.35(g) also permits a contract market to submit rules to the Commission which define and separately identify opening and closing time periods of trading.[14] These time periods are characterized by active trading, but generally last little longer than one minute.[15] If rules submitted in this regard pursuant to section 5a(12) of the Act and § 1.41 are approved by the Commission, then single designations (one character for each period) representing the opening and closing of trading may be submitted to clearing in lieu of the minute of execution for trades executed during the opening and closing periods, even though those periods may be longer than one minute.[16] Additionally, all contract market rules in effect prior to the effective date of the amendments the Commission is adopting, and upon which a contract market intends to rely for compliance with § 1.35(g), would need to be resubmitted in accordance with section 5a(12) of the Act and regulation 1.41. In amending § 1.35(g), § 1.35(g)(2) also is altered, but not substantively, and becomes new § 1.35(i)(2).

New § 1.35(i) requires a contract market to perform certain tasks in order to demonstrate, at a minimum, that it is exercising due diligence in maintaining the continuing affirmative surveillance and enforcement program required by the Act and § 1.51. Specifically, new § 1.35(i)(1) requires that the contract markets demonstrate effective use in their compliance programs of the information required to be obtained pursuant to § 1.35(e) for the rapid and accurate reconstruction of trading conducted on or subject to the rules of their respective markets.

Finally, the second sentence of § 1.35(d) is amended by striking the phrase after the word "time"—"period (as described in paragraph (g) of this section)"—and adding in lieu thereof the words "(as specified in the rules of the contract market which comply with the requirements of this section)." This change was made to accommodate the potentially wide array of trade timing methods which may or may not require the executing member to record an execution time. For instance, in systems where the exchange records an execution time, or where exchange rules governing the submission of exit times are approved as meeting the requisite performance standard, the executing members may not be required to record a time.

B. The One-Minute Performance Standard

The improved performance standard of amended § 1.35(g) requires execution times for all trades. The Commission, after reviewing current trade reconstruction capabilities and considering the current trading environments and the alternatives proposed by commenters, determined that a one-minute performance standard is necessary to accomplish the purposes of the Act and regulations.[17] Commission staff found that in many instances current audit trail systems are not capable of providing the data necessary for precise, accurate reconstructions, and thus the proof or disproof of suspected trading abuses. Staff also found that in most cases, reconstructions using existing data are extremely labor-intensive and time-consuming. Further, Commission staff found that current audit trail data are insufficient for effective computer-assisted surveillance of all trading abuses, a practical necessity for more actively-traded contracts.

For example, the NYCE, as part of its comments on the Commission's proposed amendments, submitted a reconstruction of all trading (140 transactions) in one thirty-minute bracket period for its relatively lightly-traded cotton contract,[18] and another reconstruction of one broker's trading in cotton futures for an entire day (86 transactions). Although the NYCE reconstruction of the entire market for one thirty-minute bracket period appeared substantially accurate, the reconstruction of one broker's trading for an entire day revealed that approximately 19 percent of that broker's trades could not be assigned a definite execution time from the Exchange's time and sales register because of price repetition within the time frames into which the trades had been narrowed, all of which were greater than one minute.[19] This inability to reconstruct to within a minute for 19 percent of this broker's trades was not limited to a particular part of the trading day such as the opening or close, but rather occurred throughout the day.

---

[13] In order to correct nonsubstantive typographical errors in § 1.35(e), this section also is being republished at this time. These errors include, in the first sentence, striking "of" following the first mention of "floor broker," and inserting "or." In the second sentence, a comma is added following the word "trade."

Another nonsubstantive change is being made in § 1.35(d) to make that section gender neutral. Specifically, in the second sentence of § 1.35(g) the words "his own" are deleted, and the words, "the member's" are inserted. Similarly, in the last sentence of § 1.35(g) the word "him" is deleted and the words "the member" inserted in lieu thereof.

[14] Comments, including an exchange-commissioned economic study on the Commission's proposal, noted the particular characteristics of these periods and stated concerns about applying improved timing systems to trading during those periods.

[15] For instance, data supplied by the CBT for eight trading days in May 1985 show the opening time period for active-month Treasury Bond contracts, based on the time and sales register and the opening price range (as established by the Exchange). These data showed this period ranged from 17 seconds to one minute 22 seconds, with 88 percent of those opening periods of a duration of one minute or less. Similar data for the CBT soybean contract show an opening period range of 18 seconds to one minute 43 seconds, with an opening period duration of one minute or less in 72 percent of those instances.

[16] In this connection, opening and closing period symbols could be preprinted on trading documents for convenience.

[17] The Commission notes that the amended regulation states a minimum performance standard which permits the contract markets to adopt trade timing performance standards of less than a minute.

[18] In the first six months of 1985, 35 other contracts traded on the contract markets had a higher trading volume. The Commission also notes that the bracket period chosen for reconstruction, "B" bracket (11:00:00 to 11:29:59), generally is not the most active bracket period during the day.

[19] The principal method currently used for narrowing the time frame in which a trade involving an order ticket occurred is by use of entry and exit time-stamps. The difference between these two time-stamps can be less then thirty-minutes, thus narrowing the time frame in which the trade occurred. That time frame sometimes may be narrowed further by using the time and sales register, to determine at what time(s) during the narrowed time frame the trade price was recorded.

Thus, even in this lightly-traded market, the Exchange was not able to determine accurately when this broker's trades occurred, and therefore was unable effectively to reconstruct his trades. Significantly, the Exchange stated that these two, limited reconstructions required 450 staff hours, or the equivalent of one person working 56.25 days, to complete.

The Commission's Division of Enforcement ("Enforcement") has experienced similar difficulties in attempting to reconstruct trading when investigating suspected trading abuses. Enforcement staff sometimes spend hundreds of staff hours reconstructing trading in a single case, only to find that the timing, price, and other available data are not sufficiently precise to prove that the suspected trading abuses occurred, but also are so ambiguous that staff can not disprove such abuses.

A principal reason many current reconstructions are unable to prove or disprove suspected trading abuses is because of price repetition within the time frame in which suspect trades are narrowed. Because of the volume of transactions, speed, and volatility of commodities trading, prices often recur, even within relatively short time periods. Consequently, even though order tickets and other data (*e.g.*, order tickets from members on the other side of the trade, and the time and sales register) sometimes may narrow the period in which a trade occurred to five minutes or less, unless the trade price occurred uniquely within that time period, often it is not possible to reconstruct trading accurately and precisely. The usefulness of the data obtained is inversely related to the ambiguities created by price repetition. The Commission found that a significant reduction in price repetition and such ambiguities does not occur unless the actual time of execution is established in one minute increments.

Price repetition data compiled by Commission staff for a number of actively-traded contracts show dramatic differences in the percent of uniquely-occurring prices when comparing thirty-minute brackets to one-minute time periods. For example, data for an eleven trading-day period in CME live hog futures trading during January, 1985 show only 23.4 percent of prices occur uniquely in thirty-minute brackets; however, prices occur uniquely 90.9 percent of the time during one-minute time periods for trading in that contract. Thus, if, for instance, CME live hog trading were timed in one-minute increments, and this information also was accurate and recorded on the Exchange's trade register, CME compliance staff would have the ability to determine initially, without using the underlying trade documentation, when approximately 91 percent of all live hog futures transactions occurred.

Accordingly, the Commission has adopted a one-minute performance standard in amended § 1.35(g). This objective trade timing standard will provide data of sufficient precision for the contract markets and the Commission to fulfill their respective surveillance and enforcement duties under the Commodity Exchange Act, Commission regulations, and exchange rules. The Commission finds that an objective standard assures that all contract markets and their members are accorded equal treatment. An objective standard also is necessary to assess the performance of trade timing systems, *i.e.*, the accuracy of the trade times recorded. For instance, the mere submission of exit times for customer orders, without a performance standard, does not assure that such times are a reasonably reliable indication of the execution times, and thus a meaningful improvement in current overall audit trail capabilities.

The Commission notes that this one-minute standard applies to the accuracy of the times recorded on the trade register rather than when that information is recorded. Thus, the rule does not mandate that the time of the trade must be recorded during the minute after the trade's execution. Rather, the time of the trade which appears on the trade register must be the actual time of execution in one minute increments.

The Commission considered whether the performance standard should be less than a minute. As the figures discussed above from CME live hog futures trading indicate, there sometimes is price repetition even within one-minute time periods (in that case, 8.1 percent of the time). However, a trade timing standard of *less* than one-minute almost certainly would require mechanical or electronic trade time recording, which the Commission is not requiring at this time.

In conclusion, by requiring one-minute trade timing data to be placed on the trade register, the final amendments will enable contract markets initially to reconstruct most trading without going through the expensive and time-consuming process of requesting and reviewing the underlying trade documents. This will result in significant time and cost savings on a per inquiry basis for exchange and member firm compliance staffs and, therefore, should lead to increased coverage from the same amount of surveillance activity. In addition, these savings should be even greater on exchanges which integrate the one-minute trade timing data into computer-assisted surveillance systems.

C. Selecting Alternative Methods for Meeting the Performance Standards

As previously noted, based on the comments it received the Commission deleted from the amended regulation the requirements that trade times be recorded mechanically or electronically,[20] and that the regulation 1.35(d) record show execution times. These changes permit each contract market to select from a wide range of potential trade timing methods.

The trade timing method each contract market adopts will determine the extent of any rule submission the exchange will be required to make to the Commission under section 5a(12) of the Act and Commission § 1.41. For example, trade timing systems which impose obligations on members would require the submission of rules. In contrast, exchange-recorded systems may not require the submission of rules.[21] If an exchange determines to take advantage of the alternative timing method for the open and close of trading, the exchange also would be required to submit appropriate rules. Lastly, those exchanges which intend to reply on any current rules will be required to resubmit those rules.[22]

A contract market which determines to rely on exit times as an element of its trade timing system will be required to submit rules delineating member responsibilities under such a system and other exchange requirements. For example, exchange rules for implementing a system using flashed exit times for customer orders would need to address who would be responsible (*i.e.*, the broker or clearing member) for assuring that exit times are

[20] However, despite the deletion of a technological requirement, the Commission, based on an investigation of technology by its ADP Section and the general advances in technology since 1976 when the Commission first considered the issue, believes that such an approach may be viable for certain markets, and does not intend to discourage contract markets from pursuing technology-assisted systems which can meet the Commission's timetable for compliance with the performance standard.

[21] Each contract market's trade timing system, regardless of whether rules are required to be submitted, must assure the accuracy of the timing systems used.

[22] In addition, the implementation of a requirement that the submission of a time denominated in minutes be a clearing edit criterion also would require the submission of exchange rules, except in the case of exchange-recorded systems, where such a requirement could be met through a systems change.

affixed expeditiously to the order ticket following the flashed report out of the trading pit of execution information.[23]

The Commission, incident to its oversight responsibilities, will assess the efficacy of improve contract market trade timing systems. For that purpose, the Commission must be timely and fully apprised of the systems adopted by each contract market for complying with amended § 1.35. Therefore, the Commission hereby requests that each contract market report in writing no later than July 1, 1986, to the Secretariat of the Commission, stating how it intends to comply with amended § 1.35.[24] This request may be satisfied by including the requisite information in related rule submissions received by the Commission by the same date.

D. Integration of Improved Trade Timing Data in Contract Market Compliance Programs

Following the effective dates of the newly-adopted amendments, the Commission usually will conduct its oversight of adherence to the performance standard through the rule enforcement review process. However, the Commission also has retained authority under § 1.35(i)(2) to require from contract markets reports regarding the accuracy of all information, including trade timing information, required under § 1.35(e), and the use of this information in the contract market's surveillance and compliance program. The Commission intends to use this authority within a reasonable time after the implementation dates stated herein, and when necessary thereafter to assure a high level of accuracy of trade data and the effective use of these data.

In order for an exchange to integrate an improved trade timing system into its compliance program, it is essential that the system obtain execution times for each side of a trade (except in the case of exchange-recorded systems). Therefore, as proposed by the CME, the Commission believes that the best means of obtaining minimum compliance appears to be to require the submission of such times for clearing (*i.e.*, their submission would be a clearing edit criterion).

Regardless of the trade timing system employed, all exchanges will need to verify the accuracy of the times required for the trade register on an ongoing basis, and to sanction members appropriately who fail to submit accurate times as required. Where an exchange trade timing system is based on obtaining times for both parties to a trade, exchanges should compare times submitted by both parties to each trade to determine if these times are within predetermined parameters.[25] This verification process requires a time denominated in minutes for both sides of each trade. In addition, all trade times, regardless of the timing system, should be compared to the exchange time and sales register to determine if the relevant price occurred at a time within predetermined time parameters.[26]

If a contract market adopts rules regarding the timing of trades on the open and close, exchange compliance programs also would need to verify the trades executed during those periods. For instance, the submission of a symbol representing the open for one side of a trade would need to be compared to the opposite side of the trade to determine that the same symbol was submitted. In addition, prices at which opening and closing trades were executed would need to be compared to the opening and closing price range, to determine if the price was within the relevant range.

Because benefits of improved trade timing will be realized only through the effective use of these data in exchange compliance programs, the Commission is requiring in new § 1.35(i)(2) that the contract markets demonstrate the effective use of these data. Such a demonstration could be made by evidence that improved timing data had been integrated into existing exchange compliance programs, whether conducted manually or with the assistance of a computer. For manual surveillance, this may require only the revision of compliance manuals and surveillance methodologies. However, for more actively-traded contracts, or where a computer-assisted surveillance system is in use, effective integration may require reprogramming or new compliance procedures and reports.

E. Implementation Time of the Amended Regulation

Under the proposed amendments to § 1.35(g), the Commission proposed to require the contract markets to adopt and submit for Commission approval, within 90 days following the effective date of any final regulations, rules for either (a) a verifiable mechanical or electronic trade time recordation system, or (b) other, interim (manual) trade timing systems. A number of commenters stated that these implementation times were too short.

In setting the effective dates in the adopted amendments, the Commission carefully considered these comments, the importance of improving audit trail capabilities, and the nature of the changes required to satisfy the amendments. To allow contract markets ample time in which to implement the systems they select, and to submit rules to the Commission as necessary, the Commission is not requiring compliance with amended § 1.35(g) and new § 1.35(i)(2) until October 1, 1986. Further, the requirement that the contract markets demonstrate effective use of all § 1.35(e) data in their surveillance and compliance programs (new § 1.35(i)(1)), does not become effective until January 1, 1987. This additional period is intended to provide the contract markets with ample time in which to phase in compliance with the § 1.35(i)(1) requirement.

Of course, the Commission encourages earlier compliance with the adopted rules.[27] The Commission notes that a number of contract markets have stated that manual trade timing systems and automated integration of time and sales data with trade timing data could be implemented in three to six months. Contract markets should proceed expeditiously with implementation plans, including any rule submissions to the Commission.

IV. Related Matters

A. Section 15 of the Act

Section 15 requires the Commission to "take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least

[23] These rules would be required to delineate the types of orders (*e.g.*, market, limit, stop, etc.) and also the CTI of orders for which exit times would be accepted. If, for instance, an exchange determined to permit CTI 2 orders to be timed ex-pit, the exchange also would be required to submit rules requiring that order tickets be prepared for all such orders. (The Commission presently does not have such a requirement, but would require the preparation of order tickets or an equivalent record as a precondition to permitting exit times to be used for CTI 2 trades.) In addition, exchange rules also would need to distinguish between flashed and non-flashed orders.

[24] Such reports should include, among other things, the trade timing methodology or system chosen by the exchange, the scheduled implementation dates, any empirical data necessary to show that the system will meet the performance standard (except that such a showng is not necessary for manual trade timing systems), methodologies or systems the exchange will use to ensure compliance with the standard, and a description of how the improved trade timing data will be integrated into the exchange's surveillance and compliance program.

[25] *See, e.g.*, footnote 4, *supra*.

[26] *Id.*

[27] Exchanges which implement trade timing systems which comply with the adopted amendments prior to the effective dates for the amendments could obtain "no-action" determinations from Commission staff regarding compliance with related provisions of current § 1.35.

anticompetitive means of achieving the objectives of this [the Commodity Exchange] Act, as well as the policies and purposes of this Act, in . . . adopting any Commission rule or regulation. . . ."

The Commission considered, in light of Section 15, the amendments it is adopting and possible alternative courses of action for achieving the objectives of those amendments. The Commission finds that because it is adopting an objective performance standard equally applicable to all exchanges, and because of the wide array of methods for meeting that standard, there will be little, if any, anticompetitive effects on the contract markets or on market participants. In addition, the Commission finds that these effects, if any, are far outweighed by the paramount need, particularly in view of increasing contract market volume, for more precise surveillance and trade reconstruction data than currently are collected. These more precise data will permit the Commission and the contract markets to serve the public interest and achieve the regulatory objectives of the Act of assuring the fair and efficient functioning of the marketplace.

B. Regulatory Flexibility Act

The Commission is required to conduct initial and final regulatory flexibility analyses unless the Commission's Chairman certifies that a given rule will not, if promulgated, "have a significant economic impact on a substantial number of small entities." [28] The Commission previously has determined that the contract markets, to which these amendments expressly are directed, are not "small entities" for purposes of the Regulatory Flexibility Act ("RFA") (5 U.S.C. 605), and that the requirements of that Act do not, therefore, apply to contract markets. 47 FR 18618 (April 30, 1982).[29]

The Commission has adopted an objective trade timing performance standard which permits maximum flexibility in meeting this standard. The Commission notes that some potential trade timing systems or methodologies (such as manual recording systems) may be implemented with little or no direct costs. Therefore, since there may be little or no costs in implementing a trade timing system which achieves the performance standard, and only a few, if any, "small entities" would be involved, the rules adopted by the Commission will not have a significant economic impact on a substantial number of small entities.

For the reasons set forth above, and pursuant to Section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman hereby certifies, on behalf of the Commission, that the following amendments to Commission § 1.35 will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act ("PRA") of 1980, 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA. Office of Management and Budget ("OMB") control number 3038–0022 previously has been assigned to Commission § 1.35. The Commission previously submitted the proposed amendments to the OMB, and further believes that the amendments it has adopted to § 1.35 will not materially change the amount of information the contract markets and individual market participants will be required to collect.

List of Subjects in 17 CFR Part 1

Brokers, Commodity futures, Price change register, Reporting and recordkeeping requirements, Trading cards, Time period, Time stamp.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4, 4b, 4c, 4g, 4j, 5, 5a, 8, 8a, and 8c thereof, 7 U.S.C. 6, 6b, 6c, 6g, 6j, 7, 7a, 12, 12a, and 12c, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for Part 1 is revised to read as set forth below and the authority citations following all the sections in Part 1 are removed:

Authority: 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 9, 12, 12a, 12c, 13a, 13a–1, 13a–2, 16, 19, 21, 23, and 24; 5 U.S.C. 552 and 552b, unless otherwise noted.

2. Section 1.35 is amended by revising paragraphs (d), (e) and (g), and by adding new paragraph (i) to read as follows:

§ 1.35 Records of cash commodity, futures, and option transactions.

* * * * *

(d) *Members of contract markets.* Each member of a contract market who, in the place provided by the contract market for the meeting of persons similarly engaged, executes purchases or sales of any commodity for future delivery or commodity option on or subject to the rules of such contract market, shall prepare regularly and promptly a trading card or other record showing such purchases and sales. Such trading card or record shall show the member's name, the name of the clearing member, transaction date, time (as specified in rules of the contract market which comply with the requirements of this section), quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, delivery month or expiration date, whether the transaction involved a put or a call, and strike price. Such trading card or other record shall also clearly identify the opposite floor broker or floor trader with whom the transaction was executed, and the opposite clearing member (if, in accordance with the rules or practice of the contract market, such opposite clearing member is made known to the member).

(e) *Contract markets.* Each contract market shall maintain or cause to be maintained by its clearing organization a single record which shall show for each futures or option trade: the transaction date, time (as described in paragraph (g) of this section), quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, delivery month or expiration date, whether the transaction involved a put or a call, strike price, floor broker or floor trader buying, clearing member buying, floor broker or floor trader selling, clearing member selling, and symbols indicating the buying and selling customer or option customer types. The customer and option customer type indicators shall show, with respect to each person executing the trade, whether such person:

---

[28] 5 U.S.C. 605(b).

[29] Entities that may be indirectly affected by this proposal are futures commission merchants ("FCMs") and floor brokers. As to FCMs, the Commission has stated that they are not small entities for purposes of the RFA. 47 FR 18620 n. 10. As to floor brokers, the Commission has observed that "[b]y and large, floor brokers act as individuals" and that the RFA does not apply to individuals. *Id.* In that regard, the Commission has noted that only a small number of floor brokers are business entities. Thus, there is no substantial number of small entities which could be affected by this proposal. In any event, because the Commission's performance standard permits each exchange to select the method for meeting that standard, and because there are methods available that could meet the standard with little costs, there will be no significant economic impact on small entities.

(1) Was trading for his own account;
(2) Was trading for his clearing member's house account;
(3) Was trading for another member present on the exchange floor, or an account controlled by such other member; or
(4) Was trading for any other type of customer or option customer. The record required by this paragraph (e) shall also show, by appropriate and uniform symbols, any transaction which is made non-competitively in accordance with written rules of the contract market which have been submitted to and approved by the Commission in accordance with the provisions of § 1.38, and trades cleared on dates other than the date of execution. Except as otherwise approved by the Commission for good cause shown, the record required by this paragraph (e) shall be maintained in a format and coding structure approved by the Commission (i) in hard copy or on microfilm as specified in § 1.31 and (ii) for 60 days in computer-readable form on compatible magnetic tapes or discs.

* * * * *

(g) *Time of trade execution.* For purposes of paragraph (e) of this section: (1) The actual time of the execution of each side of a transaction must be obtained, or (2) if a contract market identifies and records the time of a transaction, a single actual time of execution for both sides of the transaction may be obtained. Actual times of execution shall be stated in increments of no more than one minute in length. If a contract market submits rules to the Commission, in accordance with the provisions of section 5a(12) of the Act and § 1.41, defining and separately identifying opening and closing time periods, the contract market may, for purposes of paragraph (e) of this section, use those time periods for trades occurring during the opening and closing periods. Contract market rules in effect prior to the effective date of this paragraph (g) upon which a contract market intends to rely in complying herewith must be submitted for this purpose to the Commission in accordance with the provisions of section 5a(12) of the Act and § 1.41.

* * * * *

(i) *Contract markets.* A contract market, in order to demonstrate that it is exercising due diligence in maintaining the continuing affirmative action program required by the Act and § 1.51, shall, at a minimum:

(1) Demonstrate effective use in its continuing affirmative action program of the information required to be obtained by paragraph (e) of this section to reconstruct rapidly and accurately transactions executed on or subject to the rules of such contract market; and

(2) Submit to the Commission such reports as the Commission or the Director of the Division of Trading and Markets, or such persons under the supervision of the Director as may be specified from time to time, may require concerning the accuracy of all information recorded under paragraph (e) of this section and the use of such information in the contract market's affirmative action program.

Issued in Washington, DC on January 15, 1986 by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 86-1231 Filed 1-17-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 85F-0138]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Polyhydric Alcohol Diesters of Oxidatively Refined Montan Wax Acids

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polyhydric alcohol diesters of oxidatively refined (Gersthofen process) montan wax acids as a component of coatings on fresh citrus fruit. This action responds to a petition filed by American Hoechst Corp.

DATES: Effective January 21, 1986; objections by February 20, 1986. The Director of the Office of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 172.210 effective on January 21, 1986.

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

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 13, 1971 (36 FR 8820), FDA announced that a petition (FAP 1A2672) had been filed by American Hoechst Corp., Somerville, NJ 08876, proposing that § 172.210 *Coatings on fresh citrus fruit* (21 CFR 172.210) be amended to provided for the safe use of formulations comprised of polyhydric alcohol diesters of oxidatively refined (Gersthofen process) montan wax acids and the adjuvants petroleum naphtha, morpholine, and salts of fatty acids as coatings on fresh citrus fruit. The petition was subsequently amended to exclude the use of morpholine and petroleum naphtha.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed use of the polyhydric alcohol diesters of montan wax acids is safe, and that the regulations should be amended as set forth below.

The regulations currently provide in § 172.863 (21 CFR 172.863) for the use of salts of fatty acids in food, including coatings. Section 172.863 covers the use of salts of fatty acids requested by this petition. Therefore, FDA is not taking any action in response to this aspect of the petition.

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

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statetment is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Evironmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July

25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before February 20, 1986 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing in held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 172

Food additives, Food preservatives, Incorporation by reference, Spices and flavorings.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR Part 172 continues to read as follows:

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

2. In § 172.210(b)(2) by alphabetically inserting a new item in the list of components to read as follows:

§ 172.210 Coatings on fresh citrus fruit.

* * * * *

(b) * * *

(2) * * *

Component	Limitations
* *	* * * *
Polyhydric alcohol diesters of oxidatively refined (Gersthofen process) montan wax acids.	Complying with § 178.3770 of this chapter and having a dropping point of 77 to 83 °C (170.6 to 181.4 °F), as determined by ASTM Method D566-76 (Reapproved 1982), "Standard Test Method for Dropping Point of Lubricating Grease," which is incorporated by reference (copies are available from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408) using as a solvent xylene-ethyl alcohol in a 2:1 ratio instead of toluene-ethyl alcohol in a 2:1 ratio.
* *	* * * *

Dated: January 13, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–1179 Filed 1–17–86; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Tioxidazole Granules

Correction

In FR Doc. 85–30413 beginning on page 52772 in the issue of Thursday, December 26, 1985, make the following correction:

On page 52773, first column, insert the following at the end of the second line: "pinworms,".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[CGD 86–003]

Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of Temporary Rules Issued.

SUMMARY: This document gives notice of temporary safety zones, security zones, and special local regulations. Periodically the Coast Guard must issue safety zones, security zones, and special local regulations for limited periods of time in limited areas. Safety zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo in transiting a restricted or congested area. Security zones are temporarily established in response to a risk to national security present in a particular area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

DATES: The following list includes safety zones, security zones, and special local regulations that were established between October 1, 1985 and December 31, 1985 and have since been terminated. Also included are several zones established earlier but inadvertently omitted from the last published list.

ADDRESS: The complete text of any temporary regulations may be examined at, and is available on request from, Executive Secretary, Marine Safety Council (G–CMC), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Novak, Deputy Executive Secretary, Marine Safety Council at (202) 426–1477.

SUPPLEMENTARY INFORMATION: The local Captain of the Port must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these regulations. Since Marine events and emergencies usually take place without advance notice or warning, timely publication of notice in the **Federal Register** is often precluded. However, the affected public is informed through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because mariners are notified by Coast Guard officials on scene prior to enforcement action, **Federal Register** notice is not required to place the special local regulations, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of these temporary special local regulations, security zones, and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Non-major safety zones, special local regulations, and security zones have been exempted from review under E.O

12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period October 1, 1985 through December 31, 1985 unless otherwise indicated:

Docket No. and location	Type	Date
COTP Providence, RI 85-14R; Narragansett Bay.	Safety Zone	Dec. 17, 1985.
COTP Providence, RI 85-13R; Narragansett Bay.	do	Do.
COTP Providence, RI 85-15R; Cape Cod Bay and Cape Cod Canal.	do	Do.
COTP Memphis, TN 85-13; Arkansas River, Mile 136-138.	do	Nov. 12, 1985.
COTP St. Louis, MO 85-036; Mississippi River, Mile 751-797.	do	Nov. 27, 1985.
COTP Pittsburgh, PA 85-04; Monongahela River, Mile 60-61.7.	do	Nov. 12, 1985.
COTP Pittsburgh, PA 85-03; Monongahela River, Mile 0-23.	do	Nov. 22, 1985.
COTP Pittsburgh, PA 85-02; Monongahela River, Mile 19-20.	do	Nov. 1, 1985.
COTP Memphis, TN 85-14; Arkansas River, Mile 23.5-24.5.	do	Dec. 11, 1985.
3-85-69; Passaic River, Mile 4.6-5.8.	do	Oct. 15, 1985.
3-85-65; East River, Pier 2, Brooklyn.	do	Oct. 2, 1985.
3-85-66; East River, Hunters Point, Queens.	do	Oct. 6, 1985.
3-85-70; Riverhead, L.I.	do	Oct. 20, 1985.
3-85-73; New York Upper Bay, Lower Hudson River.	Security zone	Oct. 25, 1985.
3-85-72; New York Upper Bay, East River.	do	Oct. 23, 1985.
3-85-71; New York Upper Bay, Lower Hudson River.	do	Do.
3-85-75; New York, New Jersey, Upper New York Bay.	Safety zone	Nov. 1, 1985.
3-85-79; Riverhead, L.I.	do	Oct. 28, 1985.
3-85-77; Passaic River, Mile 4.6-5.8.	do	Oct. 30, 1985.
3-85-80; Passaic River, Mile 4.6-5.8.	do	Oct. 31, 1985.
3-85-84; New York Upper Bay, Lower Hudson River.	Security Zone	Dec. 5, 1985.
3-85-85; Riverhead, L.I.	Safety Zone	Dec. 6, 1985.
3-85-87; Riverhead, L.I.	do	Dec. 15, 1985.
3-85-88; Lower East River, New York.	do	Dec. 31, 1985.
COTP Hampton Roads, VA 85-13; Newport News Channel, James River.	do	Oct. 26, 1985.
COTP Wilmington, NC 85-10; Cape Fear River.	do	Nov. 3, 1985.
COTP Hampton Roads, VA 85-14; James River, Newport News, VA.	do	Nov. 2, 1985.
COTP Wilmington, NC 85-11; Cape Fear River.	do	Nov. 24, 1985.
COTP Baltimore, MD 86-01; Baltimore Harbor.	Security Zone	Dec. 31, 1985.
COTP Miami, FL 7-85-51; Hollandale, FL.	Safety Zone	Oct. 3, 1985.
COTP Miami, FL 7-85-54; Biscayne Bay, Miami, FL.	do	Oct. 9, 1985.
COTP Miami, FL 7-85-65; Miami, FL.	do	Dec. 6, 1985.
COTP Miami, FL 7-85-66; Miami, FL.	do	Dec. 12, 1985.
COTP Miami, FL 7-85-39; Lummis Island, Miami, FL.	do	Dec. 29, 1985.
COTP Jacksonville, FL 52-85; St. Johns River, Jacksonville, FL.	do	Oct. 13, 1985.
COTP Jacksonville, FL 53-85; St. Johns River Jacksonville, FL.	Security Zone	Oct. 13, 1985.
7-85-64; Fort Lauderdale, FL, Winterfest.	Special Local Regulation.	Dec. 21, 1985.
COTP Mobile, AL 85-15; Santa Rosa Island.	Safety Zone	Oct. 4, 1985.
COTP Mobile, AL 85-14; Santa Rosa Sound.	do	Oct. 11, 1985.
COTP Mobile, AL 85-17; Moss Point, MS.	do	Oct. 21, 1985.
COTP Duluth, MN 85-165; Park Point, Duluth, MN.	do	Nov. 19, 1985.
11-85-14; Needles Marathon.	Special Local Regulation.	Oct. 5, 1985.
COTP San Diego, CA 85-12; San Diego Bay, CA.	Security Zone	Nov. 1, 1985.
COTP San Diego, CA 85-22; San Diego Bay, CA.	Safety Zone	Dec. 21, 1985.
COTP San Diego, CA 85-17; San Diego Bay, CA.	Secyrity Zone	Do.
COTP LA/LB, CA 85-10; Long Beach Harbor, CA.	Safety Zone	Nov. 4, 1985.
COTP San Francisco, CA 85-05; San Francisco Bay, CA.	Security Zone	Aug. 8, 1985.
COTP San Francisco, CA 85-06; San Francisco Bay, CA.	Safety Zone	Aug. 9, 1985.
COTP Honolulu, HI 85-04; Mamala Bay, HI.	do	Oct. 18, 1985.

Dated: January 15, 1986.

R.F. Ingraham,

Captian, U.S. Coast Guard, Executive Secretary, Marine Safety Council.

[FR Doc. 86-1233 Filed 1-17-86; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Suspension of Participation in VEAP

AGENCY: Veterans Administration; DOD.

ACTION: Final regulation.

SUMMARY: This regulation implements a provision of the Department of Defense Authorization Act, 1985 which affects VEAP (Post-Vietnam Era Veterans' Educational Assistance Program). This regulation prohibits a member of the Armed Forces from initially enrolling in VEAP during the period beginning on July 1, 1985 and ending on June 30, 1988. This regulation will acquaint the public with the way in which the VA (Veterans Administration) will implement this provision of law.

EFFECTIVE DATE: October 19, 1984.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2092.

SUPPLEMENTARY INFORMATION: On page 25430 of the **Federal Register** of June 19, 1985, there was published a proposal to amend 38 CFR 21.5054 to provide that no member of the Armed Forces may initially enroll in VEAP during the period beginning on July 1, 1985 and ending on June 30, 1988. No comments were received. The proposal also stated what constitutes an initial enrollment in VEAP. This concept is not defined elsewhere in the United States Code or in the Code of Federal Regulations. The regulations are adopted as set forth below.

The VA and the Department of Defense are making this regulation retroactively effective on October 19, 1984. Retroactive effect is justified, because this regulation construes the meaning of one of the provisions of Pub. L. 98-525.

Moreover, the VA and the Department of Defense find that good cause exists for proposing that this regulation, like the section of the statute it implements, shall be made retroactively effective on October 19, 1984. This legislation is designed to prevent some servicepersons from participating in VEAP. A delayed effective date for this regulation would be contrary to statutory design; would complicate administration of a provision of law; and might result in some people receiving benefits to which they would not be entitled.

The VA and the Department of Defense have determined that this regulation is not a major rule as that term is defined by E.O. 12291, entitled, Federal Regulation. The regulation will not cause a major increase in costs or prices for anyone. It will have no 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.

The Secretary of Defense and Administrator of Veterans' Affairs have certified that the regulation, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b) this regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because this regulation affects only individuals who may wish to participate in VEAP. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.120.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

By direction of the Administrator.

Approved: November 5, 1985.

Everett Alvarez, Jr.,

Deputy Administrator of Veterans' Affairs.

General Chavarrie,

Deputy Assistant Secretary of Defense.

PART 21—[AMENDED]

38 CFR Part 21, Vocational Rehabilitation and Education is amended by revising § 21.5054 to read as follows:

§ 21.5054 Dates of participation.

(a) *General.* An individual may participate after December 31, 1976. An individual was not eligible for benefits before July 1, 1977, unless discharged after January 1, 1977, for a service-connected condition. The first date on which an individual on active duty enrolled in a course, courses or a program of education leading to a secondary school diploma or equivalency certificate may receive benefits is subject to the eligibility requirements of § 21.504(b) (4) and (5). (38 U.S.C. 1631 (a) and (b); Pub. L. 94–502; Pub. L. 96–466)

(b) *Suspension of right to participate.* (1) No individual on active duty in the Armed Forces may initially enroll during the period beginning on July 1, 1985 and ending on June 30, 1988.

(2) An initial enrollment occurs when a service person who has never contributed to the fund—

(i) First makes a lump sum payment to the fund, or

(ii) First authorizes an allotment to the VA for deposit in the fund. See 32 CFR 59.3(b)(10). (Pub. L. 98–525, sec. 704)

[FR Doc. 86–1204 Filed 1–17–86; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL-2954-5]

Approval and Promulgation of Implementation Plans, North Carolina; Visibility SIP

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In this action, EPA is approving revisions to the North Carolina State Implementation Plan (SIP) which were submitted to EPA on April 15, 1985. North Carolina has adopted a new visibility impairment prevention program and has revised its PSD and New Source Review (in nonattainment area) rules to meet Federal visibility requirements. These revisions satisfy the requirements of 40 CFR 51.305 and 51.307. North Carolina's visibility provisions were submitted to EPA in order to satisfy the first part of the Settlement Agreement with the Environmental Defense Fund, et al., described at 40 FR 20647 on May 16, 1984. The principal effect of the new regulations will be to require the State to consider visibility impacts in reviewing permit applications for new major sources, and major modifications, which may affect visibility in Federal Class I areas.

DATE: This action will be effective March 24, 1986, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be submitted to Janet Hayward at the EPA Regional Office address listed below. Copies of the documents relevant to this action are available for public inspection at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Air Quality Section, Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, Post Office Box 27687, Raleigh, North Carolina 27611

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC. 20460

FOR FURTHER INFORMATION CONTACT: Janet Hayward of the EPA Region IV Air Programs Branch, at the above address and telephone (404) 881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION: As a result of the Environmental Defense Fund (EDF) Agreement, the State of North Carolina was required to develop visibility new source review and visibility monitoring provisions and submit them to EPA by May 6, 1985. On April 15, 1985, North Carolina submitted its visibility SIP to EPA for approval. This submittal satisfies the requirements of 40 CFR 51.305 and 51.307.

The North Carolina "Visibility Impairment Prevention Program" consists of several parts. First, it contains a narrative discussion of the scope and intent of the entire program. Second, it contains revisions to the State's new source review in nonattainment area and Prevention of Significant Deterioration (PSD) regulations. And third, it has an appendix which describes the North Carolina visibility monitoring program in detail.

1. The visibility SIP narrative provides a comprehensive discussion of the scope and purpose of the North Carolina visibility protection program. It also assures that permitting decisions will be consistent with the national visibility goal. The different types of visibility impairment (widespread haze and discernible plumes from individual or groups of sources) are described, as well as the pollutants which are most involved in the impairment of visibility (sulfur oxides, nitrogen dioxide and particulate matter). The SIP narrative lists the five mandatory Class I areas in the State (Great Smoky Mountains National Park, Joyce Kilmer Slickrock National Wilderness Area, Shining Rock National Wilderness Area, Linville Gorge National Wilderness Area and Swanquarter National Wilderness Area). It also establishes a state contact person for communications with the Federal Land Managers (FLMs). Copies of letters were provided to document that the State had coordinated their visibility plan development with FLMs and had requested them to identify any existing impairment in their Class I areas.

As of April 15, 1985, neither the State, nor the Federal Land Managers, had identified existing impairment, which could be attributed to a particular source or group of sources, in any mandatory Class I area in North Carolina. However, the National Park Service has identified regional haze in the Great Smoky Mountains National Park. (Regional haze will be addressed in later phases of visibility plan implementation. See 45 FR 80084.) The plan also allows the FLMs to certify that impairment exists at any time in the future.

The SIP narrative describes the notification procedures which will be used to assure early involvement of the FLMs in permit reviews for new sources which may impact visibility in Class I areas. It also establishes procedures to be followed in cases where a FLM determines that the proposed source would adversely affect visibility in a Class I area.

2. In order to meet the visibility new source review requirements contained in 40 CFR 51.307, North Carolina revised its PSD and new source review in nonattainment area regulations. The definitions of "visibility impairment" and "adverse impact on visibility" contained in 40 CFR 51.301 were also adopted.

- Regulation 15 NCAC 2D.0530 (Prevention of Significant Deterioration) was amended to describe the procedures to be followed when a source subject to PSD may impair the visibility of a Class I area. The procedures require the State to provide the Federal Land Manager (of any impacted area) with all information relevant to the permit application and to consider any analysis concerning visibility impairment submitted by the Federal Land Manager. It sets forth the conditions under which a permit may be issued to a new source proposing to be located near a Federal Class I area. It also allows the State to require a source to monitor visibility in or around the Class I area if the visibility impact analysis indicates possible visibility impairment.
- Regulation 15 NCAC 2D.0531 (Sources in Nonattainment Areas) was amended to describe the procedures to be followed when a source proposed to be located in a nonattainment area may impair visibility of a Class I area. Such sources are required to provide a visibility impairment analysis. The regulation requires the State to provide the Federal Land Manager with all information relevant to the permit application and to consider any analysis concerning visibility impairment submitted by the Federal Land Manager. It sets forth the conditions under which a permit may be issued to a source that would impair visibility in a Class I area. The regulation also allows the State to require sources to monitor visibility.

3. The North Carolina visibility monitoring program was developed to meet the requirements of 40 CFR 51.305. The purpose of the plan is to collect data for use in determining potential impacts of new sources and for assessing visibility trends. North Carolina will obtain the necessary visibility data from the National Weather Service stations located at the Asheville airport and at Cape Hatteras. Since four of the State's Class I areas are near Asheville (all within a 75-mile radius) and the fifth is approximately 45-miles across Pamlico Sound from Cape Hatteras, these stations should provide acceptable regional background data to use in making visibility related permit decisions.

The Weather Service provides visibility measurements in units of distance, or visual range, which are recorded three times a day for every day of the year. This data is appropriate for use in modelling potential visibility impacts of new sources (see Workbook for Estimating Visibility Impairment, November 1980, EPA–450/4–80–031). Since the airport data has been collected over time, it may also be used for determining long-term visibility trends.

The State will use this visibility data, along with additional data collected by EPA or the Federal Land Managers, in making their permit decisions. Since no impairment which can be attributed to a particular source has been identified at this time, a source-specific visibility monitoring program is unnecessary. Visibility data and the visibility monitoring program will be reviewed annually to determine the adequacy of the visibility protection plan. The State recognizes that additional monitoring techniques may be necessary, and intends to adopt EPA monitoring procedures once they have been promulgated.

The Federal visibility requirements are contained in 40 CFR 51.301 through 51.307. As a result of the settlement agreement between EPA and the Environmental Defense Fund, et al. (see 40 FR 20647), North Carolina was required to submit visibility monitoring and visibility new source review provisions (meeting the requirements of 51.305 and 51.307, respectively) to EPA by May 6, 1985. These provisions were to be reviewed and either approved by EPA or Federal rules promulgated in their place by January 6, 1986.

EPA has evaluated North Carolina's revisions to 2D.0530 and 2D.0531 (PSD and Sources in Nonattainment Areas) and has found them to contain all the procedural and notification requirements set forth in 40 CFR 51.307. The visibility monitoring program meets the criteria for an approvable plan, as it will provide the State with reliable background visibility data for making permit decisions and for assessing visibility trends. It has been reviewed and been found to meet the provisions contained in 40 CFR 51.305.

Further details pertaining to these regulation changes and nonregulatory SIP revisions are contained in the technical support document, which is available for public inspection at EPA's Regional Office in Atlanta, Georgia.

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

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective March 24, 1986.

Final Action

After reviewing North Carolina's visibility-related SIP revisions, EPA has found them to meet the requirements contained in 40 CFR 51.305 and 51.307; EPA is therefore approving the visibility new source review regulations and visibility monitoring plan which were submitted by the State of North Carolina on April 15, 1985.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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 March 24, 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 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Particulate matter, Intergovernmental relations, Incorporation by reference.

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

Dated: January 9, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40.
40 CFR Part 52 is amended as follows:

Subpart II—North Carolina

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1770 is amended by adding paragraph (c)(4) as follows:

§ 52.1770 Identification of Plan.

* * * * *

(c) * * *

(40) Visibility Impairment Prevention Program and visibility new source review regulations were submitted to EPA on April 15, 1985.

(i) Incorporation by reference.

(A) Letter of April 15, 1985, from the North Carolina Department of Natural Resources and Community Development, and the following North Carolina Administrative Code revisions which were adopted by the Environmental Management Commission on April 11, 1985: 15 NCAC 2D.0530, Prevention of Significant Deterioration 15 NCAC 2D.0531, Sources in Nonattainment Areas.

(ii) Additional material.

(A) Narrative submittal, titled "Visibility Impairment Prevention Program for Federal Class I Areas," adopted by the Environmental Management Commission on April 11, 1985.

[FR Doc. 86–970 Filed 1–17–86; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 52

[A–4–FRL–2955–6]

Approval and Promulgation of Implementation Plans; Florida; Visibility New Source Review Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In this action, EPA is approving revisions to the Florida State Implementation Plan (SIP) which were submitted to EPA on September 23, 1985. Florida has revised its PSD rule to meet the Federal requirements contained in 40 CFR 51.307(a). These visibility provisions were submitted to EPA in order to satisfy the first part of the Settlement Agreement with the Environmental Defense Fund, et al., described at 40 FR 20647 on May 16, 1984. The principal effect of the visibility protection regulations will be to require the State to consider visibility impacts when reviewing permit applications for new major sources and major modifications (in attainment areas) which could affect visibility in Federal Class I areas.

DATES: This action will be effective March 24, 1986, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be submitted to Janet Hayward at the EPA Regional Office address listed below. Copies of the documents relevant to this action are available for public inspection at the following locations:

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365;

Florida Department of Environmental Regulation, Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blairstone Road, Tallahassee, Florida 32301;

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC;

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Janet Hayward of the EPA Region IV Air Programs Branch, at the above address and telephone (404) 881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION: As a result of the Environmental Defense Fund (EDF) Agreement, the State of Florida was required to develop visibility new source review and visibility monitoring provisions to meet the requirements of 40 CFR 51.305 and 51.307. On September 23, 1985, Florida submitted visibility new source review regulations to EPA for approval. This submittal satisfies the requirements of 40 CFR 51.307(a). Since Florida did not submit a visibility monitoring plan to meet § 51.305 requirements, EPA was required to promulgate a monitoring plan for the State. This promulgation took place on July 12, 1985 (50 FR 28544).

Rule 17–2.100, FAC (Definitions) has been revised to include the visibility-related definitions contained in 40 CFR 51.301.

Rule 17–2.220, FAC (Public Notice and Comment) has been amended to incorporate the notification requirements of 40 CFR 51.307 (a)(1) and (a)(2).

Rule 17–2.500, FAC (Prevention of Significant Deterioration) has been amended to ensure Federal Land Manager involvement in permit reviews for new sources or modifications (in attainment areas) which may impact visibility in a Federal Class I area. The rule requires the permit applicant to provide an analysis of visibility impairment which would be caused by the new construction. The applicant may also be required to perform visibility monitoring.

Revisions to Rule 17–2.510, FAC (New Source Review for Nonattainment Areas), were also submitted by the State of Florida to meet the requirements of 40 CFR 51.307(b). Since EPA has not yet approved the original submittal of 17–2.510, the Agency will wait and process the entire regulation at the same time. EPA action on the State's visibility provisions for new source review in nonattainment areas will be published in a separate **Federal Register** notice.

Further details pertaining to these regulation changes are contained in the technical support document, which is available for public inspection at EPA's Regional Office in Atlanta, Georgia.

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

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective March 24, 1986.

Final Action: After reviewing Florida's visibility regulation revisions, EPA has found them to meet the requirements contained in 40 CFR 51.307(a); EPA is therefore approving the changes to Rules 17–2.100, 17–2.220 and

17–2.500, submitted by the State of Florida on September 23, 1985.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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 March 24, 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 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone; Particulate matter, Sulfur oxides.

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

Dated: January 9, 1986.

Lee M. Thomas,

Administrator.

Part 52 of Chapter I, Title 40.

40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

Subpart K—Florida

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.520 is amended by adding paragraph (c)(58) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(58) Visibility new source review regulations were submitted to EPA on September 23, 1985.

(i) Incorporation by reference.

(A) Letter of September 23, 1985, from the State of Florida Department of Environmental Regulation, and amendments to Rule 17–2.100 FAC (Definitions), Rule 17–2.220 FAC (Public Notice and Comment), and Rule 17–2.500 FAC (Prevention of Significant Deterioration), adopted by the Florida Department of Environmental Regulation on July 25, 1985.

[FR Doc. 86–966 Filed 1–17–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[A–4–FRL–2955–3]

Approval and Promulgation of Implementation Plans; South Carolina; Visibility Protection Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In this action, EPA is approving revisions to the South Carolina State Implementation Plan (SIP) which were submitted to EPA on June 3, 1985. South Carolina has revised its PSD rule to meet the Federal requirements contained in 40 CFR 51.307(a). The State has also developed a narrative visibility plan. These visibility provisions were submitted to EPA in order to satisfy the first part of the Settlement Agreement with the Environmental Defense Fund, et al., described at 40 FR 20647 on May 16, 1984. The principal effect of the visibility protection regulations will be to require the State to consider visibility impacts when reviewing permit applications for new major sources and major modifications (in attainment areas) which may affect visibility in Federal Class I areas.

DATE: This action will be effective March 24, 1986, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be submitted to Janet Hayward at the EPA Regional Office Address listed below. Copies of the documents relevant to this action are available for public inspection at the following locations:

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street, N.E. Atlanta, Georgia 30365;

Bureau of Air Quality Control, South Carolina Department of Health, and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201;

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC;

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Janet Hayward of the EPA Region IV Air Program Branch, at the above address and telephone (404) 881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION: As a result of the Environmental Defense Fund (EDF) Agreement, the State of South Carolina was required to develop visibility new source review and visibility monitoring provisions to meet the requirements of 40 CFR 51.305 and 51.307. On June 3, 1985, South Carolina submitted its visibility protection plan to EPA for approval.

South Carolina's "Visibility Protection Control Strategy" consists of two parts—a narrative discussion of the State's visibility program and their new source review rule revisions.

1. The narrative section identifies the primary visibility impairing pollutants, and discusses the typical sources of visibility degradation. South Carolina has one mandatory Federal Class I area, which is Cape Romain Wildlife Refuge and Wilderness Area. Due to Cape Romain's location along the coast, the most frequent impediment to visibility is naturally-occurring sea fog. No single source or group of sources has been pinpointed as causing visibility impairment in this Class I area. As of February 1, 1985, the Federal Land Manager had not documented any source-specific visibility impairment at Cape Romain. Since no plume impacts have been noted, no existing sources are required to be controlled at this time.

South Carolina's visibility SIP does not contain a specific plan for monitoring visibility at Cape Romain. Since the State chose not to submit a monitoring strategy, EPA was required to promulgate the Federal plan in its place. This promulgation took place on July 12, 1985, and was published in the Federal Register at 50 FR 28544.

South Carolina's "Visibility Protection Control Strategy" also describes the State's long-term strategy for visibility preservation, including a requirement to review the entire program every three years. The strategy also addresses integral vistas, of which none have been identified in the State. As part of their long-term efforts, South Carolina has committed to give special attention to the impact forest management practices may have on visibility in their Class I area. A long-term strategy and protection of integral vistas are not required under Part 1 of visibility regulation implementation. Although these provisions may not meet all the requirements of 40 CFR 51.300 et seq. they do not conflict with EPA's Part 2 visibility rules. South Carolina's visibility SIP may need to be revised later to incorporate all the requirements of 40 CFR 51.302, 51.304 and 51.306.

2. South Carolina has revised its PSD rule to meet the requirements of 40 CFR 51.307(a). EPA has exempted the State from meeting the new source review requirements for sources in nonattainment areas, because there are

no nonattainment areas within 100 km of Cape Romain. For further details, consult the July 12, 1985, Federal Register (50 FR 28544).

South Carolina Regulation No 62.5, Standard No. 7, Section IV, Part H was amended to describe the procedures to be followed when a new source in an attainment area (and subject to PSD review) would impair the visibility of a Class I area. The procedures require the State to provide the Federal Land Manager with the new source's permit application and an analysis of potential visibility impacts. The State must also consider any analysis concerning visibility impairment submitted by the FLM. If there is any disagreement with the FLM's comments, the State must explain its decision in writing and make that explanation available for public examination.

Regulation No. 62.5, Standard No. 7 Section IV, Part E, was amended to allow the State to require a source to perform visibility monitoring. Together, these two rule changes constitute an acceptable visibility new source review program.

Further details pertaining to these regulation changes are contained in the technical support document, which is available for public inspection at EPA's Regional Office in Atlanta, Georgia.

EPA is publishing this action without prior proposal because the Agency views this noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this Federal Register unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective March 24, 1986.

Final Action: After reviewing South Carolina's visibility regulation revisions, EPA has found them to meet the requirements contained in 40 CFR 51.307(a); EPA is therefore approving the rule changes submitted by the State of South Carolina on June 3, 1985, as well as the State's visibility SIP narrative.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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 March 24, 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 52

Air pollution control, Incorporation by reference, Intergovernmental relation, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

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

Dated: January 9, 1985.

Lee M. Thomas,

Administrator.

Part 52 of Chapter I, Title 40.

40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

Subpart PP—South Carolina

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2120 is amended by adding paragraph (c)(25) as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

(25) Visibility new source review regulations and narrative visibility SIP were submitted to EPA on June 3, 1985.

(i) Incorporation by reference.

(A) Letter of June 3, 1985, from the South Carolina Department of Health and Environmental Control, and amendments to Regulation No. 62.5, Standard No. 7, Section IV, Part H; Regulation No. 62.5, Standard No. 7, Section IV, Part E; and Regulation No. 62.5, Standard No. 7, Section I, Part CC, adopted by the South Carolina Board of Health and Environmental Control on May 21, 1985.

(ii) Additional material.

(A) Narrative section, titled "Visibility Protection Control Strategy", adopted by the South Carolina Board of Health and Environmental Control on May 21, 1985.

* * * * *

[FR Doc. 86–972 Filed 1–17–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 60 and 61

[AD–FRL–2913–7]

Equipment Leaks From Synthetic Organic Chemical Manufacturing Industry; Natural Gas Processing Plants; Equipment Leaks of Benzene Flare Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On April 16, 1985 (50 FR 14941), EPA proposed an addition to the General Provisions of 40 CFR Part 60 containing requirements for flares used to comply with standards in 40 CFR Parts 60 and 61. This action promulgates the addition of flare requirements to the General Provisions. This action also promulgates the referencing of these requirements in standards of performance for equipment leaks from the synthetic organic chemical industry (SOCMI) and natural gas processing plants and in national emissions standards for equipment leaks of benzene.

DATES: These amendments and the incorporation-by-reference approved by the Director of the Federal Register are effective January 21, 1986.

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: *Docket.* The docket, No. A–79–32, containing information considered by EPA in development of the promulgated standards, 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. Fred Dimmick or Mr. Gil Wood, Standards Development Branch [telephone number (919) 541–5578] concerning policy and regulatory matters and Mr. Leslie B. Evans or Mr. Robert Rosensteel, Chemicals and Petroleum Branch [telephone number (919) 541–5671] concerning technology information; Emission Standards and

Engineering Division; U.S. Environmental Protection Agency; Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Background

The EPA promulgated final standards of performance for equipment leaks in SOCMI as Subpart VV of 40 CFR Part 60 on October 18, 1983 (48 FR 48328). On December 15, 1983, the Chemical Manufacturers Association (CMA) submitted to EPA a petition to reconsider the exit velocity limitations on flares used as control devices to comply with Subpart VV of 40 CFR Part 60. The EPA convened a proceeding to reconsider the exit velocity limitations on flares, based on the availability of new information of central relevance to the exit velocity limitation. After review of the new information in a study (Docket No. VII–B–1) completed by EPA's Office of Research and Development, EPA determined that the exit velocity limitation should be revised. The EPA also determined that the revised exit velocity limitation for flares should apply to several other standards in Parts 60 and 61. Therefore, on April 16, 1985 (50 FR 14941), EPA proposed changes in the exit velocity limitation for flares used as control devices to comply with Subparts VV, NNN and Kb of 40 CFR Part 60 and Subparts L and V of Part 61. The EPA also proposed to place the flare requirements in the General Provisions of Part 60 for easy reference by all subparts in Part 60 and Part 61.

The public comment period was from April 16, 1985 to June 17, 1985. The EPA received four comments on the proposed action and, after review of these comments, has no reason to change the proposal. This action finalizes the addition of the flare requirements to the General Provisions of 40 CFR Part 60 and references those requirements in the final standards of performance for equipment leaks in SOCMI (Subpart VV of Part 60) and in the final national emission standards for benzene equipment leaks (Subpart V of Part 61). The proposed changes to flare requirements in Subparts NNN and Kb of Part 60 and Subpart L of Part 61 will be finalized when action is taken to finalize those subparts. On June 24, 1985 (50 FR 26122), EPA promulgated flare requirements for natural gas processing plants in Subpart KKK of Part 60 identical to those promulgated today in the General Provisions of Part 60; this notice revises Subpart KKK to reference the flare requirements in the General Provisions.

II. The Standards

The final requirements for flares used to comply with standards of performance and national emission standards include some basic requirements: a flame must be present at all times that emissions are being vented to the flare and the flare must be operated in a smokeless manner. The presence of a pilot flame is to be monitored using a thermocouple or other device. Smokeless operation is to be verified by measuring visible emissions using Reference Method 22. Allowances are made for the occurrence of visible emissions for a maximum of 5 minutes during any 2-hour period. In addition to these basic requirements, the final requirements include minimum heat content and exit velocity limitations. Steam-assisted and air-assisted flares must combust gases with greater than 300 Btu per standard cubic foot (Btu/scf). Steam-assisted and nonassisted flares must be designed and operated with an exit velocity either (a) less than 60 feet per second (fps), (b) less than 400 fps if the heat content of gas being combusted is greater than 1,000 Btu/scf or (c) less than a velocity determined by an equation based on the heat content if the gas being combusted is between 300 Btu/scf and 1,000 Btu/scf. Air-assisted flares must be designed and operated with an exit velocity less than a velocity determined by another equation based on the heat content of the gas being combusted in the flare.

III. Environmental, Cost, Economic and Energy Impacts

There are no adverse environmental, economic or energy impacts associated with the promulgated flare requirements. However, the effect of the revision to the flare requirements would be to allow more existing flares to be used as control devices for complying with standards in Parts 60 and 61. To the extent that more existing flares can be used to comply with the standards, cost and economic impacts would be decreased.

IV. Public Participation

The revised flare requirements were proposed and published in the **Federal Register** on April 16, 1985 (50 FR 14941). Public comments were solicited at the time of proposal. The public comment period was from April 16, 1985 to June 17, 1985. The EPA also offered to hold a public hearing at the request of interested parties. No request for a public hearing was received, nor were any significant adverse comments received on the proposed action. The EPA's detailed response to the four comments is contained in the rulemaking docket.

V. 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 standards 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)].

The effective date of the new flare requirements depends on which Subpart is referencing the requirement. In general, however, section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities of which the construction or modification was commenced after the date of proposal. Section 112 of the Clean Air Act also provides that emissions standards become effective upon promulgation and apply to all sources (whether new or existing) covered by the standard. In accordance with section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

The information collection requirements associated with the final flare requirements have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* However, burden estimates have not been made for this action. Instead, burden estimates are made for each of the standards to which flare provisions apply. The revision to the exit velocity had no impact on the recordkeeping and reporting requirements associated with Subpart VV of Part 60 or Subpart KKK [OMB Control Nos. (2060–0012 and 2060–0120)] or Subpart V of Part 61 [OMB Control No. (2060–0068)].

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to certain requirements of the Order. The Administrator has determined that this regulation would result in none of the adverse economic impacts set forth in

section 1 of the Order as grounds for finding a regulation to be a "major rule." This proposal makes complying with the existing standards less expensive, and thus would serve to decrease the economic impact. The Administrator has concluded that this rule is not "major" under any of the criteria established in the Executive Order.

This regulation was submitted to the OMB for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA responses to those comments are available for public inspection, in Docket No. A–79–32, Central Docket Section, at the address given in the ADDRESSES section of this preamble.

The Administrator certifies that a regulatory flexibility analysis under 5 U.S.C. 601 et seq., is not required for this rulemaking because the rulemaking would not have significant impact on a substantial number of small entities. This proposal has no significant cost impact.

List of Subjects in 40 CFR Parts 60 and 61

Air pollution control, Reporting and recordkeeping requirements, Incorporation by reference, Intergovernmental relations, Synthetic organic chemical manufacturing industry, Sources of benzene emissions, Natural gas processing plants.

Dated: January 12, 1986.

Lee M. Thomas,

Administrator.

40 CFR Part 60 and Part 61 is amended as follows:

PART 60—[AMENDED]

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. By adding § 60.18 to Part 60 Subpart A as follows:

§ 60.18 General control device requirements.

(a) *Introduction.* This section contains requirements for control devices used to comply with applicable subparts of Part 60 and Part 61. The requirements are placed here for administrative convenience and only apply to facilities covered by subparts referring to this section.

(b) *Flares.* Paragraphs (c) through (f) apply to flares.

(c)(1) Flares shall be designed for and operated with no visible emissions as determined by the methods specified in paragraph (f), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

(2) Flares shall be operated with a flame present at all times, as determined by the methods specified in paragraph (f).

(3) Flares shall be used only with the net heating value of the gas being combusted being 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted; or with the net heating value of the gas being combusted being 7.45 MJ/scm (200 Btu/scf) or greater if the flare is nonassisted. The net heating value of the gas being combusted shall be determined by the methods specified in paragraph (f).

(4) (i) Steam-assisted and nonassisted flares shall be designed for and operated with an exit velocity, as determined by the methods specified in paragraph (f)(4), less than 18.3 m/sec (60 ft/sec), except as provided in paragraph (b)(4) (ii) and (iii).

(ii) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in paragraph (f)(4), equal to or greater than 18.3 m/sec (60 ft/sec) but less than 122 m/sec (400 ft/sec) are allowed if the net heating value of the gas being combusted is greater than 37.3 MJ/scm (1,000 Btu/scf).

(iii) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in paragraph (f)(4), less than the velocity, V_{max}, as determined by the method specified in paragraph (f)(5), and less than 122 m/sec (400 ft/sec) are allowed.

(5) Air-assisted flares shall be designed and operated with an exist velocity less than the velocity, V_{max}, as determined by the method specified in paragraph (f)(6).

(6) Flares used to comply with this section shall be steam-assisted, air-assisted, or nonassisted.

(d) Owners or operators of flares used to comply with the provisions of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs. Applicable subparts will provide provisions stating how owners or operators of flares shall monitor these control devices.

(e) Flares used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.

(f) (1) Reference Method 22 shall be used to determine the compliance of flares with the visible emission provisions of this subpart. The observation period is 2 hours and shall be used according to Method 22.

(2) The presence of a flare pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame.

(3) The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

$$H_T = K \sum_{i=1}^{n} C_i H_i$$

where:

H_T = Net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C;

$$K = \text{Constant}, \quad 1.740 \times 10^{-7} \quad \left(\frac{1}{\text{ppm}}\right) \quad \left(\frac{\text{g mole}}{\text{scm}}\right) \quad \left(\frac{\text{MJ}}{\text{kcal}}\right)$$

where the standard temperature for $\left(\frac{\text{g mole}}{\text{scm}}\right)$ is 20°C;

C_i = Concentration of sample component i in ppm on a wet basis, as measured for organics by Reference Method 18 and measured for hydrogen and carbon monoxide by ASTM D1946–77 (Incorporated by reference as specified in § 60.17); and

H_i = Net heat of combustion of sample component i, kcal/g mole at 25 °C and 760 mm Hg. The heats of combustion may be determined using ASTM D2382–76 (incorporated by reference as specified in § 60.17) if published values are not available or cannot be calculated.

(4) The actual exist velocity of a flare shall be determined by dividing the volumetric flowrate (in units of standard temperature and pressure), as determined by Reference Methods 2, 2A, 2C, or 2D as appropriate; by the unobstructed (free) cross sectional area of the flare tip.

(5) The maximum permitted velocity, V_{max}, for flares complying with paragraph (c)(4)(iii) shall be determined by the following equation.

$$\text{Log}_{10}(V_{max}) = (H_T + 28.8)/31.7$$

V_{max} = Maximum permitted velocity, M/sec
28.8 = Constant
31.7 = Constant
H_T = The net heating value as determined in paragraph (f)(3).

(6) The maximum permitted velocity, V_{max}, for air-assisted flares shall be determined by the following equation.

$V_{max} = 8.706 + 0.7084 (H_T)$

V_{max} = Maximum permitted velocity, m/sec
8.706 = Constant
0.7084 = Constant
H_T = The net heating value as determined in paragraph (f)(3).

§ 60.482-10 [Amended]

3. By revising paragraph (d) of § 60.482-10 of Subpart VV of Part 61 as follows:

* * * * *

(d) Flares used to comply with this subpart shall comply with the requirements of §60.18.

* * * * *

§ 60.633 [Amended]

4. By revising paragraph (g) of § 60.633 of Subpart KKK as follows:

* * * * *

(g) Flares used to comply with this subpart shall comply with the requirements of § 60.18.

* * * * *

5. By revising paragraph (a)(38) and by adding paragraph (a)(46) of § 60.17 of Subpart A—General Provisions as follows:

§ 60.17 Incorporation by reference.

(a) * * *

(38) ASTM D2382-76, Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter [High-Precision Method], IBR approved for § 60.18(f) and § 60.485(g).

* * * * *

(46) ASTM D1946-77, Analysis of Reformed Gas by Gas Chromatography, IBR approved for § 60.18(f).

* * * * *

PART 61—[AMENDED]

6. The authority citation for Part 61 continues to read as follows:

Authority: Secs. 101, 112, 114, 116, 301, Clean Air Act as amended (42 U.S.C. 7401, 7412, 7414, 7416, 7601).

§ 61.242-11 [Amended]

7. By revising paragraph (d) of § 61.242-11 of Subpart V of Part 61 as follows:

* * * * *

(d) Flares used to comply with this subpart shall comply with the requirements of § 60.18.

* * * * *

[FR Doc. 86-1063 Filed 1-17-86; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 180

[PP 4F3027/R766; FRL-2947-7]

Cyano (3-Phenoxyphenyl) Methyl-4-Chloro-Alpha-(1-Methylethyl) Benzeneacetate; Tolerances

Correction

In FR Doc. 85-30989 beginning on page 25 in the issue of Thursday, January 2, 1986, make the following correction:

On page 26, in the second column, the date line should read "December 20, 1985".

BILLING CODE 1505-01-M

---

40 CFR Part 261

[FRL-2947-1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

Correction

In FR Doc. 85-30890, beginning on page 53315 in the issue of Tuesday, December 31, 1985, make the following corrections on page 53319:

1. In the second column, § 261.31, fourteenth line from the bottom of the page, "1,2,2-" should read 1,1,2-".

2. In the third column, § 261.31, in the Hazard Code column of the table, the last entry "(T)" should read "(I,T)".

BILLING CODE 1505-01-M

---

40 CFR Part 716

[OPTS-84017A; FRL-2945-4]

Submission of Lists and Copies of Health and Safety Studies on Vinyl Acetate

Correction

In FR Doc. 85-30719 beginning on page 52923 in the issue of Friday, December 27, 1985, make the following correction:

On page 52923, in the third column, in paragraph 2.a., in the first line, "Copy each" should read "copy of each".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 94

[FCC 86-8]

Private Operations-Fixed Microwave Service; Amendment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted an Order making various non-substantive amendments to Parts 1 and 94 of the Commission's Rules. These amendments pertain primarily to agency practice and procedure. This action will increase the public's understanding of the private microwave rules and reduce the number of improperly filed petitions and requests.

EFFECTIVE DATE: February 18, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Harold Salters, Land Mobile & Microwave Div., Private Radio Bureau, (202) 632-7597;

Mary Beth Hess, Rules Branch, Land Mobile & Microwave Div., Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 1

Practice and procedure.

47 CFR Part 94

Radio.

Order

In the Matter of Amendment of Parts 1 and 94 of the Commission's Rules to make certain non-substantive changes.

Adopted: January 3, 1986.
Released: January 10, 1986.

By the Commission.

1. The Federal Communications Commission, on its own motion, is amending its rules governing Practice and Procedure (47 CFR Part 1) and the Private Operational-Fixed Microwave Service (47 CFR Part 94) by making certain editorial changes to clarify and correct several rule sections. These changes relate to agency practice and procedure and make other non-controversial amendments that will improve the usefulness of the rules to the public. The following subparagraphs explain these amendments which are fully set out in the attached Appendix:

(a) *Section 1.924 Assignment or transfer of control & § 94.27 Application*

and standard forms. We are amending these rule sections to add a reference to Form 1046, Assignment of Authorization, so that assignors know they can file this form in lieu of a letter requesting permission to assign the microwave authorization. In §94.27, we are also correcting a typographical error in paragraph (a)(5) and removing several gender-based references in paragraph (b), which we are redesignating paragraph (a)(6).

(b) *Section 1.953 How applications are processed.* We are removing paragraph (b) because it is not germane to the subject of this rule section. Paragraph (b) lists those circumstances where applications are presented to the Commission rather than processed by the Private Radio Bureau. Details regarding the Bureau's delegated authority can already be found in Section 0.331 of the Commission's Rules (47 CFR 0.331). Additionally, Section 1.971 (47 CFR 1.971) details the circumstances under which applications are presented to the Commission for disposition.

(c) *Section 1.962 Public notice of acceptance for filing.* We are amending paragraph (g) of this rule section to clarify that petitions to deny applications are filed with the Commission at its offices in Gettysburg, Pennsylvania. A minor editorial revision is also made to this paragraph.

(d) *Section 94.3 Definitions.* We are amending this rule section by adding three definitions that formerly appeared in Part 2 of the Commission's Rules (47 CFR 2.1). These three definitions were inadvertently removed from Part 2 by the *Second Report and Order* in General Docket No. 80–739, *1979 WARC Implementation,* 49 FR 2368 (January 19, 1984).

(e) *Section 94.51 Time in which station must be in operation.* We are amending the title and text of this rule section to conform it with Commission policy which requires that the station be placed and *maintained* in operation within 12 months from the date of grant. We are also clarifying that if the station is not in operation within the specified number of months from the date of grant, the authorization cancels automatically and must be returned to the Commission. We are also adding language to clarify that requests for extension of time to construct must be submitted to the Commission's offices in Gettysburg, Pennsylvania. A paragraph is also added to this rule section reiterating the construction period for Digital Termination Systems set out at §94.187.

(f) *Section 94.61 Applicability.* We are amending this rule section to correct typographical errors involving rule section numbers in paragraph (a). The correct text of this paragraph originally appears in the *Report and Order* in PR Docket No. 82–373, FCC 82–303, released July 9, 1982.

(g) *Section 94.63 Interference protection criteria for operational fixed stations.* We are amending this rule section to correct a typographical error in paragraph (d).

(h) *Section 94.67 Frequency tolerance.* We are amending this rule section to remove the reference to paragraph (a) since there is no paragraph (b).

(i) *Section 94.191 Frequency tolerance.* We are amending this rule section to correct typographical errors involving numerical values.

2. We conclude that the rule amendments set forth in the attached Appendix relate to agency practice and procedure or make minor, non-controversial changes which do not raise issues upon which public notice and comment would serve any useful purpose. Since these amendments clarify, correct or reiterate existing requirements, we believe that there is good cause for adoption of these rule amendments without affording prior notice and permitting public comment. Authority for this action is set forth in the Administrative Procedure Act codified at 5 U.S.C. 553(b). This Order is issued pursuant to § 1.412(b)(5) and (c) of the Commission's Rules.

3. Further, because these rule changes are essentially procedural in nature, and good cause having been shown, they will not be subject to the 30-day effective date provisions of the Administrative Procedure Act and, pursuant to the authority contained in § 1.427(b) of the Commission's Rules, 47 CFR 1.427(b), they will be made effective on the date of publication in the **Federal Register.**

4. The rules contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labelling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public. Additionally, no new compliance requirements are being imposed.

5. Accordingly, IT IS ORDERED, That effective February 18, 1986, Parts 1 and 94 of the Commission's Rules, 47 CFR Parts 1 and 94, ARE AMENDED as shown in the attached Appendix. Authority for this action is found in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303.

6. IT IS FURTHER ORDERED, That the Secretary shall cause a copy of this Order to be published in the **Federal Register.**

7. For further information about this action, contact Harold Salters or Mary Beth Hess of the Land Mobile and Microwave Division, Private Radio Bureau, FCC, Washington, DC 20554, at telephone (202) 632–7597 and (202) 634–2443, respectively.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 1 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

Subpart F—Private Radio Services Applications and Proceedings

1. Section 1.924 is amended by revising paragraph (b)(2)(ii) to read as follows:

§ 1.924 Assignment or transfer of control, voluntary and involuntary.

* * * * *

(b) * * *

(2) * * *

(ii) *FCC Form 402.* For assignment of station authorizations in the Private Operational-Fixed Microwave Service (Part 94 of this chapter). Attached thereto shall be an executed Form 1046 or a signed letter from proposed assignor stating the assignor's desire to assign the current authorization in accordance with the rules governing the particular service involved.

* * * * *

§ 1.953 [Amended]

2. Section 1.953 is amended by removing and reserving paragraph (b).

3. Section 1.962 is amended by revising paragraph (g) to read as follows:

§ 1.962 Public notice of acceptance for filing; petitions to deny applications of specified categories.

* * * * *

(g) Any party in interest may file with the Commission a petition to deny any application, whether as filed originally or as subsequently amended by a substantial amendment as defined in paragraph (c) of this section, subject to the provisions of this section, no later than 30 days after the date of the public

notice listing the application, or substantial amendment to the application, as having been accepted for filing. Such petition shall be filed with the Commission's offices in Gettysburg, Pennsylvania and shall be addressed to: Federal Communications Commission, Gettysburg, Pennsylvania 17325. A petitioner shall serve a copy of such petition on the applicant. A petition shall contain specific allegations of fact sufficient to make a prima facie showing that the petitioner is a party in interest and that a grant of the application would be inconsistent with the public interest, convenience and necessity. Such allegations of fact, except for those of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof.

* * * * *

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

The authority citation for Part 94 continues to read as follows:

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

1. Section 94.3 is amended by adding the following definitions in alphabetical order:

§ 94.3 Definitions.

* * * * *

Bit rate. The rate of transmission of information in binary (two state) form in bits per unit time.

* * * * *

Carrier. In a frequency stabilized system, the sinusoidal component of a modulated wave whose frequency is independent of the modulating wave; or the output of a transmitter when the modulating wave is made zero; or a wave generated at a point in the transmitting system and subsequently modulated by the signal; or a wave generated locally at the receiving terminal which, when combined with the side bands in a suitable detector, produces the modulating wave.

* * * * *

Digital modulation. The process by which some characteristic (frequency, phase, amplitude or combinations thereof) of a carrier frequency is varied in accordance with a digital signal, e.g., one consisting of coded pulses or states.

* * * * *

2. Section 94.27 is amended by revising paragraph (a)(5), redesignating paragraph (b) as paragraph (a)(6) and revising it as set forth below

§ 94.27 Application and standard forms.

(a) * * *

(5) New station authorization or modification of license for each master station of a system consisting of a master station and its associated remote stations.

(6) The Commission's consent to the assignment of an authorization to another person or entity. In addition, the application shall be accompanied by a signed letter from proposed assignor stating the desire to assign all right, title, and interest in and to such authorization, stating the call sign and location of the station, and that the assignor will submit its current station authorization for cancellation upon completion of the assignment. Form 1046 may be used in lieu of this letter. (See also § 94.47.)

(b) [Reserved]

* * * * *

3. Section 94.51 is revised to read as follows:

§ 94.51 Time in which station must be in operation.

(a) The station authorized must be in operation within 12 months from the date of grant or the authorization cancels automatically and must be returned to the Commission. Requests for extension may be granted upon a showing of good cause, setting forth in detail the applicant's reasons for failure to have the facility operating in the prescribed 12-month period. Such requests must be submitted no later than 30 days prior to the end of the 12-month period to the Commission's offices in Gettysburg, Pennsylvania and shall be addressed to: Federal Communications Commission, Gettysburg, Pennsylvania 17325. Stations authorized under § 94.93 must be in operation within 36 months from the date of grant or the authorization cancels automatically and must be returned to the Commission.

(b) Pursuant to § 94.187, Extended network stations in Digital Termination Systems have 60 months from date of grant to complete construction; Limited network stations have 30 months from date of grant to complete construction. For these stations, construction must be completed and the stations be ready for operation in the specified number of months or the authorizations cancel automatically and must be returned to the Commission.

§ 94.61 [Amended]

4. Section 94.61 is amended by changing the reference to "§ 94.65" in the first sentence of paragraph (a) to read "§ 94.45", and by changing the reference to "§ 94.95" in the second sentence of paragraph (a) to read "§ 94.65".

§ 94.63 [Amended]

5. Section 94.63(d)(1) is amended by changing the word "designed" to read "desired".

6. Section 94.67 is amended by removing the paragraph designator "(a)", adding a colon at the end of the introductory text, and revising it to read as follows:

§ 94.67 Frequency tolerance.

Stations in this service shall maintain the carrier frequency of each authorized transmitter to within the following percentage of the assigned frequency:

* * * * *

§ 94.191 [Amended]

7. Section 94.191 is amended by correcting numerical values in paragraph (b). The value "±0.0001%" is changed to "±0.001%", and the value "±0.0003%" is changed to "±0.003%".

[FR Doc. 86-941 Filed 1-17-86; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Parts 2 and 73

[MM Docket No. 85-125; FCC 85-659]

Review of Technical and Operational Regulations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this Report and Order, the Commission adopts rule changes to deregulate the technical and operational requirements for AM broadcast stations. Specifically, this Order will: (1) Remove performance standards for AM stereophonic transmission systems, (2) remove safety requirements for AM transmission systems, (3) reduce the requirements concerning the filing of antenna resistance measurement reports, and (4) remove rules only containing technical information.

EFFECTIVE DATE: February 18, 1986.

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

FOR FURTHER INFORMATION CONTACT: Michael A. Lewis, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Communications equipment;

47 CFR Part 73

Radio broadcasting.

Report and Order

(Proceeding Terminated)

In the matter of Review of Technical and Operational Regulations of Part 73, Subpart A, AM Broadcast Stations, MM Docket 85–125.

Adopted: December 20, 1985.
Released: January 10, 1986.

By the Commission.

Introduction

1. The Commission has under consideration a *Notice of Proposed Rule Making*[1] (*Notice*) and the resultant comments [2] concerning the deregulation of the technical and operational requirements for AM broadcast stations. The intent of this proceeding is to remove technical regulations which are no longer needed and to modify others, as appropriate, consistent with international agreements, without increasing the potential for interference. This *Report and Order* will address the issues raised by the *Notice* and terminate this proceeding.

Issues

2. The issues to be resolved in this proceeding are:

1. Should the technical quality standards for AM stereophonic transmission system be removed?
2. Should the FCC's safety and installation requirements for AM transmission systems be removed?
3. Should the requirements concerning antenna resistance measurement reports be relaxed?
4. Miscellaneous issues.

Issue 1: AM Stereophonic Transmission Standards

3. In the *Notice*, the Commission proposed to remove the technical "quality of service" standards for AM stereophonic transmissions. This proposal was based on our belief that areas such as technical signal quality are better set by the marketplace. Most commenters favored the Commission's proposal. In particular, Harris and RTT urged the Commission to remove the technical signal quality requirements because they impede development of new technologies and are unnecessary in the competitive environment of AM stereo. Motorola, however, argued that the service needs technical regulations for signal quality (i.e stereophonic noise, distortion, and separation levels) to foster AM stereo's development so that it may compete with FM stereo.

4. The Commission believes that there are marketplace incentives especially from the FM service, for AM broadcasters to deliver a signal of good technical quality. Therefore, we reject Motorola's contention that some of the Commission's technical standards should be retained. Thus, we will remove these rules as proposed. Consequently, certain modifications to the Commission's Rules dealing with the authorization of AM stereo exciters will also be made. These and all changes to the Rules are shown in the attached appendix.

Issue 2: the Need for Retaining Safety and Installation Requirements

5. The *Notice* proposed to remove the safety and installation requirements for AM transmission systems because we believe that these requirements are better regulated by other governmental agencies. Comments indicated support for this proposal. NAB, however, said it would be advantageous to retain these provisions as a standard of good engineering practice. Lahm's comments indicated a need for a reference to the applicable Federal rules for broadcasters.

6. Upon review, the Commission remains convinced that these requirements are no longer necessary and may be removed from our Rules. We reject the requests of NAB and Lahm because we believe that retention of workplace safety guidance sections in our Rules is inappropriate. Such information can be incorporated in other private or government publications. Finally, the proposal to allow AM stations to use property perimeter fencing in lieu of individual fences for each tower was supported by commenters and will be adopted as proposed. While we can rely upon other governmental agencies to protect employees at the broadcast station, we believe that a fencing requirement is necessary to protect the general public.

Issue 3: Antenna Resistance Measurements

7. The *Notice* proposed to reduce the amount of information to be submitted with antenna resistance measurement reports.[3] Lahm agreed with this proposal, stating that the Commission's informational needs could be satisfied with a general engineering statement containing the resistance value, the make, type and date of the last calibration of the equipment used to perform the measurement. We believe that this background information is unnecessary. The Commission needs only the resistance value. Thus, we will only require the filing of the resistance value at the operating frequency.

8. Commenters also supported the Commission's proposal to eliminate notifications of newly measured resistance values when the new values differ by less than two percent from the previously reported values. Commenters stated that the two percent figure is fully consistent with the tolerances afforded to measurement devices. The Commission agrees and thus, this proposal will be adopted.

9. The *Notice* also questioned whether the value of antenna resistance should be submitted if a direct reading power meter is used,[4] and whether the point of measurement of an antenna's power must be located at the base of the antenna. Lahm believed that the value of resistance is not needed when stations utilize direct reading power meters. However, he does believe that the Commission should require notification on the use of such devices and the station license should specify a direct reading instrument in lieu of the antenna's resistance. The Commission concurs with this assessment and thus, the Rules will be amended appropriately. Comments were supportive of the proposal to allow flexibility in the point of measurement of power. We will adopt this proposal because we believe licensees have the responsibility for maintaining their operating power within the appropriate limits. How licensees ensure this should be left to their discretion. Thus, the Rules will be amended appropriately.

Issue 4: Miscellaneous Issues

10. We will now address the remaining proposals of the *Notice* and also, those suggestions for Rule changes proposed in the comments which fall within the scope of this proceeding.

11. The Commission proposed to remove nonsubstantive rule sections on the basis that they are unnecessary to prevent interference. Most commenters, with the exception of NAB, agreed with the Commission's proposals. NAB called the Commission's Rules a good

---

[1] MM Docket 85–125, 50 Fed. Reg. 23150 (May 31, 1985).

[2] The following parties submitted comments in this proceedings: 1) The National Association of Broadcasters (NAB), 2) Karl D. Lahm, P.E. (Lahm), 3) Motorola Inc. (Motorola), 4) Radio Telecom and Technology (RTT), 5) The Society of Broadcast Engineers (SBE), and 6) The Harris Corporation, Broadcast Group, (Harris).

[3] The electrical property, resistance, is used to determine the operating power of an AM station by using the direct method of power determination. *See* § 73.51 of the Commission's Rules.

[4] *See* § 73.51 of the Commission's Rules.

repository of useful information, especially for the novice engineer. NAB further stated that when the Commission removes background information from its Rules, it intrinsically raises the level of knowledge necessary to interpret those rules which remain. The Commission believes that NAB's concern is unwarranted because the information that these rules contain is widely available in industry journals, including the *NAB Engineering Handbook*.[5] We thus reject the NAB's request to retain these rules. We also reject SBE's proposal that the Commission should either endorse or institute a certification program for engineers. We note that the Commission recently deregulated its transmitter operator licensing requirements and our reasons for doing so have not changed.[6]

12. The *Notice* proposed to remove a requirement that licensees using digital meters have a spare meter available. This requirement was promulgated when the accuracy of digital equipment was suspect. Because this concern no longer exists, we believe, as did the commenters, that this requirement should be removed. Also in regards to metering, it has come to the attention of the Commission that requirements for the proper metering to determine power by the indirect method is excessively burdensome for low power transmitters. Such transmitters (nominal power ratings of 100 watts or less) are commonly used as auxiliary transmitters or are only operated during pre-sunrise or post-sunset periods. Because low power auxiliary transmitters are operated for short periods of time, their potential for causing interference is minimal. Further, most of these transmitters contain metering which allows the direct reading of power. Therefore, we will remove the burden that auxiliary transmitters, with nominal power ratings of 100 watts or below, have the necessary metering to determine power by the indirect method provided that other means for monitoring antenna input power are available at all times.

13. Finally, Lahm's comments contained several suggestions for amendments to the Rules. Several of these were editorial in nature and shall be adopted. Lahm also suggested modifications to requirements for measuring harmonic radiation and also noted an apparent discrepancy between figures 7 and 8 of § 73.190 of our Rules. Upon review, we find that there is insufficient evidence to warrant the changes he proposed for harmonic radiation measurements. In regards to figures 7 and 8 of § 73.190, we note that these curves will be redrawn in the near future as a result of the proceeding implementing international agreements.[7] While we did not initially find the discrepancy that Lahm noted, further review of these curves will be done in that proceeding.

Final Regulatory Flexibility Analysis

I. Need and Purpose of This Action

The AM rules, in general, are some of the Commission's oldest regulations. They were written in the early years of AM broadcasting, and were intended to foster growth in the AM service. Since that time, the service has developed and its needs have changed. The purpose of this proceeding is to update such regulations to reflect this maturation, and thus, make them more responsive to the current needs of the AM broadcast service.

II. Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

None were submitted.

III. Significant Alternatives Considered and Rejected

Support for all the Commission's proposals was nearly unanimous. Some commenters suggested minor changes to the proposals and most were adopted. The only significant alternative submitted by commenters that was rejected by the Commission was the retention of audio performance measurements of AM stereo transmissions for a period of two years.

Paperwork Reduction Act Statement

14. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirement or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Actions

15. The Secretary shall cause a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, (1981)).

16. Accordingly, it is ordered, pursuant to the authority contained in Sections 4 and 303 of the Communications Act of 1934, as amended, that Part 73 of the Commission's Rules is Amended as set forth in the attached Appendix, effective February 18, 1986. It is further ordered that this proceeding is Terminated.

17. Further information on this proceeding may be obtained by contacting Michael A. Lewis, Mass Media Bureau, (202) 632–9660.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Chapter I, Title 47, Parts 2 and 73 of the Code of Federal Regulations are amended as follows:

1. The authority citation for 47 CFR Parts 2 and 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

PART 2—[AMENDED]

2. 47 CFR 2.977 is amended by revising paragraph (c)(1) to read as follows:

§ 2.977 Changes in notified equipment.

* * * * *

(c) * * *

(1) The interconnection of a type accepted AM broadcast stereophonic exciter-generator with a notified AM broadcast transmitter in accordance with the manufacturer's instructions and upon completion of measurements showing that the modified transmitter meets the emission limitations applicable thereto.

* * * * *

3. 47 CFR 2.983 is amended by revising paragraph (j) to read as follows:

§ 2.983 Application for type acceptance.

* * * * *

(j) An application for type acceptance of an AM broadcast stereophonic exciter-generator intended for interfacing with existing type-accepted or notified transmitters must include measurements made on a complete stereophonic transmitter. The instruction book required under paragraph (d)(8) of this section must include complete specifications and circuit requirements for interconnecting with existing transmitters. The instruction book must also provide a full description of the equipment and measurement procedures to monitor modulation and to verify that the

[5] National Association of Broadcasters, *Engineering Handbook* (7th ed.), (Washington, D.C.: National Association of Broadcasters, 1985).

[6] *See* the *Fourth Report and Order* in General Docket 20817, 46 FR 35450 (July 8, 1981).

[7] *See* the *Notice of Proposed Rule Making*, MM Docket 84–752, 49 Fed. Reg. 32876 (August 17, 1984).

combination of stereo exciter-generator and transmitter meet the emission limitations of § 73.44.

4. 47 CFR 2.1001 is amended by revising paragraph (g) to read as follows:

§ 2.1001 Changes in type accepted equipment.

* * * * *

(g) The interconnection of a type accepted AM broadcast stereophonic exciter-generator with a type accepted AM broadcast transmitter in accordance with the manufacturer's instructions and upon completion of measurements showing that the modified transmitter meets the emission limitation requirements of § 73.44 is defined as a Class I permissive change for compliance with this section.

PART 73—[AMENDED]

§ 73.40 [Removed]

5. 47 CFR 73.40, *AM transmission system performance requirements,* is removed in its entirety.

6. 47 CFR 73.45 is amended by revising paragraph (c)(1), and by removing and reserving paragraph (c)(2) to read as follows:

§ 73.45 AM antenna systems.

* * * * *

(c) * * *

(1) Whenever the measurements show that the antenna or common point resistance differs from that shown on the station authorization by more than 2%, FCC Form 302 must be filed in accordance with § 73.54. AM stations using direct reading power meters in accordance with § 73.51 need not submit antenna resistance measurements. Refer to § 73.54(e).

7. 47 CFR 73.49 revised in its entirety to read as follows:

§ 73.49 AM transmission system fencing requirements.

Antenna towers having radio frequency potential at the base (series fed, folded unipole, and insulated base antennas) must be enclosed within effective locked fences or other enclosures. Ready access must be provided to each antenna tower base for meter reading and maintenance purposes at all times. However, individual tower fences need not be installed if the towers are contained within a protective property fence.

§ 73.53 [Amended]

8. 47 CFR 73.53, *Requirements for authorization of antenna monitors,* is amended by removing paragraphs (b)(10) and (b)(12), and by redesignating paragraphs (b)(11), (b)(13), and (b)(14) as paragraphs (b)(10), (b)(11), and (b)(12) respectively.

9. 47 CFR 73.54 is amended by revising paragraphs (a) and (d), and by adding new paragraph (e) to read as follows:

§ 73.54 Antenna resistance and reactance measurements.

(a) The resistance of an omnidirectional series fed antenna is measured at either the base of the antenna without intervening coupling or tuning networks, or at the point the transmission line connects to the output terminals of the transmitter. The resistance of a shunt excited antenna may be measured at the point the radio frequency energy is transferred to the feed wire circuit or at the output terminals of the transmitter.

* * * * *

(d) Notification to determine power by the direct method in accordance with § 73.51 must specify the antenna or common point resistance at the operating frequency. Stations must also keep the following information on file at the station:

(1) A full description of the method used to make measurements.

(2) A schematic diagram showing clearly all components of coupling circuits, the point of resistance measurement, the location of the antenna ammeter, connections to and characteristics of all tower lighting isolation circuits, static drains, and any other fixtures connected to and supported by the antenna, including other antennas and associated networks. Any network or circuit component used to dissipate radio frequency power shall be specifically identified, and the impedances of all components which control the level of power dissipation, and the effective input resistance of the network must be indicated.

(e) AM stations using a direct reading power meter in accordance with § 73.51, can either submit the above information or submit a statement indicating that such a meter is being used. Subsequent station licenses will indicate the use of a direct reading power meter in lieu of the antenna resistance value in such a situation.

10. 47 CFR 73.58 is amended by revising paragraph (a) to read as follows:

§ 73.58 Indicating instruments.

(a) Each AM broadcast station must be equipped with indicating instruments which conform with the specifications described in § 73.1215 for determining power by the direct and indirect methods, and with such other instruments as are necessary for the proper adjustment, operation, and maintenance of the transmitting system. However, auxiliary transmitters with a nominal power rating of 100 watts or less are not required to be equipped with instruments to determine power by the indirect method provided that the licensee can determine the antenna input power at all times.

* * * * *

§ 73.128 [Amended]

11. 47 CFR 73.128 is amended by removing and reserving paragraphs (b)(2) and (c).

12. 47 CFR 73.150 is amended by adding new paragraph (a)(1) to read as follows:

§ 73.150 Directional antenna systems.

(a) * * *

(1) Parties submitting directional antenna patterns pursuant to this section and § 73.152 (Modified standard pattern) must submit patterns which are tabulated and plotted in units of millivolts per meter at 1 kilometer.

* * * * *

§ 73.181 [Removed]

13. 47 CFR 73.181, *Introduction to AM technical standards,* is removed in its entirety.

14. 47 CFR 73.186, *Establishments of effective field at one kilometer,* is amended by removing paragraphs (b)(8), (b)(9), and (b)(10); and by revising (b)(6) to read as follows inclusive.

§ 73.186 Establishments of effective field at one kilometer.

* * * * *

(b) * * *

* * * * *

(6) The antenna resistance at the operating frequency.

* * * * *

§ 73.188 [Removed]

15. 47 CFR 73.188, *Location of transmitters,* is removed in its entirety.

§ 73.189 [Amended]

16. 47 CFR 73.189, *Minimum antenna heights or field strength requirements,* is amended by removing paragraphs (b)(4), (b)(6), and (b)(9) and by redesignating paragraphs (b)(5), (b)(7), and (b)(8) as (b)(4), (b)(5), and (b)(6) respectively.

17. 47 CFR 73.1215 is amended by revising paragraph (e) to read as follows:

§ 73.1215 Specifications for indicating instruments.

* * * * *

(e) Digital meters, printers, or other numerical readout devices may be used in addition to or in lieu of indicating

instruments meeting the specifications of paragraphs (a), (b), (c), and (d) of this section. The readout of the device must include at least three digits and must indicate the value of the parameter being read to an accuracy of 2%. The multiplier, if any, to be applied to the reading of each parameter must be indicated at the operating position.

* * * * *

18. 47 CFR 73.1590 is amended by revising the introductory text of paragraph (b) and paragraph (b)(1), removing paragraph (b)(2) and redesignating paragraph (b)(3) as (b)(2) as follows:

§ 73.1590 Equipment performance measurements.

* * * * *

(b) *Spurious and harmonic emissions.*—(1) *AM stations.* Measurements once each calendar year to show compliance with § 73.44 under all conditions of modulation expected to be encountered by the station whether transmitting monophonic or stereophonic programs or providing subsidiary communications services.

* * * * *

19. The alphabetical index to 47 CFR Parts 70 to 79, is amended by removing the following entries:

AM transmission system installation and safety requirements	73.49
Installation and safety requirements, AM transmission systems	73.49
and, Safety and installation requirements, AM transmission systems	73.49

and also, by adding the following entry:

Fencing requirements, AM stations.....73.49.

[FR Doc. 86-944 Filed 1-17-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 63

[CC Docket No. 85-107]

International Competitive Carrier Policies

AGENCY: Federal Communications Commission.

ACTION: Corrections.

SUMMARY: This action corrects the text of the Report and Order in International Competitive Carrier Policies, 50 FR 48191, November 22, 1985.

FOR FURTHER INFORMATION CONTACT: Len Kennedy, Federal Communications Commission, Common Carrier Bureau (202) 632-4047.

Erratum

In the matter of International Competitive Carrier Policies, CC Docket No. 85-107.
Released: January 9, 1986.

The Report and Order released on November 15, 1985 (FCC 85-585), 50 FR 48191, November 22, 1985 is corrected as follows:

1. Footnote 11, 50 FR 48193, is corrected to read: "ARINC, however, argued that we should defer adoption of the tentative conclusions in the NPRM until non-carriers are permitted to obtain satellite services directly from Comsat and to acquire Indefeasible Rights of User in submarine cable facilities."

2. The first sentence of footnote 19, 50 FR 48194, is corrected to read: "We do not believe, as ARINC argues, that it is necessary to delay streamlining until non-carriers have the opportunity to obtain satellite services directly from Comsat, the ability to acquire IRU interests in cable circuits and the right to purchase whole circuits in submarine cables. . . ."

3. The sixth sentence in paragraph 85, 50 FR 48202, is corrected to read: "The only exception to these general findings are foreign owned carriers who are dominant for all services to all countries."

4. Paragraph 97, 50 FR 48203, is added to the Report and Order and reads as follows: "The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act."

5. In paragraph 91, 50 FR 48203, "§ 63.09" is corrected to read "§ 63.10."

§ 63.10 [Correctly designated]

6. In Appendix A, 50 FR 48203, § 63.09 is correctly designated as § 63.10.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 86-817 Filed 1-17-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 67

[CC Docket No. 78-72; CC Docket No. 80-286; FCC 86-6]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: Decision and Order.

SUMMARY: The Federal Communications Commission adopts the Federal-State Joint Board's recommendations concerning: (1) The jurisdictional separations and access charge treatment of Centrex/CO service; (2) direct assignment of closed end WATS access line costs and the allocation of toll terminal line costs; (3) expansion of the customer premises equipment (CPE) phase-out to include additional CPE-related costs; (4) separations treatment of coinless public telephones; and (5) separations procedures for terminal equipment used by telephone companies in their internal business operations. The Commission adopted the separations and access charge provisions recommended by the Joint Board because they will produce a cost based jurisdictional allocation and recovery of these costs. Implementation of separations procedures and access charge provisions which reflect cost causation principles will promote efficient use of the telephone network.

EFFECTIVE DATE: February 20, 1986.

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

FOR FURTHER INFORMATION CONTACT: David Siddall, Common Carrier Bureau (202) 632-0745.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 67

Jurisdictional separations, Access charges, Communications common carriers.

Decision and Order

In the Matter of MTS and WATS Market Structure; Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board; CC Docket No. 78-72, CC Docket No. 80-286.

Adopted: January 3, 1986.
Released: January 7, 1986.

By the Commission.

I. Introduction

A. Summary

1. We have decided to adopt the Federal-State Joint Board's recommendations of July 12, 1985 concerning the separations treatment of equal access and network reconfiguration costs.[1] We also adopt, as our own, the Joint Board's reasoning in support of its recommendations.

[1] *Recommended Decision and Order, MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-286, 50 FR 47765 (November 20, 1985).

B. Background

2. The requirement that the Bell Operating Companies (BOCs) implement equal access [2] stems from the *Modification of Final Judgment (MFJ)* in *United States v. American Telephone and Telegraph Company (AT&T)*.[3] GTE Corporation (GTE) is required to implement equal access pursuant to a separate consent decree which it entered into with the Department of Justice in 1984 to settle an antitrust challenge to its acquisition of Southern Pacific Company's long distance subsidiary (now GTE Sprint).[4] The other independent telephone companies are required to implement equal access under certain circumstances pursuant to a Commission *Order*.[5] Network reconfiguration costs stem from the need to reconfigure the telephone network to conform to the Local Access and Transport Area (LATA) boundaries prescribed by the court in the *MFJ* to define the area within which the BOCs may provide telephone service. GTE is required to conform its service areas to requirements in the consent decree applicable to it.

II. Joint Board Recommendation

3. On April 11, 1984, the Joint Board issued an *Order Inviting Comments* on a number of separations issues, including the allocation of equal access and network reconfiguration costs.[6] In its request for comments, the Joint Board expressed concern that existing separations procedures might result in an excessive allocation of equal access costs to the state jurisdiction. Under the current separations procedures, equal access costs are included in plant and expense categories that are apportioned based on relative usage, including local exchange traffic, although the equal access capability will be used exclusively for interexchange services. The Joint Board also suggested that new separations procedures might be necessary for network reconfiguration costs. Subsequently, on March 25, 1985, the Joint Board requested additional comments. Among other things, interested parties were asked to comment on the definition of and appropriate separations treatment for equal access and network reconfiguration costs.[7] In addition, the Joint Board requested information concerning projected investment, expenses and revenue requirements for equal access and network reconfiguration.

4. On July 12, 1985, the Joint Board adopted recommendations concerning the separations treatment of equal access and network reconfiguration costs.[8] It proposed that this Commission define equal access costs for separations purposes to include only initial incremental presubscription costs, [9] and initial incremental expenditures for hardware and software directly related to the provision of equal access which would not be required to upgrade the switching capabilities of the office involved absent the provision of equal access. The Joint Board also recommended that this Commission limit the equal access category to the cost of converting offices which serve competitive interexchange carriers or the cost of converting offices in response to a bona fide request for conversion to equal access. In addition, it recommended that this Commission exclude the following costs from the equal access cost category: (1) Tandem switches that provide a connection for equal access traffic; (2) the financial cost of advancing construction projects in order to implement equal access; (3) ongoing or continuing software maintenance costs related to the new software generic (although the cost of the two year initial warranty would be included); (4) certain administrative costs; and (5) expenses incurred prior to January 1, 1984, the date of divestiture.

5. The Joint Board recommended that this Commission allocate equal access costs, defined pursuant to its recommendation, based on relative state and interstate equal access traffic. The Joint Board also recommended that this Commission adopt accounting procedures to provide for the recovery of equal access costs over a substantial period of time to ensure that current subscribers do not bear a disproportionate amount of these costs.[10] It also recommended application of the proposed procedures for separating equal access costs to the independent telephone companies as well as the BOCs. In addition, the Joint Board recommended that network reconfiguration costs continue to be allocated pursuant to existing separations procedures.

III. Discussion

A. Equal Access

6. We join in the Joint Board's conclusion that the existing separations procedures will result in an excessive allocation of equal access costs to the state jurisdiction. We therefore adopt the Joint Board's recommendations concerning the separations treatment of equal access costs, [11] and its reasoning in support of them. We are adopting the Joint Board's definition of equal access costs. We also endorse the Joint Board's recommendation that any ongoing cost associated with equal access be allocated pursuant to normal separations procedures for the account in which they are recorded.[12]

7. The definition proposed by the Joint Board distinguishes between expenditures which generally upgrade the local network, benefitting all services and other expenditures which are required to implement equal access, but would not be required to upgrade the local network absent the provision of equal access. We agree with the Joint Board's conclusion that expenditures which generally upgrade the local

---

[2] Implementation of equal access involves changes to the local telephone network in order to allow competitive interexchange carriers to obtain access to the local exchange which is similar to that provided to AT&T.

[3] *United States v. AT&T*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983).

[4] *United States v. GTE Corp.*, 603 F. Supp. 730 (D.D.C. 1984).

[5] *Report and Order, MTS and WATS Market Structure*, CC Docket No. 78-72, Phase III, 100 F.C.C. 2d 860 (1985).

[6] *Order Inviting Comments*, CC Docket Nos. 78-72 and 80-286, 49 FR 18746 (May 2, 1984).

[7] *Recommended Interim Order and Request for Comments*, CC Docket Nos. 78-72 and 80-286, 50 FR 14729 (April 15, 1985).

[8] *Recommended Decision and Order*, CC Docket Nos. 78-72 and 80-286, 50 FR 47765 (November 20, 1985).

[9] Under this approach, only initial presubscription costs associated with conversion of end offices to equal access would be included in the equal access cost category. Subsequent presubscription costs would be separated pursuant to the procedures for the account in which they are recorded. The Joint Board recently recommended revised separations procedures for Account 645, Local Commercial Operations, which includes most presubscription costs. *Recommended Decision and Order*, CC Docket Nos. 78-72 and 80-286, FCC 285-611, released November 15, 1985.

[10] We recently adopted accounting procedures for equal access, *see Memorandum Opinion and Order*, In the Matter of Petitions for Recovery of Equal Access and Network Reconfiguration Costs, F.C.C. 85-628 (adopted November 27, 1985).

[11] The BOCs have implemented tariff provisions to recover equal access costs. An accounting order was imposed on each carrier filing separate equal access cost recovery elements. The issues raised by these tariff filings will be addressed in CC Docket No. 85-93. *See Order, New England and New York Telephone Companies*, Mimeo No. 2636, released February 20, 1985; *Order, Chesapeake and Potomac Company of Pennsylvania*; Mimeo No. 3375, released April 3, 1985; *Order, Southern Bell and South Central Bell Telephone Companies*, Mimeo No. 5016, released June 11, 1985; *Order, Mountain Bell Telephone Company*, Mimeo No. 5548, released July 3, 1985; *Order, Southwestern Bell Telephone Company*, Mimeo No. 6158, released August 6, 1985; and *Memorandum Opinion and Order, Petitions for Waiver Concerning 1985 Annual Access Tariff Filings*, Mimeo No. 5007, released June 7, 1985.

[12] These costs should be relatively minor in comparison with the initial cost of implementing equal access, and it would be extremely difficult to identify an appropriate portion of ongoing local exchange costs as required solely for equal access purposes.

network should continue to be allocated pursuant to the existing separations procedures which recognize the relative state and interstate benefits of such improvements. Expenditures which are required to implement equal access, but which would not be required to upgrade the local network absent the provision of equal access should be allocated pursuant to revised procedures. We recognize that this definition of equal access costs differs from that adopted by the District Court for purposes of the guarantee clause [13] in the *MFJ*.[14] However, a definition of equal access costs which produces reasonable results under the guarantee clause may not work well for separations purposes.[15]

8. We also adopt, as our own, the Joint Board's discussion of the application of its proposed definition of equal access costs to particular areas which were subject to dispute in the comments. In this regard, the Joint Board noted that the replacement of existing switches with more modern equipment will be required to implement equal access in certain cases. The Joint Board emphasized that only initial incremental hardware expenditures necessitated by the provision of equal access which would not be required to improve the office's switching capabilities absent equal access would qualify as equal access capital costs. The Joint Board also stated that advancement costs associated with accelerating the schedule for upgrading local switches should be excluded from the equal access category in part, because advancing the date for upgrading the local switch will benefit all services. In addition, the Joint Board stated that the cost of new tandem switches installed to implement equal access should be allocated pursuant to existing separations procedures. These switches will handle other toll and local traffic as well as equal access traffic, and usage of these facilities is reflected in the currently applicable separations procedures.

9. The Joint Board stated that the equal access cost category should include only the initial incremental cost of software related directly to the provision of equal access which would not be required to upgrade the switching capabilities of the local office absent the provision of equal access. The Joint Board concluded that a corresponding portion of the initial two-year software warranty should also be included in the equal access category to reflect the cost of resolving any major software problems associated with the equal access feature. However, it stated that ongoing annual payments for a general software maintenance contract should be excluded from this category because they are not sufficiently related to the initial implementation of equal access.

10. The Joint Board also stated that initial incremental administrative costs incurred by the exchange carriers related solely to implementation of equal access should be included in the equal access category. It stated that this would include the salaries, pensions, payroll taxes and other directly associated personnel costs for employees working exclusively or primarily on the implementation of equal access. The Joint Board recommended that the Commission exclude from the equal access category other administrative costs, for example, office space and equipment, as well as salaries for employees not working primarily on the implementation of equal access.[16] It concluded that these costs are primarily related to ongoing operations rather than the implementation of equal access. In addition, the Joint Board recommended exclusion of costs related to equal access incurred by the BOCs prior to divestiture, stating that these costs should already have been recovered pursuant to the pre-existing separations and cost recovery procedures.

11. Interpretation of the equal access cost definition as described by the Joint Board will properly distinguish between expenditures that will benefit all services and those related to the initial conversion to equal access which would not otherwise be required to upgrade the local network.

12. As previously stated, we agree with the Joint Board's conclusion that equal access costs, as defined by the Joint Board, should be allocated based on relative state and interstate equal access traffic including interstate interLATA equal access traffic, BOC interstate corridor toll traffic, intrastate interLATA equal access traffic, and AT&T and OCC intraLATA equal access usage. Local exchange and BOC intraLATA toll traffic would be excluded. As recommended by the Joint Board, we endorse measurement of this traffic based on billed equal access minutes since the BOCs will already have this information. Although this approach will result in a relatively high interstate assignment of these costs, we agree with the Joint Board's conclusion that allocating equal access costs based on relative equal access traffic is reasonable given the restricted definition we are adopting which excludes expenditures which generally upgrade the local network, even if they would not have been incurred at this time absent the implementation of equal access.

3. Independent Telephone Companies

13. We also adopt the Joint Board's recommendatioln that the revised separations procedures for equal access costs apply to GTE and the remaining independents as well as the BOCs. The rationale for adoption of these procedures applies equally to all of the local exchange carriers. In the case of the independent telephone companies, relative equal access usage will be calculated excluding intrastate toll service provided by the independent local exchange company, but including all toll service provided by long distance carriers affiliated with the local exchange company.

B. Network Reconfiguration

14. We agree with the Joint Board's conclusion that network reconfiguration costs should continue to be allocated pursuant to existing separations procedures. These expenditures should benefit the telecommunications industry and consumers through the development of a more efficient and competitive market. The facilities also are used in the provision of all services including local exchange, and intrastate toll,

[13] Under the *MFJ*, AT&T is required to reimburse the BOCs for certain costs associated with implementation of equal access if the BOCs are unable to recover these costs through their tariffed rates. *United States* v. *AT&T*, 569 F. Supp. 1057 at 1068, 1126 (D.D.C. 1983).

[14] The District Court issued an *Opinion* on September 4, 1985 resolving a number of issues concerning the costs to be covered by the guarantee clause. *United States* v. *AT&T*, Civil Action No. 82-0192, order entered September 4, 1985 (D.D.C.).

[15] The Ameritech Operating Companies (Ameritech) filed a letter with the Commission subsequent to adoption of the Joint Board recommendation requesting that the Joint Board and the Commission use the District Court's definition of equal access costs. Letter to Ronald Choura, Chairman, Federal-State Joint Board Staff and William J. Tricarico, Secretary, Federal Communications Commission, from Thomas J. Reiman, Vice President and General Counsel, Ameritech, dated September 27, 1985. We do not intend to consider this filing. However, Ameritech is free to seek reconsideration of our decision adopting the Joint Board's recommendations.

[16] We wish to clarify, however, that the statement that administrative costs allowed in the equal access category are to include only the salaries of personnel working exclusively or primarily on the implementation of equal access does not apply to the salaries of technicians or workmen and their immediate supervisors who install the new hardware and software or perform other similar functions required for implementation of equal access. Salaries for these personnel as well as related pensions, payroll taxes, and other directly associated personnel costs will be included in the equal access cost category to the extent that they perform functions related to the implementation of equal access which would not be required to upgrade the office involved absent the implementation of equal access.

service. Application of the existing separations procedures will result in an allocation of these costs which is consistent with their usage for state and interstate services.

IV. Regulatory Flexibility Certification

15. We hereby certify that the Regulatory Flexibility Act is not applicable to the rules we are adopting in this proceeding. Although some local exchange carriers are very small, local telephone companies do not appear to fall within the Regulatory Flexibility Act's definition of a "small entity." The Act incorporates the definition of a "small business" in Section 3 of the Small Business Act as the definition of a "small entity." This later definition excludes any business that is dominant in its field of operation. Exchange carriers, even when small, enjoy a dominant monopoly position in their local service area. The Commission has found all exchange carriers, as well as AT&T, to be dominant in the *Competitive Carrier* proceeding.[17] To the extent that other interexchange carriers may be affected by these rules, we hereby certify that these rules will not have a significant economic effect on a substantial number of small entities.

V. Ordering Clauses

16. Accordingly, It is ordered, That the Joint Board's recommendations concerning the separations treatment of equal access and network reconfiguration costs, and their reasoning in support of these recommendations, as expanded and clarified herein, are adopted.

17. It is further ordered, That the revisions to Part 67 of the Commission's Rules contained in Appendix are adopted, effective February 20, 1986.[18]

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: Secs. 4 (i) and (j), 221 and 410 of the Communications Act, as amended, 47 U.S.C. 154 (i) and (j), 221 and 410.

2. Add the following new centerheading and § 67.193 to Subpart B

Equal Access Equipment

§ 67.193 Equal access expenses.

(a) Equal access investment includes only initial incremental expenditures for hardware and other equipment related directly to the provision of equal access which would not be required to upgrade the capabilities of the office involved absent the provision of equal access. Equal access investment is limited to such expenditures for converting central offices which serve competitive interexchange carriers or offices for which there has been a bona fide request for conversion to equal access.

(b) Equal access investment is first segregated from all other amounts in the primary accounts.

(c) The equal access investment determined in this manner is allocated between the jurisdictions on the basis of relative state and interstate equal access traffic including interstate intraLATA equal access traffic, intrastate interLATA equal access traffic, and BOC interstate corridor toll traffic as well as AT&T and OCC intraLATA equal access usage. Local exchange traffic and BOC intraLATA toll traffic are excluded. In the case of independent telephone companies, intrastate toll service provided by the independent local exchange company is excluded in determining intrastate usage, but intrastate toll service provided by long distance carriers affiliated with the local exchange company is included.

3. Add the following new centerheading and § 67.421 to Subpart D:

Equal Access Expenses

§ 67.421 Equal access expenses.

(a) Equal access expenses include only initial incremental presubscription costs, and other initial incremental expenditures related directly to the provision of equal access, which would not be required to upgrade the capabilities of the office involved absent the provision of equal access. Equal access expenses are limited to such expenditures for converting central offices which serve competitive interexchange carriers or offices for which there has been a bona fide request for conversion to equal access.

(b) Equal access expenses are first segregated from all other expenses in the primary accounts.

(c) Equal access expenses are allocated between the jurisdictions on the same basis as equal access investment.

4. Add the following definition alphabetically to § 67.701—Glossary:

Equal access costs—include only initial incremental presubscription costs and initial incremental expenditures for hardware and software related directly to the provision of equal access which would not be required to upgrade the switching capabilities of the office involved absent the provision of equal access.

[FR Doc. 86-682 Filed 1-17-86; 8:45 am]
BILLING CODE 6712-01-M

[17] *First Report and Order, Policy and Rules Concerning Rates and Facilities Authorizations for Competitive Carrier Services.* CC Docket No. 79-252, 85 FCC 2d 1, 23-24 (1980).

[18] This action is taken pursuant to sections 4 (i) and (j), 221 and 410 of the Communications Act, as amended, 47 U.S.C. 154 (i) and (j), 221 and 410.

---

47 CFR Part 73

[MM Docket No. 85-200; RM-4943]

FM Broadcast Station in Key West and Hialeah, FL; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This item corrects paragraph 4 of the *Report and Order* in MM Docket 85-200, RM-4943, to include Channel 228A at Key West, Florida.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio.

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.

Erratum

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Key West and Hialeah, Florida), MM Docket 85-200, RM-4943.

Released: January 9, 1986.

By the Chief, Policy and Rules Division:

1. On October 21, 1985, the Commission released the *Report and Order* 50 FR 43393, published October 25, 1985, in the above proceeding, substituting Channel 223C1 for Channel 222 at Key West and Channel 222C2 for Channel 221A at Hialeah, Florida. Paragraph 4 of the *Report and Order* failed to list Channel 228A as being allotted to Key West and is corrected as set forth below.

§ 73.202 [Corrected]

Accordingly, 47 CFR 73.202(b) is correctly amended by revising the listing for Key West, Florida, to read as follows:

City	Channel No.
Key West, Florida	223C1, 228A, 254, 258, 296A, and 300C1.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-818 Filed 1-17-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 85-23; FCC 86-9]

Rules to Implement the Final Acts of the World Administrative Radio Conference, Geneva, 1979

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts rules adding the 47.0–47.2 GHz, 76–81 GHz, 119.98–120.02 GHz and 142–149 GHz frequency bands to the Amateur service and removing the 1215–1240 MHz 48–50 GHz, 71–75.5 GHz, 165–170 GHz and 240–241 GHz frequency bands from the Amateur service. It also changes many Interrelationships between the Amateur service and other radio services. These changes are made in order to implement the Final Acts of the World Administrative Radio Conference, Geneva, 1979, which comprise an international treaty and which were ratified by the United States on September 6, 1983.

EFFECTIVE DATE: March 1, 1986.

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

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau Washington, D.C. 20554. (202) 632–4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Amateur radio, Radio, Satellites, Treaties.

Report and Order

In the matter of Amendment of Part 97 of the Commission's Rules to Implement the Final Acts of the World Administrative Radio Conference, Geneva, 1979; PR Docket No. 85–23.

Adopted: January 3, 1986.
Released: January 10, 1986.

By the Commission.

Background

1. In the *Notice of Proposed Rule Making* which initiated this proceeding, 50 FR 5797, February 12, 1985, we proposed to conform the rules in the Amateur Radio Service, 47 CFR Part 97, to the changes we made to the Table of Frequency Allocations, 47 CFR 2.106, as a result of the Final Acts of the 1979 World Administrative Radio Conference (1979 WARC). These proposals were in addition to those considered in PR Docket No. 84–960.

2. A Petition for Rule Making filed jointly by the Radio Amateur Satellite Corporation (AMSAT) and the American Radio Relay League (ARRL) on November 28, 1984, requested that we add spectrum to the Amateur-Satellite Service as a result of the 1979 WARC. This petition has been incorporated into this docket.

3. On March 14, 1985, the ARRL filed a Petition for Partial Reconsideration of the *Notice of Proposed Rule Making* in this docket. A Petition for Reconsideration does not properly lie against a Notice of Proposed Rule Making. Section 1.429(a) of our rules states in pertinent part: "Any interested person may petition for reconsideration of a final action in a proceeding conducted under this subpart (see §§ 1.407 and 1.425)." A Notice of Proposed Rule Making does not constitute a final action in a rule making proceeding. Therefore, it may not be the subject of a petition for reconsideration. We will, however, consider the substance of this petition as a timely filed comment in this proceeding.

4. The comment period in this proceeding ran from the date of release of the *Notice of Proposed Rule Making* (January 31, 1985) through April 8, 1985. During this period we received timely filed comments from the National Academy of Sciences and and from the National Radio Astronomy Observatory.

5. On April 9, 1985, we received late-filed Comments from the ARRL accompanied by a Motion for Acceptance of Late-Filed Comments. Because of the importance of this proceeding to the amateur community and because the ARRL represents a large amateur constituency that deserves to be heard in this matter, we find that it is in the public interest and will best conduce to the dispatch of Commission business to accept the ARRL's Comments.

6. Reply Comments were filed by the Southern California Amateur Television Community (ATV), the Southern California Repeater and Remote Base Association (SCRRBA), the Pasadena Tournament of Roses, the Riverside County Chapter of the American Red Cross and the City of Loma Linda, California. Each of the reply comments was concerned primarily with the use of the 420–450 MHz band for amateur television.

Discussion

7. *Categories of services.* In the proposed rules we sought to delineate the relationship of the Amateur service to other services through the use of specific limitations. We made this proposal in order to fully inform amateur operators of their rights and responsibilities relative to other services. Our proposed limitations did not generally distinguish between the domestic and international Tables of Allocation, except with reference to ITU (International Telecommunication Union) Radio Regulation 346 (Geneva, 1979). It appears, after reviewing the comments, that this additional distinction must be made where appropriate to avoid confusion.

8. We also attempted to sort out the complicated relationships of co-secondary stations with one another. We found that this caused the commenters to confuse the language we used to define co-primary stations with language we used to define co-secondary stations. Thus we believe that the complicated relationships between co-secondary stations as defined in each limitation must be made more specific.

9. Where the operation of a station in the Amateur service in a particular frequency band is secondary to the operation of a station in a primary service in the United States, we have added a limitation that stations in the Amateur service in that band must not cause harmful interference to and are not protected from interference due to the operation of stations in the primary service in the United States in that band. Where the operation of a station in the Amateur service in a particular frequency band is secondary to the operation of a station in a primary service outside the United States, we have added a limitation that stations in the Amateur service in that band must not cause harmful interference to and are not protected from interference due to the operation of stations in the primary service authorized by other nations in that band. (See ITU Radio Regulations 421 and 422 (Geneva, 1979).)

10. Where the operation of a station in the Amateur service in a particular frequency band is co-primary with the operation of a station in another primary service in the United States, we proposed to add a limitation stating that

stations in the Amateur service must not cause harmful interference to stations in the other primary service. In its comments the ARRL objected to this language in several instances, on the ground that it relegated the Amateur service to secondary status. The principle which applies is the equality of right to operate: stations in neither service may cause harmful interference to stations in the other service. Thus in the final rules we will state this principle in the appropriate limitations.

11. When the Amateur service is the primary allocation and other services are secondary, we have chosen not to state the spectrum rights or operating limitations of other services relative to the Amateur service. The amateur rules define the privileges of amateur operators. They need not include operating restfictions on other services.

12. When the Amateur service is co-secondary with another service in the United States in a particular frequency band, we will simply state this rather than to attempt to codify all the possible interrelationships between co-secondary stations in each limitation. When the Amateur service is co-primary or co-secondary with another service outside the United States, we have added new Limitation 3 modeled after ITU Radio Regulation 346 (Geneva, 1979). This limitation corresponds to old Limitation 1 in § 97.7 of the Amateur Rules. The bands to which we have added this limitation, and the reasons therefor, are as follows:

(a) *1800–2000 kHz:* The fixed and mobile (except aeronautical mobile) and radionavigation services are allocated on a co-primary basis with the Amateur service in ITU Region 2 at 1850–2000 kHz and throughout the 1800–2000 kHz band in Region 3. Also the radiolocation service is allocated on a primary basis in Region 1 at 1800–1810 kHz. Additionally, the fixed and mobile (except aeronautical mobile) services are allocated on a primary basis in Region 1 at 1850–2000 kHz.

(b) *3500–3700 kHz:* This band is allocated to the fixed and mobile services on a co-primary basis with the Amateur service in Regions 1 and 3.

(c) *50–54 MHz:* This band is allocated to the broadcasting service on a primary basis in Region 1.

(d) *146–148 MHz:* This band is allocated to the fixed and mobile (except aeronautical mobile) services in Region 1 on a co-primary basis and to the fixed and mobile services on a co-primary basis with the amateur service in Region 3.

(e) *220–225 MHz:* This band is allocated to the broadcasting service on a primary basis in Region 1; to the fixed, mobile and broadcasting services on a co-primary basis in Region 3; and to the fixed and mobile services on a co-primary basis with the Amateur service in Region 2. Also, the 223–225 MHz band is allocated to the aeronautical radionavigation service on a co-primary basis in Region 3.

(f) *420–450 MHz:* The 420–430 MHz and 440–450 MHz bands are allocated to the radiolocation service on a secondary basis in all ITU Regions.

(g) *2300–2310 MHz and 2390–2450 MHz:* Both of these bands are allocated to the mobile and radiolocation services on a co-secondary basis in Region 1.

(h) *3.3–3.5 GHz:* The 3.3–3.4 GHz band is allocated to the fixed and mobile services on a co-secondary basis in Region 2. The 3.4–3.5 GHz band is allocated to the mobile and radiolocation services on a co-secondary basis in all ITU Regions.

(i) *5.650–5.925 GHz:* The 5.650–5.725 GHz band is allocated to the space research (deep space) service on a co-secondary basis with the Amateur service in all ITU Regions. The 5.850–5.925 GHz band is allocated to the radiolocation service on a co-secondary basis with the Amateur service in Region 2 and on a secondary basis in Region 3.

(j) *24.00–24.25 GHz:* The 24.05–24.25 GHz band is allocated to the Earth exploration-satellite (active) service on a co-secondary basis with the Amateur service in all ITU Regions.

13. *Emissions.* Proposed Limitation 11 read: "The use of A3E, F3E and G3E in this band is limited to Amateur radio stations located outside Region 2." The ARRL commented that this Limitation would "inadvertently permit the use of J3E, R3E and H3E emissions by Amateur stations in Region 2." However, our current rules (§§ 97.61(a) and 97.61(b)(3)) expressly permit the use of these emissions in twenty-one different bands in the emissions table. We do not now have any prohibition against using these emissions in Region 2. Thus the limitation will be adopted substantially as proposed.

14. Similarly the ARRL commented that proposed "Limitation 15 (§ 97.61(b)(15)) should include the phrase, 'where A3E, F3E, and G3E are permitted.' " This would be a substantive change from not only the proposal but also from our present rules. Current § 97.61(b)(3) contains the relevant limitation which states: "J3E, R3E and H3E emissions may also be used." No condition is currently placed on the use of these emissions which would confine them to where A3E, F3E and G3E are permitted. The ARRL advances no reason why such a condition should now be placed upon them. Accordingly we will adopt the limitation substantially as proposed.

15. The ARRL commented that the "emissions designators listed in the Appendix to the *Notice* are incomplete." The ARRL's sole statement in support of this contention was that: "This problem has been brought to the Commission's attention separately, in comments filed in connection with Docket 80–739." We have examined General Docket No. 80–739 and found no pleading by the ARRL which propounded allegations of incomplete emissions designators in the Amateur service. Thus, it is unclear what the ARRL sought. In any event, this proceeding is for the purpose of implementing the allocation of additional spectrum to the Amateur service as a result of the 1979 WARC. Comments of the ARRL on the overall emissions designation scheme in the Amateur service are not within the scope of this proceeding, and we will take no action upon them.

16. *Radiolocation.* One effect of the 1979 WARC upon the Amateur service is that many of the amateur bands are now shared, particularly with the radiolocation service. Some amateur bands also became secondary to the Government radiolocation service. Old Limitation 3 to § 97.7 (§ 97.7(b)(3)) did not fully explain amateur operator rights and responsibilities in instances where amateur operation is secondary to Government radiolocation operation. We have expanded old Limitation 3 to be new Limitation 5 to § 97.7 (§ 97.7(g)((5)) and thereby included the substance of ITU Radio Regulation 422 (Geneva, 1979) which provides that stations of a secondary service may not claim protection from harmful interference from stations of a primary service.

17. We have appended Limitation 5 to the 420–450 MHz, 902–928 MHz, 1240–1300 MHz, 2300–2310 MHz, 2390–2450 MHz, 3.3–3.5 GHz, 5.650–5.925 GHz, 10.0–10.5 GHz, 24.05–24.25 GHz, 76–81 GHz, 144–149 GHz and 241–248 GHz bands because these bands are allocated to the Amateur service secondary to the operation of Government radiolocation stations. We have also applied Limitation 5 to the 1900–2000 kHz band because, while it has been allocated to the radiolocation services on a primary basis in the United States, secondary amateur operation is permitted pursuant to Footnote US290 to the Table of Allocations. Additionally, we have added Limitation 5 to the 220–225 MHz band. This reflects the secondary status of the Amateur service and all other

services in this band to U.S. military radiolocation uses until January 1, 1990, pursuant to ITU Radio Regulation 627 (Geneva, 1979) and Footnote US243 to the Table of Allocations.

18. We have also added new Limitation 21 to the 1900–2000 kHz, 10.45–10.50 GHz, 76–81 GHz, 144–149 GHz and 241–248 GHz frequency bands to reflect the secondary status of the Amateur service to the non-Government radiolocation service in these bands. This limitation is required in the 1900–2000 kHz band because, as stated above, the only primary services in this band according to the domestic Table of Allocations are the Government and non-government radiolocation services. While amateur operations may continue in this band, they may do so only on a secondary basis pursuant to Footnote US290.

19. The ARRL maintained in its comments that to add this limitation to the 1900–2000 kHz band is premature and would prejudge the outcome of PR Docket No. 84–874. This argument is now moot. By *Report and Order* in PR Docket No. 84–874, 50 FR 46048, November 6, 1985, we amended the Part 97 amateur rules to make amateur operation in this band secondary to radiolocation operation.

20. We also note that in its Petition for Partial Reconsideration the ARRL contended that the 10.0–10.5 GHz and 24.05–24.25 GHz frequency bands should not have been modified by proposed Limitation 1. The ARRL argued that this made them secondary to the non-government radiolocation service. To avoid this implication, instead of proposed Limitation 1 we have added Limitation 31 to the 10.0–10.5 GHz band and Limitation 24 to the 24.05–24.25 GHz band to indicate their co-secondary status with the non-government radiolocation service.

21. We have added a new Limitation 22 to clarify that certain amateur operations are secondary to radiolocation transmissions authorized by other nations. We have placed new Limitation 22 upon the 1240–1300 MHz, 10.0–10.5 GHz, 24.05–24.25 GHz, 76–81 GHz, 144–149 GHz and 241–248 GHz frequency bands. Additionally, the Amateur service no longer shares the 24.00–24.05 GHz frequency band with the Government radiolocation service. Accordingly, we have deleted former Limitation 3 from this spectrum.

22. *Amateur-Satellite Service.* We have added all of the spectrum the ARRL and AMSAT requested in their Petition for Rule Making filed on November 28, 1984 related to the Amateur-Satellite Service. We have also added all the spectrum made available by the 1979 WARC to the Amateur-Satellite Service above 47 GHz. The new frequency bands available to the Amateur-Satellite Service are the 1260–1270 MHz, 2400–2450 MHz, 3.40–3.41 GHz, 5.65–5.67 GHz, 5.83–5.85 GHz, 10.45–10.50 GHz, 47.0–47.2 GHz, 75.5–81.0 GHz, 142–149 GHz and 241–250 GHz bands.

23. We have modified certain limitations as recommended by the ARRL and AMSAT to conform them more closely to the Table of Allocations, particularly with regard to ITU Radio Regulations 664 and 808 (Geneva, 1979). We have also added limitations codifying the secondary status of amateur-satellite stations in the 5.83–5.85 GHz and 10.45–10.50 GHz frequency bands.

24. *Radio astronomy and space research.* In their comments the National Academy of Sciences, the National Radio Astronomy Observatory and the ARRL all addressed our proposal to protect astronomical observations by requiring that notification must be given to the National Radio Astronomy Observatory at Green Bank, West Virginia, before commencing any amateur operation on certain bands shared with the radio astronomy service, the space research service (passive) and the Earth exploration-satellite service (passive). Each of the commenters agreed that this level of protection was unnecessary, and that instead we should impose a limitation upon amateur operation in the relevant bands that stations operating in the Amateur service must not cause harmful interference to these astronomical observations.

25. In accordance with the preference of these commenters, we have added a new Limitation 15 protecting the radio astronomy service in this manner in the 3.332–3.339 GHz, 3.3458–3.3525 GHz, 119.98–120.02 GHz, 144.68–144.98 GHz, 145.45–145.75 GHz, 146.82–147.12 GHz and 343–348 GHz frequency bands. In this limitation we have also protected the space research service (passive) and the Earth-exploration service (passive) in the 300–302 GHz, 324–326 GHz, 345–347 GHz, 363–365 GHz and 379–381 GHz frequency bands.

26. *Specific Frequency Bands.* In addition to the subjects covering a broad range of frequency bands discussed above, we have also made specific changes regarding individual frequency bands. These changes are discussed below. There is no discussion where we have retained previous spectrum or associated limitations, although the number of the limitation may have been changed.

27. The 1810–1850 kHz frequency band has been added to the General, Advanced and Amateur Extra class operator privileges in Region 1, consistent with the International Table of Allocations. Also, old Limitation 11 to the 10100–10150 kHz frequency band (new Limitation 28) has been reworded so that the operating procedures required more closely reflect the provisions of Footnote US247.

28. *220–225 MHz.* The ARRL in its Petition for Partial Reconsideration maintained that proposed Limitation 2 should be deleted from 220–225 MHz because it was worded in a way that reduced amateur operation to secondary status in this band. We have replaced proposed Limitation 2 with new Limitation 4 for the 220–225 MHz band in an effort to reduce any ambiguity which might exist. New Limitation 4 clearly reflects the co-primary status of the Amateur service with the U.S. fixed and mobile services.

29. *420–450 MHz.* The ARRL objected to proposed Limitation 18 to the 430–440 MHz band on the basis that it did not take Footnote US217 into account. The ARRL recommended that we amend proposed Limitation 18 as well as proposed footnote 2 to § 97.415 to state an exception for operation of radiolocation systems authorized in accordance with Footnote US217. Rather than retaining proposed Limitation 18, we have rewritten the limitations for the 420–450 MHz band with greater specificity.

30. We have added a new Limitation 10 to reflect the secondary status of U.S. amateur operations to radiolocation operations in Regions 2 and 3 at 430–440 MHz. Limitation 10 has been drafted to refer only to radiolocation stations authorized by other nations, obviating the need to draft an exception for operations authorized by Footnote US217. In addition, we have added a new Limitation 7 to reflect the secondary status of U.S. amateur operations to fixed and mobile operations in all ITU Regions at 420–430 MHz.

31. The comments of the Southern California Television Community supported those of the ARRL, but additionally requested that Part 90 be amended in the context of this proceeding to abolish non-government pulsed radiolocation operations. The Riverside County Chapter of the American Red Cross and the City of Loma Linda filed comments which favored this position. This proposal to abolish Part 90 radiolocation operations in the 420–450 MHz band is outside the scope of this proceeding and is rejected.

32. Both ATV and SCRRBA request that we consider matters of enforcement related to the 420–450 MHz frequency band in the context of this proceeding. This too is outside the scope of this proceeding. ATV and SCRRBA should bring any specific rule violations of which they are aware to the attention of their local Field Operations Bureau District Office for appropriate action.

33. *1215–1300 MHz.* We are removing the 1215–1240 MHz frequency band from the frequency tables in § 97.7 because it is no longer allocated to the Amateur service. In addition to the other limitations discussed above, we have added a new Limitation 11 codifying the secondary status of the Amateur service to the radionavigation-satellite service in the 1240–1260 MHz band.

34. *2300–2450 MHz.* We are adding a new Limitation 12 to the 2300–2310 MHz frequency band to reflect the co-secondary status of the Amateur service with the Government fixed and mobile services. We have included language from Footnote US253 stating that the fixed and mobile services must not cause harmful interference to the Amateur service. We are also adding a new Limitation 13 to the 2300–2310 MHz and 2390–2450 MHz frquency bands to reflect that the Amateur service is secondary to the fixed services in Region 1 and that the Amateur service is secondary to the fixed, mobile and radiolocation services in Regions 2 and 3.

35. *3.3–3.5 GHz.* We are replacing former Limitation 8 in § 97.7 with new Limitation 16 to reflect that amateur operation is now secondary to radiolocation operation in all ITU Regions in the 3.3–3.4 GHz frequency band. And, since amateur operation is secondary to the fixed and fixed-satellite services in all ITU Regions in the 3.4–3.5 GHz frequency band, we have noted in this limitation that amateur stations are not protected from harmful interference caused by international operation in the fixed and fixed-satellite services. In addition, we have added new Limitation 17 which notes the co-secondary status in the U.S. of the Amateur service with the non-government radiolocation service.

36. *5.650–5.925 GHz.* We have added new Limitation 19 to § 97.7 to reflect that the Amateur service is now secondary to the non-government fixed-satellite service in the U.S. in the 5.850–5.925 GHz frequency band. We have also added new Limitation 18 to § 97.7 to reflect: (1) The co-secondary status of the Amateur service with the space research (deep space) service in all ITU Regions in the 5.650–5.725 GHz frequency band; (2) that the Amateur service is secondary to the radiolocation service in all ITU Regions in the 5.650–5.850 GHz frequency band; (3) that the Amateur service is secondary to the fixed-satellite service in Region 1 in the 5.725–5.850 GHz frequency band; (4) the co-secondary status of the Amateur service with the radiolocation service in Region 2 in the 5.850–5.925 GHz frequency band; and (5) that the Amateur service is secondary to the fixed, fixed-satellite and mobile services in all ITU Regions in the 5.850–5.925 GHz frequency band.

37. *10.0–10.5 GHz.* We have added new Limitation 23 to § 97.7 to reflect that the Amateur service is secondary to the fixed and mobile services in ITU Regions 1 and 3 in the 10.0–10.45 GHz frequency band.

38. *24.00–24.25 GHz.* We have added a new Limitation 24 to § 97.7 to reflect that in the U.S. the Amateur service is co-secondary with the non-government radiolocation service and the Government and non-government Earth exploration-satellite (active) services in the 24.05–24.25 GHz frequency band.

39. *47–50 GHz.* We have added the 47.0–47.2 GHz frequency band to the Amateur service. We have removed the 48–50 GHz frequency band from the Amateur service because this spectrum has been allocated to the fixed, fixed-satellite (Earth-to-space) and mobile services, and for feeder links for the broadcasting-satellite service (see Footnote US297).

40. *71–81 GHz.* We have removed the 71–74 GHz frequency band from the Amateur service because it is now allocated to the fixed, fixed-satellite (Earth-to-space) mobile and mobile-satellite (Earth-to-space) services. We have removed the 74–75.5 GHz frequency band from the Amateur service because it is now allocated to the fixed, fixed-satellite (Earth-to-space) and mobile services and for feeder links for the broadcasting-satellite service (see Footnote US297). We have retained the 75.5–76 GHz frequency band in the Amateur service. We have added the 76–81 GHz band to the Amateur service.

41. *119.98–120.02 GHz.* While we did not propose to add the 119.98–120.02 GHz frequency band to the Amateur service, the ARRL pointed out in its comments that this spectrum was available for amateur use pursuant to ITU Radio Regulation 915 (Geneva, 1979). Accordingly, we are adding this spectrum to the Amateur service. This spectrum will be modified by new Limitation 25 to reflect that the Amateur service is secondary in the U.S. and in all ITU Regions to the fixed, inter-satellite and mobile services in this band.

42. *142–149 GHz.* We have added this frequency band to the Amateur service.

43. *165–170 GHz.* We have removed this frequency band from the Amateur service because the 165–168 GHz frequency band has been allocated for the Earth exploration-satellite (passive), the radio astronomy and the space research (passive) services, and the 168–170 GHz frequency band has been allocated for the fixed and mobile services.

44. *240–250 GHz.* We have removed the 240–241 GHz frequency band from the Amateur service because it has been allocated to the fixed, fixed-satellite (space-to-Earth), mobile and radiolocation services. We have added new Limitation 27 to the 244–246 GHz frequency band to reflect that amateur stations operating in this band are not protected from harmful interference caused by the operation of industrial, scientific and medical (ISM) devices.

45. *Editorial changes.* Since the release of the *Notice of Proposed Rule Making* in this matter, we have arranged the frequency and emission tables in the Amateur service in more usable formats. (*Order*, 50 FR 13792, April 8, 1985.) The final rules we are adopting in this document reflect this recent separation of former § 97.61 into separate frequency (§ 97.7) and emission (§ 97.61) tables. Additionally, we have corrected certain typographical errors which were pointed out in comments.

46. We have moved the definition of the National Radio Quiet Zone from § 97.85(f)(2) to § 97.3. A cross-reference in § 97.87(d) is revised to reflect this change. We have restructured § 97.7 and broken out the frequency table into smaller tables which do not require the bands above 50 MHz to be repeated four separate times for four different license classes.

47. We have made several specific changes to the § 97.7 frequency tables with respect to the Gigahertz bands. Consistent with the 1979 WARC, we have listed all the Gigahertz amateur bands as available in ITU Regions 1 and 3, subject to specific limitations, except for the 3.3–3.5 GHz band, which is not available in Region 1. We have also replaced former Limitation 10 in § 97.7 with specific limitations for each Gigahertz frequency band.

48. We have editorially revised paragraphs (a) and (b) of § 97.67 to more accurately codify the provisions of 47 U.S.C. § 324 which require that amateur stations use the minimum amount of power necessary to carry out the communication desired, and to eliminate any possible interpretation to the contrary.

49. The power limitation previously contained in the limitation to the frequency 5167.5 kHz in § 97.7 has been moved to § 97.67. At 902–928 MHz, that portion of old limitation 15 in § 97.7 prohibiting amateur operation in certain areas around White Sands Missile Range has been retained as new Limitation 9. However, that portion of old Limitation 15 which restricts power output in areas where amateur operation is permitted but which are still within 150 miles of the boundaries of White Sands Missile Range has been moved from § 97.7 (frequency privileges) to § 97.67 (maximum transmitting power).

50. Also, we have removed old Limitation 4 to § 97.7 which codifed additional power restrictions in the 420–450 MHz band pursuant to footnote US 7 in the Table of Allocations and we have removed an identical limitation (Limitation 6) from § 97.185. We have replaced both limitations with a new paragraph in the maximum transmitting power rule (§ 97.67).

51. We have modified the section on authorized emissions (§ 97.61) to simplify it by eliminating the need for a lengthy table above 144.1 MHz.

52. Also we have decided to more explicitly state the role of current Appendix 6 to Part 97. Appendix 6 sets forth ITU Resolution No. 640 which is about communications related to relief operations in connection with natural disasters. It cross-references ITU Radio Regulation No. 510, which lists the frequency bands to which Resolution 640 applies. We have added a limitation to each of these bands cross-referencing Appendix 6. This is not a substantive change.

53. *Regulatory Flexibility.* In accordance with section 605 of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605) we certified in the *Notice of Proposed Rule Making, supra,* in this proceeding that these rules would not, if promulgated, have a significant economic impact on a substantial number of small entities, because these entities may not use the Amateur service for commercial radiocommunication (see 47 CFR 97.3(b)). The Chief Counsel for Advocacy of the Small Business Administration has been so notified.

54. *Paperwork Reduction Act.* The new rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

55. *Conclusion.* We are amending the Part 97 Amateur Radio Service Rules consistent with the previous discussion in order to implement the provisions of the 1979 WARC. It is in the public interest, convenience and necessity to comport the amateur rules to 47 CFR 2.106 at the earliest possible opportunity to maintain internal consistency with our rules. Moreover, these changes are, for the most part, required by international law.

56. *Ordering Clauses.* Accordingly, It is ordered, that effective 0001 UTC March 1, 1986, Part 97 of the Commission's Rules (47 CFR Part 97) is amended as shown in the Appendix attached hereto. The authority for this action is found in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i) and 303.

57. It is further ordered, that this proceeding is terminated.

58. For further information concerning this document, contact John J. Borkowski, (202) 632–4964.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 97—[AMENDED]

Part 97 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

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

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

2. Paragraph (k) of § 97.3 is revised to read:

§ 97.3 Definitions.

* * * * *

(k) *National Radio Quiet Zone.* The area bounded by 39°15′ N on the north, 78°30′ W on the east, 37°30′ N on the south and 80°30′ W on the west.

* * * * *

3. Section 97.7 is revised in its entirety to read as follows:

§ 97.7 Frequency privileges.

The following transmitting frequency bands are available to amateur radio stations having a control operator of the license class designated, subject to the limitations of paragraph (g) of this section:

(a) *Novice class:*

Meter band	Terrestrial location of the amateur radio station			Limitations (see para.(g))
	ITU Region 1	ITU Region 2	ITU Region 3	
		Kilohertz		
80	3700–3750	3700–3750	3700–3750	1, 3, 32
		5167.5		2
40	7050–7075	7100–7150	7050–7075	1, 3, 32
15	21100–21200	21100–21200	21100–21200	1, 32
10	28100–28200	28100–28200	28100–28200	1

(b) *Technician class:* All of the frequency bands listed in paragraph (f), as well as the frequency bands in the following table:

Meter band	Terrestrial location of the amateur radio station			Limitations (see para. (g))
	ITU Region 1	ITU Region 2	ITU Region 3	
		Kilohertz		
80	3700–3750	3700–3750	3700–3750	1, 3, 32
		5167.5		2
40	7050–7075	7100–7175	7050–7075	1, 3, 32
15	21100–21200	21100–21200	21100–21200	1, 32
10	28100–28200	28100–28200	28100–28200	1

(c) *General class:* All of the frequency bands listed in paragraph (f), as well as the frequency bands in the following table:

Meter band	Terrestrial location of the amateur radio station			Limitations (see para. (g))
	ITU Region 1	ITU Region 2	ITU Region 3	
		Kilohertz		
160	1810–1850	1800–2000	1800–2000	3, 5, 21
80	3525–3750	3525–3750	3525–3750	3, 32
75		3850–4000	3850–3900	3, 32
		5167.5		2
40	7025–7100	7025–7150	7025–7100	3, 32
40		7225–7300		3, 32
30	10100–10150	10100–10150	10100–10150	28, 32
20	14025–14150	14025–14150	14025–14150	32
20	14225–14350	14225–14350	14225–14350	32
15	21025–21200	21025–21200	21025–21200	32
15	21300–21450	21300–21450	21300–21450	32
12	24890–24990	24890–24990	24890–24990	32
10	28000–29700	28000–29700	28000–29700	29, 32

(d) *Advanced class:* All of the frequency bands listed in paragraph (f), as well as the frequency bands in the following table:

Meter band	Terrestrial location of the amateur radio station			Limitations (see para. (g))
	ITU Region 1	ITU Region 2	ITU Region 3	
		Kilohertz		
160	1810–1850	1800–2000	1800–2000	3, 5, 21
80	3525–3750	3525–3750	3525–3750	3, 32
75	3775–3800	3775–4000	3775–3900	3, 32
		5167.5		2
40	7025–7100	7025–7300	7025–7100	3, 32
30	10100–10150	10100–10150	10100–10150	28, 32
20	14025–14150	14025–14150	14025–14150	32
20	14175–14350	14175–14350	14175–14350	32
15	21025–21200	21025–21200	21025–21200	32
15	21225–21450	21225–21450	21225–21450	32
12	24890–24990	24890–24990	24890–24990	32
10	28000–29700	28000–29700	28000–29700	29, 32

(e) *Amateur Extra class:* All of the frequency bands listed in paragraph (f), as well as the frequency bands in the following table:

Meter band	Terrestrial location of the amateur radio station			Limitations (see para. (g))
	ITU Region 1	ITU Region 2	ITU Region 3	
		Kilohertz		
160	1810–1850	1800–2000	1800–2000	3, 5, 21
80/75	3500–3800	3500–4000	3500–3900	3, 32
		5167.5		2
40	7000–7100	7000–7300	7000–7100	3, 32
30	10100–10150	10100–10150	10100–10150	28, 32
20	14000–14350	14000–14350	14000–14350	32
15	21000–21450	21000–21450	21000–21450	32
12	24890–24990	24890–24990	24890–24990	29, 32
10	28000–29700	28000–29700	28000–29700	

(f) *Frequency bands available to all amateur stations having a control operator of the Technician, General, Advanced or Amateur Extra class:*

Terrestrial location of the amateur radio station	Meter band			Limitations (see para.(g))
	ITU Region 1	ITU Region 2	ITU Region 3	
		Megahertz		
6		50–54	50–54	3
2	144–146	144–148	144–148	3, 32
1.25		220–225		3, 4, 5
0.70	430–440	420–450	420–450	3, 5, 6, 7, 10, 30
0.35		902–928		3, 5, 8, 9
0.23	1240–1300	1240–1300	1240–1300	5, 11, 22
	2300–2310	2300–2310	2300–2310	3, 5, 12, 13
	2390–2450	2390–2450	2390–2450	3, 5, 13, 14
Gigahertz				
		3.3–3.5	3.3–3.5	3, 5, 15, 16, 17
	5.650–5.850	5.650–5.925	5.650–5.850	3, 5, 18, 19, 20
	10.0–10.5	10.0–10.5	10.0–10.5	5, 21, 22, 23, 31
	24.00–24.25	24.00–24.25	24.00–24.25	3, 5, 22, 24, 26
	47.0–47.2	47.0–47.2	47.0–47.2	
	75.5–81	75.5–81	75.5–81	5 21, 22

Terrestrial location of the amateur radio station	Meter band			Limitations (see para.(g))
	ITU Region 1	ITU Region 2	ITU Region 3	
	119.98-120.02	119.98-120.02	119.98-120.02	15, 25
	142-149	142-149	142-149	5, 15, 21, 22
	241-250	241-250	241-250	5, 21, 22, 27
	above 300	above 300	above 300	15

(g) *Limitations:*

(1) Novice and Technician class radio operators are limited to the use of international Morse code when communicating in this band.

(2) This band may only be used by Amateur stations in the State of Alaska or within fifty nautical miles of the State of Alaska for emergency communications with other stations authorized to use this band in the State of Alaska. This frequency band is shared with licensees in the Alaska-private fixed service who may use it for certain non-emergency purposes.

(3) Where, in adjacent regions or subregions, a band of frequencies is allocated to different services of the same category, the basic principle is the equality of right to operate. Accordingly, the stations of each service in one region or subregion must operate so as not to cause harmful interference to services in the other regions or subregions. (See International Telecommunication Union Radio Regulations, RR 346 (Geneva, 1979).)

(4) This band is allocated to the amateur, fixed and mobile services in the United States on a co-primary basis. The basis principle which applies is the equality of right to operate. Amateur, fixed and mobile stations must operate so as not to cause harmful interference to each other.

(5) Amateur stations in the 1900–2000 kHz, 220–225 MHz, 420–450 MHz, 902–928 MHz, 1240–1300 MHz, 2300–2310 MHz, 2390–2450, 3.3–3.5 GHz, 5.650–5.925 GHz, 10.0–10.5 GHz, 24.05–24.25 GHz, 76–81 GHz, 144–149 GHz and 241–248 GHz bands must not cause harmful interference to stations in the Government radiolocation service and are not protected from interference due to the operation of stations in the Government radiolocation service.

(6) No amateur station shall operate north of Line A (see § 97.3(i)) in the 420–430 MHz band.

(7) The 420–430 MHz band is allocated to the Amateur service in the United States on a secondary basis, but is allocated to the fixed and mobile (except aeronautical mobile) services in the International Table of Allocations on a primary basis. Therefore, amateur stations in this band must not cause harmful interference to stations authorized by other nations in the fixed and mobile (except aeronautical mobile) services and are not protected from interference due to the operation of stations authorized by other nations in the fixed and mobile (except aeronautical mobile) services.

(8) In the 902–928 MHz band, amateur stations shall not operate within the States of Colorado and Wyoming, bounded by the area of: latitude 39°N to 42°N, and longitude 103°W to 108°W. This band is allocated on a secondary basis to the Amateur service subject to not causing harmful interference to the operations of Government stations authorized in this band or to Automatic Vehicle Monitoring (AVM) systems. Stations in the Amateur service are not protected from any interference due to the operation of industrial, scientific and medical (ISM) devices, AVM systems or Government stations authorized in this band.

(9) In the 902–928 MHz band, amateur stations shall not operate in those portions of the States of Texas and New Mexico bounded on the south by latitude 31°41'N, on the east by longitude 140°11'W, on the north by latitude 34°30'N, and on the west by longitude 107°30'W.

(10) The 430–440 MHz band is allocated to the Amateur service on a secondary basis in ITU Regions 2 and 3. Amateur stations in this band in ITU Regions 2 and 3 must not cause harmful interference to stations authorized by other nations in the radiolocation service and are not protected from interference due to the operation of stations authorized by other nations in the radiolocation service. In ITU Region 1 the 430–440 MHz band is allocated to the Amateur service on a co-primary basis with the radiolocation service. As between these two services in this band in Region 1 the basic principle which applies is the equality of right to operate. Amateur stations authorized by the United States and radiolocation stations authorized by other nations in Region 1 must operate so as not to cause harmful interference to each other.

(11) In the 1240–1260 MHz band amateur stations must not cause harmful interference to stations authorized by other nations in the radionavigation-satellite service and are not protected from interference due to the operation of stations authorized by other nations in the radionavigation-satellite service.

(12) In the United States, the 2300–2310 MHz band is allocated to the Amateur service on a co-secondary basis with the Government fixed and mobile services. In this band, the fixed and mobile services must not cause harmful interference to the Amateur service.

(13) In the 2300–2310 MHz and 2390–2450 MHz bands, the Amateur service is allocated on a secondary basis in all ITU Regions. In ITU Region 1, stations in the Amateur service must not cause harmful interference to stations authorized by other nations in the fixed service, and are not protected from interference due to the operation of stations authorized by other nations in the fixed service. In ITU Regions 2 and 3, stations in the Amateur service must not cause harmful interference to stations authorized by other nations in the fixed, mobile and radiolocation services, and are not protected from interference due to the operation of stations authorized by other nations in the fixed, mobile and radiolocation services.

(14) Amateur stations in the 2400–2450 MHz band are not protected from interference due to the operation of industrial, scientific and medical devices on 2450 MHz.

(15) Amateur stations in the 3.332–3.339 GHz, 3.3458–3.3525 GHz, 119.98–120.02 GHz, 144.68–144.98 GHz, 145.45–145.75 GHz, 146.82–147.12 GHz and 343–348 GHz bands must not cause harmful interference to stations in the radio astronomy service. Amateur stations in the 300–302 GHz, 324–326 GHz, 345–347 GHz, 363–365 GHz and 379–381 GHz bands must not cause harmful interference to stations in the space research service (passive) or Earth exploration-satellite service (passive).

(16) In both ITU Regions 2 and 3 the 3.3–3.5 GHz band is allocated to the Amateur service on a secondary basis. In the 3.3–3.4 GHz band amateur stations must not cause harmful interference to stations authorized by other nations in the radiolocation service, and are not protected from

interference due to the operation of stations authorized by other nations in the radiolocation service. In the 3.4–3.5 GHz band amateur stations must not cause harmful interference to stations authorized by other nations in the fixed and fixed-satellite services, and are not protected from interference due to the operation of stations authorized by other nations in the fixed and fixed-satellite services.

(17) In the United States the 3.3–3.5 GHz band is allocated to the Amateur service on a co-secondary basis with the non-government radiolocation service.

(18) In the 5.650–5.725 GHz band, the Amateur service is allocated in all ITU regions on a co-secondary basis with the space research (deep space) service. In the 5.725–5.850 GHz band the Amateur service is allocated in all ITU regions on a secondary basis. In the 5.650–5.850 GHz band amateur stations must not cause harmful interference to stations authorized by other nations in the radio location service, and are not protected from interference due to the operation of stations authorized by other nations in the radiolocation service. In the 5.725–5.850 GHz band amateur stations must not cause harmful interference to stations authorized by other nations in the fixed-satellite service in ITU Region 1, and are not protected from interference due to the operation of stations authorized by other nations in the fixed-satellite service in ITU Region 1. In the 5.850–5.925 GHz band the Amateur service is allocated in ITU Region 2 on a co-secondary basis with the radio-location service. In the 5.850–5.925 GHz band amateur stations must not cause harmful interference to stations authorized by other nations in the fixed, fixed-satellite and mobile services, and are not protected from interference due to the operation of stations authorized by other nations in the fixed, fixed-satellite and mobile services.

(19) In the United States, the 5.850–5.925 GHz band is allocated to the Amateur service on a secondary basis to the non-government fixed-satellite service. In the 5.850–5.925 GHz band amateur stations must not cause harmful interference to stations in the non-government fixed-satellite service and are not protected from interference due to the operation of stations in the non-government fixed-satellite service.

(20) Amateur stations in the 5.725–5.875 GHz band are not protected from interference due to the operation of industrial, scientific and medical devices on 5.8 GHz.

(21) Amateur stations in the 1900–2000 kHz, 10.45–10–50 GHz, 76–81 GHz, 144–149 GHz and 241–248 GHz bands must not cause harmful interference to stations in the non-government radiolocation service and are not protected from interference due to the operation of stations in the non-government radiolocation service.

(22) Amateur stations in the 1240–1300 MHz, 10.0–10.5 GHz, 24.05–24.25 GHz, 76–81 GHz, 144–149 GHz and 241–248 GHz bands must not cause harmful interference to stations authorized by other nations in the radiolocation service and are not protected from interference due to the operation of stations authorized by other nations in the radiolocation service.

(23) In the 10.00–10.45 GHz band in ITU Regions 1 and 3 amateur stations must not cause harmful interference to stations authorized by other nations in the fixed and mobile services, and are not protected from interference due to the operation of stations authorized by other nations in the fixed and mobile services.

(24) In the United States, the 24.05–24.25 GHz band is allocated to the Amateur service on a co-secondary basis with the non-government radiolocation and Government and non-government Earth exploration-satellite (active) services.

(25) The 119.98–120.02 GHz band is allocated to the Amateur service on a secondary basis. Amateur stations in this band must not cause harmful interference to stations operating in the fixed, inter-satellite and mobile services, and are not protected from interference caused by the operation of stations in the fixed, inter-satellite and mobile services.

(26) Amateur stations in the 24.00–24.25 GHz band are not protected from interference due to the operation of industrial, scientific and medical devices on 24.125 GHz.

(27) Amateur stations in the 244–246 GHz band are not protected from interference due to the operation of industrial, scientific and medical devices on 245 GHz.

(28) Amateur stations in the 10100–10150 kHz band must not cause harmful interference to stations authorized by other nations in the fixed service. Amateur stations shall make all necessary adjustments (including termination of transmission) if harmful interference is caused.

(29) Until July 1, 1989, amateur stations in this band must not cause harmful interference to stations authorized by other nations in the fixed and mobile services. Amateur stations must make all necessary adjustments (including termination of transmission) if harmful interference is caused.

(30) Amateur stations in the 449.5–450 MHz band must not cause interference to and are not protected from interference due to the operation of stations in the space operation service, the space research service, or for space telecommand.

(31) In the United States, the 10.0–10.5 GHz band is allocated to the Amateur service on a co-secondary basis with the non-government radiolocation service.

(32) Amateur stations in these bands may be used for communications related to relief operations in connection with natural disasters. See Appendix 6 to this Part.

4. Section 97.61 is revised in its entirety to read as follows:

§ 97.61 Authorized emissions.

(a) *Kilohertz:*

Frequency band (kHz)	Emissions	Limitations (see paragraph (d))
1800–2000	A1A, F1B, A3E, F3E, G3E, A3C, F3C, A3F, F3F, H3E, J3E, R3E	
3500–3750	A1A, F1B	1
3750–4000	A1A, A3E, F3E, G3E, A3C, A3F, F3C, F3F, H3E, J3E, R3E	
5167.5	J3E, R3E	
7000–7075	A1A, F1B	1
7075–7100	A1A, F1B, H3E, J3E, R3E	1 2
7100–7150	A1A, F1B	1
7150–7300	A1A, A3E, F3E, G3E, A3C, F3C, A3F, F3F, H3E, J3E, R3E	
10100–10150	A1A, F1B	
14000–14150	A1A, F1B	
14150–14350	A1A, A3E, F3E, A3C, F3C, A3F, F3F, H3E, J3E, R3E	
21000–21200	A1A, F1B	1
21200–21450	A1A, A3E, F3E, A3C, F3C, A3F, F3F, H3E, J3E, R3E	
24890–24930	A1A, F1B	
24930–24990	A1A, A3E, F3E, G3E, A3C, F3C, A3F, F3F, H3E, J3E, R3E	
28000–28300	A1A, F1B	1
28300–29700	A1A, A3E, F3E, G3E, A3C, F3C, A3F, F3F, H3E, J3E, R3E	

(b) *50–144.1 MHz:*

Frequency band (MHz)	Emissions
50.0–50.1	A1A
50.1–51.0	A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, H3E, J3E, R3E
51.0–54.0	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, H3E, J3E, R3E
144.0–144.1	A1A

(c) *Above 144.1 MHz:* Amateur stations are authorized to transmit the following emissions on amateur frequencies above 144.1 MHz: N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, H3E, J3E, and R3E. PON emissions (the emission letters "K, L, M, Q, V, W, and X" may also be used in place of the letter "P" for pulsed radars) may be transmitted at all amateur frequencies above 2300 MHz, except in the 10.0–10.5 GHz band. In the

902–928 MHz band F8E emissions may also be used.

(d) *Limitations:*

(1) Notice and Technician class radio operators may not use F1B emissions in this band.

(2) Amateur stations located in Regions 1 and 3, and amateur radio stations located within Region 2 which are west of 130 degrees West longitude may also use A3E, F3E and G3E emissions.

5. Section 97.67 is amended by revising paragraphs (a) and (b), and by adding new paragraphs (g), (h) and (i) to read as follows:

§ 97.67 Maximum transmitting power.

(a) Amateur stations may use no more than the maximum transmitter power specified in this Part. Additionally, within the constraints of this section, amateur stations must use no more than the minimum transmitter power necessary to carry out the desired communications.

(b) Unless otherwise provided in this section, each amateur transmitter may be operated with a transmitter power not exceeding 1500 watts.

* * * * *

(g) On 5167.5 kHz the transmitter power shall not exceed 150 watts.

(h) In the 420–450 MHz frequency band the transmitter power shall not exceed 50 watts in the following areas unless expressly authorized by the Federal Communications Commission after mutual agreement, on a case-by-case basis, between the Commission Engineer-in Charge at the appropriate District Office and the Military Area Frequency Coordinator at the appropriate military base:

(1) Those portions of Texas and New Mexico bounded on the south by latitude 31°45′ N, on the east by longitude 104°00′ W, on the north by latitude 34°30′ N and on the west by longitude 107°30′ W. (The Military Area Frequency Coordinator for this area is located at White Sands Missile Range, New Mexico.)

(2) The entire State of Florida including the Key West area and the areas enclosed within a 200 mile radius of Patrick Air Force Base, Florida (latitude 28°21′ N, longitude 80°43′ W), and within a 200-mile radius of Eglin Air Force Base, Florida (latitude 30°30′ N, longitude 86°30′ W).

(3) The entire State of Arizona.

(4) Those portions of California and Nevada south of latitude 37°10′ N, and the area within a 200-mile radius of the Pacific Missile Test Center, Point Mugu, California (latitude 34°09′ N, longitude 119°11′ W).

(5) In the State of Massachusetts within a 160-kilometer (100 mile) radius around locations at Otis Air Force Base, Massachusetts (latitude 41°45′ N, longitude 70°32′ W).

(6) In the State of California within a 240-kilometer (150 mile) radius around locations at Beale Air Force Base, California (latitude 39°08′ N, longitude 121°26′ W).

(7) In the State of Alaska within a 160-kilometer (100 mile) radius of Clear, Alaska (latitude 64°17′ N, longitude 149°10′ W). (The Military Area Frequency Coordinator for this area is located at Elmendorf Air Force Base, Alaska.)

(8) In the State of North Dakota within a 160-kilometer (100 mile) radius of Concrete, North Dakota (latitude 48°43′ N, longitude 97°54′ W). (The Military Area Frequency Coordinator for this area can be contacted at: HQ SAC/SXOE, Offutt Air Force Base, Nebraska 68113.)

(9) In the States of Alabama, Florida, Georgia and South Carolina within a 200 kilometer (124 mile) radius of Warner Robins Air Force Base, Georgia (latitude 32°38′ N, longitude 83°35′ W).

(10) In the State of Texas within a 200 kilometer (124 mile) radius of Goodfellow Air Force Base, Texas (latitude 31°25′ N, longitude 100°24′ W).

(i) In the 902–928 MHz frequency band the transmitter power shall not exceed 50 watts outside of but within 150 miles of the following boundaries of the White Sands Missile Range, New Mexico: those portions of Texas and New Mexico bounded on the south by latitude 31°41′ N, on the east by longitude 104°11′ W, on the north by latitude 34°30′ N, and on the west by longitude 107°30′ W.

6. Paragraph (f) of Section 97.85 is amended by removing paragraph (2) and redesignating paragraph (3) as paragraph (2).

7. The last sentence of paragraph (d) of Section 97.87 is revised to read: "In such cases, the rules of § 97.85(f) (1) and (2) shall apply."

8. Section 97.185 is amended by removing Limitation 6 from the 420–450 MHz entry in the Frequency or Frequency Bands Table in paragraph (b), and by removing and reserving paragraph (6) of paragraph (c) in its entirety.

9. Section 97.415 is revised in its entirety to read as follows:

§ 97.415 Frequencies available.

(a) The frequency bands in the following table are available for space operation, Earth operation and telecommand operation. Unless otherwise specified in this Subpart the rules for authorized emission modes (§§ 97.61 and 97.65) and authorized transmitting power (§ 97.67) are applicable for each of the listed frequency bands.

Frequency band	Limitations (see paragraph (b))
kilohertz	
7000–7100	
14000–14250	
21000–21450	
24890–24990	
28000–29700	
megahertz	
144–146	
435–438	1
1260–1270	1, 4
2400–2450	1
gigahertz	
3.40–3.41	1, 2
5.65–5.67	1, 4
5.83–5.85	1, 3
10.45–10.50	5
24.00–24.05	
47.0–47.2	
75.5–81.0	
142–149	
241–250	

(b) *Limitations:*

(1) Stations in the Amateur-Satellite Service must not cause harmful interference to other authorized stations operating in accordance with the Table of Frequency Allocations in this band, except radiolocation systems authorized in accordance with Footnote US217.

(2) This frequency band is not available in ITU Region 1.

(3) Stations in the Amateur-Satellite Service in this band are limited to Earth-to-space transmissions and are not protected from interference caused by fixed-satellite stations in Region 1, radiolocation stations, or industrial, scientific and medical equipment operating in this band.

(4) Stations in the Amateur-Satellite Service in this band are limited to Earth-to-space transmissions.

(5) Stations in the Amateur-Satellite Service in this band must not cause harmful interference to and are not protected from interference caused by stations in the Government radiolocation service.

[FR Doc. 86-946 Filed 1-17-86; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 51, No. 13
Tuesday, January 21, 1986

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 85-AWA-51]

Proposed Establishment of Jet Routes; Expanded East Coast Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish three new Jet Routes in several southeastern states. South Carolina, North Carolina, Georgia and Virginia. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace between New England and Florida. This proposal is a portion of the Expanded East Coast Plan (EECP) to make optimum use of limited airspace along the east coast corridor. This action would reduce en route and terminal delays in the Boston, MA, New York, NY, Miami, FL, Chicago, IL, and Atlanta, GA, areas; save fuel and reduce controller workload. The EECP will be implemented in segments until completed.

DATES: Comments must be received on or before March 6, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 85-AWA-51, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AWA-51." 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 Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish new Jet Routes J-208, J-209 and J-210 located in North Carolina, Georgia, and Virginia. At the present time, east coast traffic flows are so saturated and compressed in all metropolitan areas that substantial delays are experienced daily. To alleviate this congestion, the proposed jet routes would promote optimum use of airspace along the heavily traveled coastal corridors between New York and Florida and reduce departure/arrival delays in the Boston, MA, Chicago, IL, Atlanta, GA, and New York areas. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

PART 75—[AMENDED]

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

1. The authority citation for Part 75 continues to read as follows:

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

2. Section 75.100 is amended as follows:

J-208 [New]

From Athens, GA, via Liberty, NC; to Hopeville, VA.

J-209 [New]

From Greenwood, SC, to Tar River, NC.

J-210 [New]

From INT Savannah, GA, 266 °T(267 °M) and Vance, SC 221 °T(223 °M) radials; to Wilmington, NC.

Issued in Washington, D.C. on January 10, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-1152 Filed 1-17-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 89

Attorney Fee Contracts With Indian Tribes; Payment of Tribal Attorney Fees With Federally Appropriated Funds

December 18, 1985.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) proposes to revise the rule at Part 89 concerning the circumstances under which the Bureau of Indian Affairs, in the performance of the Federal Government's trust responsibility to Indian tribes, may, in its discretion, provide Department funds to an Indian tribe or other Indian organization for the payment of a private attorney's legal services. The proposed revisions do not change the underlying policy of the current rule which is to pay for private counsel to represent Indian tribes only in exceptional circumstances. The principal changes involve representation in child custody proceedings, services of tribal court personnel, and non-litigation services. Representation in child custody proceedings under the Indian Child Welfare Act and the services of tribal judges prosecutors, and law clerks are not subject to 25 CFR Part 89 procedures. Non-litigation services (including non-litigation general counsel services, e.g., drafting tribal hunting and/or fishing codes and tribal constitutions) such as contracts or grants under Pub. L. 93-638 will no longer be reviewed by the Attorney Fee Review Committee as is currently required. These services will be reviewed by the appropriate Field or Regional Solicitor. Litigation and negotiation services, including those under Pub. L. 93-638 contracts or grants will continue to be submitted to the Attorney Fee Review Committee. The proposed revision also provides that when trust resources are involved, tribes and individual Indian allottees are eligible to apply for and receive Federally appropriated funds under 25 CFR Part 89. The Bureau is currently serving individual Indian allottees under these regulations when their trust resources are involved. The purpose for explicitly defining the term "Indian tribe" in this rule to include individual Indian allottees is merely for clarification.

DATE: Comments must be submitted on or before March 24, 1986.

ADDRESSES: Written comments should be directed to: Frank Keel, Office of Trust Responsibilities, Bureau of Indian Affairs, Room 4513 Main Building, Department of the Interior, 18th and C Streets, NW., Washington, DC 20245; telephone number (202) 343-5474.

FOR FURTHER INFORMATION CONTACT: Frank Keel, Office of Trust Responsibilities, Bureau of Indian Affairs, Room 4513 Main Building, Department of the Interior, 18th and C Streets, NW., Washington, DC 20245; telephone number (202) 343-5474.

SUPPLEMENTARY INFORMATION: The funding of tribal attorney fees by the Bureau of Indian Affairs is entirely discretionary. The Bureau of Indian Affairs published a final rule (48 FR 3966, January 28, 1983) that described the circumstances under which the Bureau of Indian Affairs would exercise its discretion to provide funds to a tribe to pay private attorneys or other legal organizations to provide legal services to tribes, the procedures to be followed when requesting such funds, and the factors to be considered in determining whether to provide such funds. After two years experience, the current rule has revealed some differences in interpretation and implementation. The proposed revisions in the attorney fee rule are not intended to change the policy of the current rule but merely to make the requirements more clear and to stream line the procedures. The proposed changes to the rule add four new subpart headings to this part. All other proposed changes in the rule appear under Subpart D and concern payment of tribal attorney fees with Department Federally appropriated funds. The following paragraphs summarize the specific changes proposed in Subpart D of the rule.

Section 89.40 adds definitions of certain terms appearing in this subpart.

Section 89.41 adds the purpose for this subpart, which is to describe Departmental policy regarding payment of private attorney fees for Indian tribes; the information necessary for requests for payment of attorney fees; the procedures for submitting a request; and the factors to be considered for approving of the request.

Section 89.42 adds a statement on the scope of the subpart. This subpart applies only to the granting of authority to expend Departmental funds to pay private attorney fees for Indian tribes. The requirements of this subpart are *in addition* to those contained in all existing rules dealing with attorney contracts with Indian tribes. Compliance with requirements of other rules is not waived by compliance with this subpart, nor does approval under other rules waive the requirements of this subpart.

Section 89.43 provides that the general policy of the Department of the Interior continues to be to pay for private counsel to represent Indian tribes only in exceptional circumstances.

Section 89.44 proposes several changes from the current rule. This section provides the four exceptional circumstances under which the Department may approve the expenditure of appropriated funds for private attorney fees for Indian tribes. The first and second instances concern the services of tribal judges, prosecutors, and law clerks, and legal services for participation in Indian child custody proceedings. These services shall be exempt from review by the Attorney Fee Review Committee. When this rule was drafted and promulgated, it was never intended that these services would fall within the purview of the rule. Third, the expenditure of appropriated funds for non-litigation legal services (including general counsel services such as drafting tribal hunting and/or fishing codes and tribal constitutions), such as under a Pub. L. 93-638 contract or grant, shall be subject to the discretionary approval of the appropriate Area Director and review by the appropriate Field or Regional Solicitor but not the review by the Attorney Fee Review Committee. Fourth, as currently required by § 89.41 of the current rule, litigation and negotiation services shall continue to be subject to review by the Attorney Fee Review Committee.

Sections 89.45 and 89.46 prescribe the procedures for filing a request, and for

reviewing and making a determination concerning a tribe's attorney fee request. The proposed revision clarifies without substantially changing the current procedures prescribed at § 89.43 of the current regulations. An additional factor to be considered in making a determination is whether the tribe made a reasonable effort to seek the assistance of the Office of the Solicitor before filing or responding to a lawsuit or administrative proceeding. Where private counsel has already performed services, the policy of the Department is to authorize payment of prior services and fees only in limited situations where, at a minimum, the tribe had sought services of the Solicitor and filed a request for attorney fees before private counsel performed the services, and the Solicitor has determined that performance of such services was necessary at the time. The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The policy of the Bureau of Indian Affairs is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule.

The Department of the Interior has determined that this document is not a major rule E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) Because Tribes are widely dispersed throughout the United States, any effect on any group, region, or level of government will not be significant. The Department has also determined that the National Environmental Policy Act (NEPA) is inapplicable to this rule. The Office of Management and Budget (OMB) has informed us that the information collections contained in 25 CFR Part 89, Subpart D need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Primary Author

The primary author of this document is Barbara Scott-Brier, attorney-adviser, Office of the Solicitor, Department of the Interior, Washington, D.C., in consultation with Maria Mendoza, Frank Keel, and Eric B. Wilson, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, Washington, D.C.

List of Subjects in 25 CFR Part 89

Indians-Law and Lawyers.

For the reasons set out in the preamble, Part 89 of Chapter I of Title 25 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 89 is revised to read as follows:

Authority: 5 U.S.C. 301; §§ 89.1 to 89.6 also issued under 25 U.S.C. 476; §§ 89.7 to 89.29 also issued under 25 U.S.C. 81; §§ 89.30 to 89.35 also issued under 25 U.S.C. 2, 9 and 82(a); §§ 89.40 to 89.46 also issued under 25 U.S.C. 13, 450 *et seq.*

2. Part 89 is amended by removing the existing four Centerheadings.

3. Part 89 is further amended by designating §§ 89.1–6 as Subpart A, §§ 89.7–89.26 as Subpart B, §§ 89.30–89.35 as Subpart C, and §§ 89.40–89.43 as Subpart D.

4. The Table of Contents for Subpart D is amended by revising the entries for §§ 89.40–89.43 and by adding entries for §§ 89.44–89.46. The amended and added portions of the Table of Contents for Part 89 read as follows:

PART 89—ATTORNEY CONTRACTS WITH INDIAN TRIBES

Subpart A—Tribes Organized Under the Indian Reorganization Act

* * * * *

Subpart B—Tribes not Organized Under the Indian Reorganization Act

* * * * *

Subpart C—Five Civilized Tribes

* * * * *

Subpart D—Authorizing the Use of Federally Appropriated Funds To Pay Tribal Attorney fees and Expenses for Legal Services

Sec.

89.40 Definitions.
89.41 Purpose.
39.42 Scope.
89.43 General policy.
89.44 Exceptional circumstances which may allow payment of tribal attorneys.
89.45 Procedures for determination of payment of tribal attorney fees for litigation or negotiation purposes.
89.46 Factors to be considered in a determination by the Attorney Fee Review Committee pursuant to § 89.45(d) of this subpart.

5. Newly designed Subpart D is revised to read as follows:

Subpart D—Authorizing the Use of Federally Appropriated Funds To Pay Tribal Attorney Fees and Expenses for Legal Services

§ 89.40 Definitions.

As used in this subpart:

(a) "Agency" means an organizational unit of the Bureau of Indian Affairs which provides direct services to the governing body or bodies and members of one or more specified Indian tribes.

(b) "Agency Superintendent" means the official in charge of a Bureau of Indian Affairs' agency office, or an authorized delegate.

(c) "Area Director" means the official in charge of a Bureau of Indian Affairs' area office, or an authorized delegate.

(d) "Area Office" means the appropriate Bureau of Indian Affairs' area office.

(e) "Assistant Secretary—Indian Affairs" means the Assistant Secretary—Indian Affairs, Department of the Interior.

(f) "Attorney Fee Review Committee" or "Review Committee" means the Deputy Assistant Secretary—Indian Affairs, the Director, Office of Trust Responsibilities, and the Associate Solicitor—Indian Affairs, Department of the Interior, or their authorized delegates.

(g) "Attorney General" means the Attorney General of the United States, United States Department of Justice, or an authorized delegate.

(h) "Bureau of Indian Affairs" or the "Bureau" means the Bureau of Indian Affairs, the Department of the Interior.

(i) "Consulting contract" means a contract with a member of the bar for legal services if it involves giving legal advice, such as interpretation of statutes or contracts, or representation in a contested matter before a governmental agency or court of law.

(j) "Department" means the United States Department of the Interior.

(k) "Indian Tribe" or "Tribe" means any Indian tribe, band, nation, rancheria, pueblo, colony, community, Alaska Native village or native group which is recognized as eligible for services from the Bureau of Indian Affairs. For the purpose of this subpart only, an Indian allottee shall be treated as if he or she were an Indian tribe when the matter involves an individual's trust resources.

(l) "Legal Services" means those services which may only be performed by a person licensed to practice law and any services performed by such a person that involve giving legal advice or providing representation in a contested matter, including a consulting contract with a member of the bar for legal service.

(m) "Secretary" means the Secretary of the Department of the Interior, or an authorized delegate.

(n) "Solicitor" means the Solicitor of the Office of the Solicitor, Department of the Interior, or an authorized delegate.

(o) "Trust Resources" means natural resources, land, water, minerals, funds, property, asset, or claim which is held by the United States in trust for any Indian tribe or Indian individual subject to a restriction or alienation imposed by the United States, including any intangible right or interest, such as hunting, fishing, or grazing rights.

§ 89.41 Purpose.

The purpose of this subpart is to provide to Indian tribes seeking funds for attorney fees and expenses a description of:

(a) The policy of the Department of the Interior;

(b) The basic information which must be contained in an attorney fee request;

(c) The procedures for submitting a request; and

(d) The factors which the Department will consider when making a determination on the request.

§ 89.42 Scope.

This subpart applies only to the granting of authority to expend Federal funds, appropriated to the Department, to pay private counsel to represent Indian tribes in matters regarding trust resources, the exercise of a tribe's governmental powers, or rights claimed under a treaty, agreement, executive order, or statute.

(a) The appropriated funds subject to the requirements of this subpart are only those funds appropriated pursuant to annual Department of the Interior appropriation acts.

(b) This subpart does not apply to the expenditure of a tribe's own funds on deposit in the tribal treasury or held in the United States Treasury.

(c) The requirements imposed by this subpart are supplemental to those contained in all existing regulations dealing with attorney contracts with Indian tribes. The requirements imposed by all existing regulations and statutory provisions dealing with attorney contracts, in particular those contained in 25 U.S.C. 450 *et seq.*, and 25 CFR Part 88, Parts 271–277, and Subparts A, B, and C of this Part, are not waived by compliance with this subpart nor does approval under any other existing rule waive the requirements of this subpart.

§ 89.43 General policy.

(a) In ordinary circumstances, legal services with respect to trust resources, the exercise of a tribe's governmental powers, or rights claimed under a treaty, agreement, executive order, or statute, are provided for Indian tribes by private counsel employed by the tribe when it is financially able and elects to do so, or by the United States as trustee through the Department of the Interior, Office of the Solicitor and/or the Department of Justice.

(b) It is the general policy of the Department of the Interior that it will pay for private counsel to represent Indian tribes only in those exceptional circumstances listed in § 89.44 of this subpart. Funding of legal services is wholly within the discretion of the Secretary of the Interior and authorized representatives. The administrative appeal regulations in 25 CFR Part 2 and 43 CFR Part 4 are inapplicable to the discretionary decisions made pursuant to this subpart.

(c) Funding shall not be provided for the litigation of intratribal disputes concerning the conduct of tribal government.

(d) Funding of attorney fees shall not include payment for out-of-state attorneys' travel expenses or hourly rates while in transit unless there is a special situation, e.g., where the expertise of the attorney is so unique that a local attorney cannot provide the necessary services.

(e) Funding of attorney fees with Department appropriated funds shall not exceed seventy dollars ($70.00) per hour.

§ 89.44 Exceptional circumstances which may allow payment of tribal attorneys.

The expenditure of Department appropriated funds for an Indian tribe to secure private legal representation may be authorized by the Department only under the following exceptional circumstances:

(a) *Indian Child Welfare Act of 1978.* When the Bureau of Indian Affairs awards a grant to a tribe under the Indian Child Welfare Act of 1978, Pub. L. 95–608 (25 U.S.C. 1931(a)(5)(8)), to provide legal services for participation in Indian child custody proceedings, or when the Bureau of Indian Affairs pays attorney fees to indigent parties for such proceedings under 25 CFR 23.13, the regulations at 25 CFR Part 23 govern payment of counsel for those purposes. No further requirements are imposed by this rule.

(b) *Tribal Court.* When a tribe employs attorneys to serve exclusively as tribal judges, prosecutors, or law clerks under Pub. L. 93–638, approval under the regulations at 25 CFR 271.1 *et seq.* governs payment for those services. These employees (if they happen to be attorneys) are not engaged in conduct of the type contemplated in Part 89. No further requirements are imposed by this rule.

(c) *Pub. L. 93–638 (88 Stat. 2203).* When a tribe determines that legal assistance is necessary for general counsel or legal services, other than for litigation or negotiation, pursuant to or incidental to a Pub. L. 93–638 contract, grant, or other agreement, and the appropriate Regional or Field Solicitor has reviewed the request and determined that the services of his/her office are not available, the Area Director, after consultation with the appropriate Regional or Field Solicitor, may, in his or her discretion, authorize the expenditure of appropriated Pub. L. 93–638 funds for the necessary non-litigation legal assistance.

(1) This paragraph applies only to non-litigation legal services pursuant to or incidental to a Pub. L. 93–638 contract, grant, or other agreement. Under no circumstances will funds for legal services which involve litigation or other circumstances described in paragraph (d) of this section be authorized pursuant to a Pub. L. 93–638 request unless submitted for consideration in accordance with § 89.45 of this subpart.

(2) No further requirements in addition to those contained in this paragraph are imposed by this rule.

(d) *Litigation and/or Negotiation.* Upon receipt of a recommendation from the Attorney Fee Review Committee and concurrence of the Solicitor, as provided by § 89.45(d), the Assistant Secretary—Indian Affairs will make a determination, in his/her discretion, whether to authorize the expenditure of Department appropriated funds to pay reasonable attorney fees in order to permit an Indian tribe to secure private legal representation for litigation or negotiation services. The Assistant Secretary—Indian Affairs may authorize payment of a tribe's private attorney fees only in the following circumstances:

(1) When a tribe determines that it is necessary to bring a court action or to defend itself to protect its trust resources, rights claimed under a treaty, agreement, executive order, or statute, or its governmental powers, and the Attorney General refuses assistance or advises that assistance is not otherwise available (Comptroller General's Opinion B–114868, December 6, 1976) for reasons other than the lack of merit of the Indian claim of right;

(2) When a tribe determines that it is necessary to institute or to defend itself in an administrative proceeding to protect its trust resources, rights claimed under a treaty, agreement, executive order, or statute, or to protect its governmental powers, and the Solicitor

is unable to provide representation due to a conflict of interest or other reasons;

(3) When a tribe determines that it is critical, and the Assistant Secretary—Indian Affairs finds the concerns of the tribe to have merit after consultation with the Solicitor, to participate in a lawsuit being handled by the Justice Department or in an administrative proceeding being handled by the Office of the Solicitor because the responsible government attorney refuses either to exclude or to include a significant element of the suit or proceeding for reasons other than lack of merit of the Indian claim of right, including but not limited to a claim, crossclaim, counterclaim, affirmative defense, or cause of action, which the tribe claims necessary to protect its rights and interests. This subparagraph is intended to apply to tribal intervention in a lawsuit, consolidation of lawsuits where the tribe is a party to one of the suits, and lawsuits where the tribe and the United States are codefendants. Prior to consulting with and advising the Assistant Secretary—Indian Affairs, in a lawsuit being handled by the Department of Justice, the Solicitor shall seek the comments and advice of the Attorney General; or

(4) When a tribe determines, and the Assistant Secretary—Indian Affairs, after consulting with the Solicitor, concurs, that a substantial possibility of a negotiated settlement or agreement exists as to a matter involving the tribe's trust resources, rights claimed under a treaty, agreement, executive order, or statute, or its governmental power.

§ 89.45 Procedures for determination of payment of tribal attorney fees for litigation or negotiation purposes.

(a) *Tribe's request for funds.* An Indian Tribe seeking appropriated funds to pay attorney fees and expenses for litigation or negotiation purposes shall submit a request package containing the following information and documentation to the appropriate Agency Superintendent. Such information shall be treated as confidential to the extent permitted by law. Failure to submit any of the following required items will preclude the attorney fee request from consideration.

(1) A written resolution from the tribe asking the Department of the Interior to pay tribal attorney fees and expenses with appropriated funds;

(2) A detailed statement describing the nature and scope of the problem for which legal services are being requested, current status, and any forthcoming events which will have an impact on it;

(3) A statement identifying which specific circumstance or circumstances described at § 89.44(d)(1)–(4) are believed to apply to this request;

(4) A statement of the terms, including total anticipated cost, for the requested legal services contract (and a copy of the proposed contract if available);

(5) A current financial statement (copy of the latest audit certification and a statement of the current total expenditures for the tribe);

(6) A statement that the tribe does not have assets or funds (deposits in the tribal treasury or being held in the United States Treasury) which could be used to pay for all or part of the legal services sought or an explanation why such funds cannot be used;

(7) A statement explaining why the matter must be handled by a private attorney as opposed to the Department of Justice or the Department of the Interior attorneys (include any evidence, if available, that the Department of Justice and/or the Department of the Interior has in fact refused assistance or representation in this matter);

(8) A general itemized statement, prepared by the tribe's private counsel, of the work to be completed under the proposed legal services contract for the fiscal year. The statement must reflect the anticipated order in which the phases of work will be undertaken, the anticipated number of hours to be spent on each phase of work, the hourly rate to be charged, and the estimated cost of each phase. Example: "1. Research of National Archives Material; 40 hours; $50/hour; $2,000, plus $25 expenses [detailed]"; and

(9) A statement as to whether the tribe has received any attorney fee funds in the past for the requested matter, and if so, the year and the amount of funds.

(b) *Agency review.* Upon receipt of the request package, described at § 89.45(a), the Agency shall promptly process the package within one week of receipt of the package as follows:

(1) Review the package for completeness;

(2) Review the information and documentation contained in the package and supplement and/or clarify the package where necessary;

(3) Request additional information from the tribe when necessary;

(4) Certify the financial position asserted by the tribe;

(5) Prepare a transmittal memorandum to the Assistant Secretary—Indian Affairs through the appropriate Area Director which details the results of paragraph (b) (1) through (4) above and includes a recommendation for the Review Committee; and

(6) Provide the tribe written notice at the time the package is forwarded to the appropriate Area Office that the package has been forwarded.

(c) *Area Office review.* When the request package is received by the appropriate Area Office, the Area Director shall promptly process the package as follows:

(1) Review the package within one week of receipt for completeness and, if necessary, return the package to the Agency if incomplete, or of insufficient detail;

(2) When the package is complete, forward the package to the appropriate Filed or Regional Solicitor and request that the Regional or Field Solicitor promptly analyze the entire request package and provide a recommendation within one week of receipt of the request package as to the propriety of using Department of the Interior appropriated funds, as provided by this part, to pay tribal attorney fees and expenses for the matter in question;

(3) After receipt of the appropriate Regional or Field Solicitor's recommendation, prepare a transmittal memorandum, to the Assistant Secretary—Indian Affairs, to the attention of the Director, Office of Trust Responsibilies, including a recommendation for the Attorney Fee Review Committee, and transmit therewith all of the materials compiled in the request package; and

(4) Provide the tribe written notice at the time the package is forwarded to the Attorney Fee Review Committee that the package has been forwarded.

(d) *Attorney Fee Review Committee.* (1) The Director, Office of Trust Responsibilities, within in one week of receipt of the request package, shall check to ensure that the request package is complete and sufficient. If upon review the request package is found to be incomplete, or of insufficient detail, the Director, Office of Trust Responsibilities shall imediately return the package to the appropriate Area Director for compliance with § 89.45(a)–(c);

(2) When the request package is complete, the Director, Office of Trust Responsibilities, shall promptly prepare and forward copies of the package to each member of the Attorney Fee Review Committee (Review Committee) for individual review and evaluation. The Associate Solicitor—Indian Affairs shall conduct a legal review of the package within three days of recipt;

(3) The Review Committee shall meet at least within two weeks of receipt of the request package to promptly review and evaluate the requests. Meetings of

the Review Committee will be called by the Deputy Assistant Secretary—Indian Affairs:

(4) If two of the three Review Committee members recommend approval of the tribe's request, in whole or in part, the request package, along with the committee's recommendation, shall be submitted to the Assistant Secretary—Indian Affairs for final determination. The Assistant Secretary—Indian Affairs may approve the request only with the concurrence of the Solicitor;

(5) If the Review Committee recommends approval of the tribe's request, the recommendation shall indicate the amount of Department of the Interior appropriated funds recommended to assist the tribe, the hourly rate allowed, and the tribal contribution, if any. Additionally, the recommendation shall include any restrictions imposed by the Review Committee as a basis for approval of the recommendation;

(6) The Review Committee may table any request when in its opinion additional information or review is necessary for the committee to properly consider the request;

(7) The Review Committee's decision to reject an application shall be considered discretionary and final for the Department;

(8) The Review Committee shall promptly notify the Area Director of the Department's final determination, who will in turn be instructed to promptly notify the tribe of the decision;

(9) The effective date shall be the date of approval by the Review Committee and not the date of the final signature on the form;

(10) Eacth tribe which is awarded attorney fee funds shall report in writing to the Assistant Secretary—Indian Affairs any amount of money authorized for attorney fees which it will not be able to use during the fiscal year so that such amount may be reauthorized for use by another tribe during that fiscal year. Such report shall be made within a reasonable time after knowledge of the savings; and

(11) Once an attorney fee request has been granted it should not be assumed that all subsequent year requests will be approved. A new request pursuant to this subpart must be submitted for each year that funding is sought. However, where a matter has been previously authorized, the effective date of a subsequent fund approval shall be considered as the beginning date of the fiscal year.

§ 89.46 Factors to be considered in a determination by the Attorney Fee Review Committee pursuant to § 89.45(d) of this subpart.

When the Attorney Fee Review Committee, operating pursuant to § 89.45(d), determines by the evidence submitted to the committee that the attorney fee request complies with one of the circumstances described in § 89.44(d)(1)–(4), the Committee shall consider the following factors to determine whether Department Federally appropriated funds should be provided to pay for private legal representation for an Indian tribe:

(a) The merits of the legal position which the tribe asserts. Greater weight shall be given to those cases where the tribe's legal argument is deemed particularly meritorious;

(b) Whether the matter the tribe seeks to litigate is being litigated in another case by another tribe;

(c) Whether, as a matter of strategy, the issues the tribe seeks to litigate could be more satisfactorily resolved in another forum, in a different factual context, or at a different time;

(d) Whether the issue should be litigated at all in preference to a legislative or other solution;

(e) With respect to a lawsuit or administrative proceeding filed by a tribe, whether the tribe made a reasonable effort to seek the assistance of the Solicitor to intercede on its behalf before the tribe filed or responded to such lawsuit or administrative proceeding. Where private counsel has already performed services, payment of prior fees and expenses shall be authorized only in limited situations where, at a minimum, the tribe had sought the assistance of the Solicitor and filed a request for attorney fees pursuant to this subpart before private counsel performed services, and the Solicitor has determined that performance of such services was necessary at the time;

(f) The ability of the tribe to pay all or a part of its legal expenses out of its own funds. A review of the tribe's financial resources under this subsection will include an examination of:

(1) The tribe's total expenditures, to determine whether its expenditures for other purposes comport with the asserted importance of the case for which the tribe seeks funds; and

(2) Whether the litigation seeks an award of damages so that an expectancy of an award would enable the tribe to obtain an attorney on a contingent fee basis.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 86–916 Filed 1–17–86; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–59–85]

Information Reporting of Allowances, or Reimbursements, or Charges for Travel and Other Expenses of Public Employees and Certain Other Persons

Correction

In the issue of Tuesday, January 14, 1986, on page 1517 in the second column, a correction to FR Doc. 86–491 appeared. The paragraph reference in the last line of the correction should have read "paragraph (l)".

BILLING CODE 1505-01-M

26 CFR Parts 1 and 7

[LR–106–77]

Qualified Possession Source Investment Income

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations defining the term "qualified possession source investment income" for purposes of the Puerto Rico and possession tax credit enacted by Tax Reform Act of 1976.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 24, 1986. The regulations are proposed to apply generally to taxable years beginning after December 31, 1985.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–106–77), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 936 of the Internal Revenue Code of 1954, and deletes Temporary Regulations (26 CFR Part 7) under section 936. Section 936 was added to the Code by section 1051(b) of the Tax Reform Act of 1976 and was amended by section 701(u)(11) of the Revenue Act of 1978.

Explanation of Provisions

A domestic corporation that elects the application of section 936 may qualify for the Puerto Rico and possession tax credit. This credit is equal to the Federal income tax attributable to *inter alia* the corporation's qualified possession source investment income. Section 936(d)(2) defines qualified possession source investment income as gross income (less the properly apportioned or allocated deductions) that is—

(1) From sources within a possession of the United States in which a trade or business is actively conducted;

(2) Attributable to investment in that possession (for use therein); and

(3) Attributable to the investment of funds initially derived from the active conduct of a trade or business in that possession or from such investment.

Source of Income

Proposed § 1.936–2(a) provides that generally the source of income for purposes of section 936 is to be determined in accordance with § 1.863–6. Special rules are provided for determining the source of certain interest and dividents (proposed § 1.936–2(b)).

Investment in a Possession (for use therein)

Proposed § 1.936–3 takes the position that interest and certain dividends derived by a U.S. corporation which conducts an active trade or business in Puerto Rico will be treated as attributable to investment in Puerto Rico (for use therein) as required under section 936(d)(2) if the interest or certain dividends qualify for exemption from Puerto Rican income tax. To qualify for exemption from Puerto Rican income tax, a taxpayer must satisfy criteria in the Puerto Rican income tax statute and regulations thereunder that the funds invested are in fact used in Puerto Rico. This is the position taken in temporary regulation § 7.936–1. The present proposed regulations, however, reflect the updating of the Puerto Rican regulations on April 17, 1984. In addition, for investments made by the U.S. corporation more than 30 days after publication of the regulation by Treasury decision, the U.S. corporation must obtain at the time it makes the investment the written agreement of the institution receiving the funds that the investment of the funds by the institution will qualify for the exemption under Puerto Rican regulations.

Reliance on the Puerto Rico regulatory system for satisfaction of this requirement is based on the rules in existence as a result of the April 17, 1984, amendments. Changes in those rules, or in the method of operation of the Puerto Rico government's regulatory or investment authority, may require the development and application of a separate set of rules for determining when investment income is attributable to investment in Puerto Rico (for use therein).

Proposed § 1.936–3 deals only with the application of section 936(d)(2) to investment in Puerto Rico. The credit provided by section 936 is also available with respect to certain investment income derived from other possessions of the United States (not including the Virgin Islands), if such income is attributable to investment of funds in the possession "for use therein" and if the other requirements of section 936(d)(2) are met.

Initially Derived From a Possession

Proposed § 1.936–3A takes the position that funds are treated as initially derived from a possession if such funds represent an investment of taxable income from sources without the United States derived from the active conduct of a trade or business in a possession or a reinvestment of qualified possession source investment income. Such funds are treated as qualified funds and the amount which may be invested is determined on an annual basis. Losses as well as distributions with respect to these funds will reduce the amount of qualified funds. Therefore, an investment which is treated as made from qualified funds in one year might no longer qualify if a loss or a distribution of income reduces the amount of qualified funds. The proposed regulation also takes the position that an investment of funds derived from a capital contribution does not qualify.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulation proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 533 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291, and, accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of these proposed regulations is Jacob Feldman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign Investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

26 CFR Part 7

Income taxes, Tax Reform Act of 1976.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1 and 7 are as follows:

Income Tax Regulations

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 continues to read in part:

Authority: 26 U.S.C. 7805. * * * Section 1.936–2, 1.936–3, and 1.936–3A also issued under 26 U.S.C. 936(d)(2). * * *

Par. 2. New §§ 1.936–2, 1–936–3 and 1–936–3A are added immediately after § 1.936–1 to read as follows:

§ 1.936–2 Source of income.

(a) *In general.* Except as provided in § 1.936–2(b) (relating to certain interest), for purposes of section 936(d)(2), the determination as to whether gross income is from sources within a particular possession shall be made in accordance with § 1.863–6.

(b) *Certain interest.* (1) Interest paid by a possessions corporation that meets the condition of section 936(a)(2)(A) with respect to a particular possession is from sources within that possession.

(2) Interest paid or credited on deposit accounts with a possession branch of a corporation or partnership is from sources within the possession if, at the time of payment or crediting, the branch is engaged within the possession in the commercial banking business or the business of a savings and loan or similar association.

§ 1.936–3 Investment in a possession (for use therein).

For purposes of section 936(d)(2), interest and certain dividends derived after April 17, 1984 (less deductions allocable and apportionable thereto) by a domestic corporation engaged in the active conduct of a trade or business in Puerto Rico shall be treated as attributable to investment in Puerto Rico (for use therein) if the interest or certain dividends qualify for exemption from Puerto Rican Income Tax under regulations issued by the Secretary of the Treasury of Puerto Rico, as in effect on April 17, 1984 under the authority of the Acts No. 6 of December 15, 1953, 57 of June 13, 1963, and 25 of June 2, 1978, as amended, to determine the institutions which are eligible to receive funds from exempted businesses under those Acts. In the case of any investment of funds made by the possessions corporation after [Date that is 30 days after the date of publication in the Federal Register of this regulation as a Treasury decision], the preceding sentence shall not apply unless the possessions corporation receives, at the time the funds are delivered for investment, the written agreement of the institution receiving the funds that the funds will be invested by the institution so as to qualify for exemption under the foregoing regulations of Puerto Rico. Interest derived after September 30, 1976 and before April 18, 1984 shall be treated as attributable to investment in Puerto Rico (for use therein) if the interest qualifies for exemption from Puerto Rican Income Tax under regulations issued by the Secretary of the Treasury of Puerto Rico as in effect on September 28, 1976 under the authority of section 2(j) of the Puerto Rico Industrial Incentive Act of 1963, as amended.

§ 1.936–3A Funds derived from a possession.

(a) *In general.* Funds treated as derived from the active conduct of a trade or business in a possession or from investment of such funds in a possession ("qualified funds") include—

(1) Taxable income from sources without the United States derived from the active conduct of a trade or business in the possession, and

(2) Qualified possession source investment income,

reduced by any distributions paid with respect to such income and by any losses (not otherwise taken into account under subparagraph (1) or (2) from such activity or investment. The amount of any capital contributions to a possessions corporation is not treated as qualified funds.

(b) *Limitation on investment.* Notwithstanding paragraph (a), the amount of qualified funds which may be invested in a possession and give rise to income which is treated as qualified possession source investment income is limited to the total qualified funds for the taxable year and for all prior taxable years which are not already invested in a possession. For this purpose, qualified possession source investment income is not included in total qualified funds for the current taxable year, but is included with respect to prior taxable years.

(c) *Illustration:* The principles of paragraphs (a) and (b) of this section are illustrated by the following example:

Example: X has operated in Puerto Rico as a section 936 corporation since January 1, 1980. In 1980 X earned $30,000 from the active conduct of a business in Puerto Rico and paid a dividend of $20,000. On January 1, 1981 X invested $20,000 in a Puerto Rican financial institution. For the year 1981 X had a loss of $10,000 from the conduct of its business and received $1500 in interest. For the years 1982 and 1983 X earned $40,000 and $60,000 respectively from its business and $2000 each year from its investments which qualify under § 1.936–3 and paid dividends of $20,000 and $30,000 respectively. On January 1, 1984 X deposited $80,000 in the same Puerto Rican financial institution for a total deposit of $100,000. For 1984 X had a $5000 loss from its business, but received $15,000 of interest from its investments.

For 1981, the interest received from the investment in the Puerto Rican financial institution was not qualified possession source investment income since there were no qualified funds for 1981. The $30,000 of income received by X from the active conduct of its business in 1980 was reduced to zero by a $20,000 dividend in 1980 and a $10,000 loss in 1981.

For 1982 and 1983 the $20,000 originally deposited in 1981 and not withdrawn are treated as qualified funds and all of the income derived therefrom as qualified possession source investment income assuming the requirements of §§ 1.936–2 and 1.936–3 are met. The zero qualified funds at the end of 1981 were increased to $20,000 in 1982, representing $40,000 of active business income less $20,000 of dividends; in 1983, the qualified funds available for investment were further increased to $52,000, representing $60,000 of active business income in 1983 less dividend payment of $30,000 (or $30,000) plus $2000 of qualified possession source investment income accrued in 1982). The $1500 of interest earned in 1981 was not derived from qualified funds and, therefore, was not qualified possession source investment income. In addition, this amount and any amount of interest derived therefrom can never be qualified funds since the $1500 was neither derived initially from the active conduct of a trade or business in Puerto Rico nor was it qualified possession source investment income.

For 1984, $7350 of the $15,000 of interest received on the $100,000 investment constitutes qualified possession source investment income since only $49,000 of the $100,000 deposited was from qualified funds ($52,000 of qualified funds at the end of 1983 reduced by the $5000 of loss incurred in 1984 and increased by the $2000 of qualified possession source investment income accurued in 1983).

Temporary Income Tax Regulations Under the Tax Reform Act of 1976

PART 7—[AMENDED]

Par. 3. The authority for Part 7 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 7.936 [Removed]

Par. 4. Section 7.936–1 is removed.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 86–1236 Filed 1–17–86; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 579]

Kanawha River Valley; Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: ATF is proposing to establish a viticultural area in West Virginia, to be known as the Kanawha River Valley. This proposal is based on a petition submitted by Dr. Wilson E. Ward, owner of Fisher Ridge Vineyard, a winery located in Liberty, WV. The proposed Kanawha River Valley viticultural area

is entirely within the approved Ohio River Valley viticultural area. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

DATE: Written comments must be received by February 20, 1986.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385.

Copies of the petition and written comments received in response to this notice will be available during normal business hours at: ATF Reading Room, Disclosure Branch, Room 4406, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, FAA, Wine and Beer Branch, (202) 566–7626.

SUPPLEMENTARY INFORMATION: On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR, Part 4. These regulations allow the establishment of definitive viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9. Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Dr. Wilson E. Ward, owner of Fisher Ridge Vineyard, a winery located in Liberty, WV, petitioned ATF for the establishment of a viticultural area in West Virginia, to be known as Kanawha River Valley.

General Description

The petitioned area consists of approximately 1,000 square miles, containing 14 acres of grapevines and one bonded winery. It is entirely within the approved Ohio River Valley viticultural area. There is historical evidence that winemaking began in the area as early as 1826. Several hundred acres of grapevines grew in the area in the 1850s. The Civil War brought an end to commercial winemaking in the area until a new winery was built in 1967.

Name

The petitioner claims that the name Kanawha is derived from an obscure tribe of Indians which camped near the river. The name Kanawha was used for the river on the earliest survey maps. The Greater Kanawha Valley Foundation, a philanthropic organization which awards scholarships and grants, defines the Kanawha Valley as a ten country area including all of the counties having watershed in the Kanawha River. The petitioned area is almost entirely within this Kanawha River Valley boundary which is currently in use. Numerous business enterprises in the area use the name Kanawha Valley of Kanawha River Valley as part of their trade names or as a description of the territory which they serve. In view of the fact that the entire petitioned area is within approximately 20 miles of the river, and appears to be almost entirely within the watershed of the river, ATF is satisfied that the petitioned area qualifies, in its entirety, for the use of the name Kanawha River Valley.

Geographic Characteristics

The petitioner submitted the following rainfall data for the Kanawha River Valley.

Name	Annual precipitation	Summer, precipitation [1]
Weather Stations Located Inside Petitioned Area		
Hogsett Gallipolis Dam	40.42	14.95
Winfield locks	40.85	14.88
Averages	40.64	14.92
Weather Stations Located Outside Petitioned Area On the Ohio River		
Huntington	40.72	14.83
Parkersburg Weather Service Office	37.77	14.32
Ravenswood Lock Park	38.70	14.25
Averages	39.06	14.47
Weather Stations Located Outside Petitioned Area Inland From the Ohio River		
Branchland	43.79	15.94
Charleston	42.43	15.84
Clendenin	45.67	17.08
Hamlin	43.13	15.96
Ripley	45.94	16.35
Spencer	41.93	16.22
Averages	43.82	16.23

[1] Total precipitation during the months of June, July, August, and September, when grapes are most susceptible to mildew damage caused by excessive rainfall.

The river valleys average approximately 4 inches less rainfall annually than the inland terrain. During the critical period when grapes are growing on the vines, the river valleys average approximately 1.5 inches less rainfall than the inland terrain. Based on this data, the Ohio River Valley and the Kanawha River Valley share rainfall patterns which are more conducive to grape cultivation than areas which are farther inland from the rivers. The 6 weather stations named in the third list, above, are each located within approximately 16 miles of the proposed boundary, supporting the petitioner's location of the boundary.

In addition, the location of the inland boundary is also supported by the approximate boundary between the Central Allegheny Plateau Land Resource Area, in which the petitioned area is located, and the Cumberland Plateau and Mountains Land Resource Area. According to the U.S.D.A. Soil Conservation Service Soil Map of West Virginia, the Cumberland Plateau and Mountains Land Resource Area is characterized by extensive deep mining and surface mining activities, as opposed to grape growing of other agricultural land uses.

Boundary

The proposed northern and western boundaries of the Kanawha River Valley are the Ohio River. The proposed inland boundary is approximately the approved Ohio River Valley boundary. The inland boundary is connected to the Ohio River with a series of straight lines running approximately along the perimeter of the Kanawha River watershed.

Public Participation—Written Comments

ATF requests comments from all interested persons concerning this proposed viticultural area. This notice proposes one possible boundary for the "Kanawha River Valley" viticultural area. However, comments concerning other possible boundaries for this viticultural area will be given consideration.

Comments received before the closing data will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her requests, in writing, to the Director within the 30-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

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

Executive order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a "major rule" since it will not result in:

(a) An annual effect on the ecomony of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or

(c) Significant adverse affect 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.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural area, Wine.

Authority and Issuance

27 CFR Part 9—American Viticultural Areas is amended as follows:

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of sections for 27 CFR Part 9 is amended by adding the heading of § 9.111 to read as follows:

Sec.

* * * * *

9.111 Kanawha River Valley.

Par. 3. Subpart C of 27 CFR Part 9 is amended by adding

§ 9.111 to read as follows:

§ 9.111 Kanawha River Valley.

(a) *Name.* The name of the viticultural area described in this section is "Kanawha River Valley".

(b) *Approved maps.* The approved maps for determining the boundary of the Kanawha River Valley viticultural area are 20 U.S.G.S topographic maps in the 7.5-minute series as follows:

(1) Addison, Ohio—W. Va., dated 1960;

(2) Gallipolis, Ohio—W. Va., dated 1958;

(3) Apple Grove, Ohio—W. Va., dated 1968, photorevised 1975;

(4) Glenwood, W. Va.—Ohio, dated 1968;

(5) Milton, W. Va., dated 1972;

(6) West Hamlin, W. Va., dated 1957;

(7) Hamlin, W. Va., Dated 1958;

(8) Garrets Bend, W. Va., dated 1958;

(9) Scott Depot, W. Va., dated 1958;

(10) Saint Albans, W. Va., dated 1958;

(11) Pocatalico, W. Va., dated 1958;

(12) Sissonville, W. Va., dated 1958;

(13) Romance, W. Va.—Ky., dated 1957;

(14) Kentuck, W. Va., dated 1957;

(15) Kenna, W. Va., dated 1957;

(16) Ripley, W. Va., dated 1960;

(17) Cottageville, W. Va., dated 1960;

(18) Mount Alto, W. Va.—Ohio, dated 1958, photorevised 1972;

(19) Beech Hill, W. Va.—Ohio, dated 1957, photorevised 1975;

(20) Cheshire, W. Va.—Ohio, dated 1968;

(C) *Boundary description.* The boundary description of the Kanawha River Valley viticultural area includes (in parentheses) the name of the map on which each described point is found. The boundary description is as follows:

(1) The beginning point is the West Virginia-Ohio State Line at the confluence of Champaign Creek and the Ohio River. (Addison quadrangle)

(2) The boundary follows the West Virginia-Ohio State Line, in the Ohio River, (across the Gallipolis and Apple Grove quadrangles) southwesterly to the point at which the Mason County-Cabell County Line intersects the State Line. (Glenwood quadrangle)

(3) The boundary proceeds in a straight line southerly to the benchmark at 583 ft. elevation in the town of Yates Crossing in Cabell County, WV. (Milton quadrangle)

(4) The boundary proceeds in a straight line southeasterly to the benchmark at 640 ft. elevation in the town of Ball Gap, in Lincoln County, WV. (West Hamlin quadrangle)

(5) The boundary proceeds in a straight line easterly (across the Hamlin, Garrett Bend, and Scott Depot quadrangles) to the benchmark at 590 ft. elevation in the town of Institute in Kanawha County, WV. (Saint Albans quadrangle)

(6) The boundary proceeds in a straight line northeasterly to the benchmark at 654 ft. elevation in the town of Pocatalico, in Kanawha County, WV. (Pocatalico quadrangle)

(7) The boundary proceeds in a straight line northeasterly (across the Sissonville quadrangle) to the confluence of Johns Branch and Sugar Creek in the town of Romance, in Jackson County, WV. (Romance quadrangle)

(8) The boundary proceeds in a straight line northwesterly (across the

Kentuck quadrangle) to the confluence of Plum Orchard Run and Stonelick Creek in the town of Plum Orchard, in Jackson County, WV. (Kenna quadrangle)

(9) The boundary proceeds in a straight line northwesterly (across the Ripley quadrangle) to the Baltimore and Ohio Railroad crossing of State Highway 87 in the town of Evans, in Jackson County, WV. (Cottageville quadrangle)

(10) The boundary proceeds in a straight line northwesterly (across the Mount Alto quadrangle) to the benchark at 674 ft. elevation in the town of Flatrock, in Mason County, WV. (Beech Hill quadrangle)

(11) The boundary proceeds norhwesterly in a straight line (across the Cheshire quadrangle) to the beginning point.

Approved: January 15, 1986.

Stephen E. Higgins,

Director.

[FR Doc. 86-1241 Filed 1-17-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Consideration of Amendments to the Kentucky Program Under the Surface Mining Control and Reclamation Act of 1977 (SMCRA)

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

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on certain amendments submitted by the Commonwealth of Kentucky to its program for the regulation of surface coal mining and reclamation in the State. The amendments relate to Kentucky's revised regulations pertaining to liability insurance requirements.

DATES: Written comments, data or other relevant information must be received on or before 4:00 p.m. February 5, 1986 to be considered. Comments submitted after this date may not necessarily be considered.

ADDRESS: Comments should be sent or hand-delivered to: W. Hord Tipton, Director, Lexington Field Office, Office of Suface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Director, Lexington Field Office, Office of Suface Mining, 340 Legion Drive, Lexington, Kentucky 40504; Telephone: (606) 233-7327.

SUPPLEMENTARY INFORMATION: By letter dated September 16, 1985, OSM received, pursuant to the 30 CFR 732.17 State program amendment procedures, revised regulations amending the Kentucky program. On October 25, 1985, OSM published a notice in the **Federal Register** (50 FR 43413) announcing receipt of the amendments to the Kentucky program and inviting public comment thereon. The public comment period closed November 25, 1985. A public hearing was not held because no one expressed a desire to testify.

On December 10, 1985, OSM received additional material from Kentucky pertaining to liability insurance requirements. This material consists of further revisions to the Kentucky Administrative Regulations (KAR) at 405 10:030. The revisions modify amendments to section 4(1) pertaining to terms and conditions for liability insurance, and in particular pertaining to compensation for personal injury and property damage resulting from surface coal mining and reclamation operations. OSM is reopening the comment period for an additional 15 days to allow the public sufficient time to review and comment on the above Kentucky amendments. Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations of why the commenter believes or does not believe that the proposed amendments are in accordance with SMCRA and no less effective than its implementing regulations. Pursuant to 30 CFR 732.17(h)(2)(ii), each requester may receive, free of charge, one single copy of the proposed amendment by contacting OSM's Lexington Field Office listed under ADDRESS.

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of SMCRA.

List of Subjects in 30 CFR Part 917

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

Dated: January 13, 1986.

Brent Wahlquist,

Assistant Director, Program Operations.

[FR Doc. 86-1213 Filed 1-17-86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD09 85-05]

Anchorage Grounds; Detroit River, Detroit, MI

AGENCY: Coast Guard, DOT.

ACTION: Supplemental Notice of Proposed Rule Making.

SUMMARY: The Coast Guard is revising a proposal to designate two anchorages on the U.S. side of the international boundary in the Detroit River. An original Notice of Proposed Rulemaking was published in 50 FR 27622. This proposal revises the original proposal by calling for a single anchorage which will be located in the vicinity of Belle Isle. The creation of this anchorage will provide a designated safe anchorage for vessels in the Detroit River and provide a holding area in the event U.S. authorities need to detain a vessel.

DATES: Comments must be received on or before March 7, 1986.

ADDRESSES: Comments should be mailed to Commander (mpes), Ninth Coast Guard District, 1240 East Ninth St, Cleveland OH 44199. The comments and other materials referenced in this notice will be available for inspection and copying at Marine Safety Division, Room 2019, 1240 East Ninth St, Cleveland, OH 44199. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ensign George H. Burns III, Ninth Coast Guard District, Marine Port and Environmental Safety Branch. Telephone number (216) 522-3919.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD09 85-05) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken

on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process.

Drafting Information

The drafters of these regulations are Ensign George H. Burns III, Project Officer, and LCDR M. A. Leone, Project Attorney, 9th Coast Guard District Legal Office.

Discussion of Proposed Regulation

The anchorage area in Detroit River has been revised to incorporate the comments concerning the original Notice of Proposed Rulemaking (50 FR 27622).

Eleven written comments from public, Congressional, professional and Canadian authorities were received. Three commenters representing organizations of professional mariners expressed concern over the location of the proposed River Rouge anchorage. They stated that due to the proximity of the existing Canadian Ojibway anchorage, width of the channel, and traffic patterns and density this location would not be recommended. Additionally this location would necessitate that vessels use a zig-zag course to pass the anchorage. Vessels departing Ojibway and backing out of the Rouge River also use this area for maneuvering. In consideration of these points and the present volume of vessel traffic it was decided that an anchorage would not be designated at the River Rouge location as was originally proposed.

Five commenters representing pleasure boaters' interests were against, and three commenters representing professional organizations of commercial shipping supported the proposed Belle Isle anchorage.

The commenters against the proposal suggested that the creation of the Belle Isle anchorage would deny recreational boaters the use of this area, and would create navigational hazards for small boats. One commenter suggested that the area be reduced in size.

After careful consideration of all comments it was decided to further revise the proposal by reducing the size of the proposed anchorage area adjacent to Belle Isle. Designating this area as an anchorage would not restrict its use by recreational boaters. On those occasions when a vessel occupied the anchorage it would be in an area where a prudent mariner might expect to find an anchored vessel. In fact this area is currently used as a site for vessel mooring. Vessel traffic should not increase just because this area is designated as an anchorage. Boaters will have as much a right to transit this area as commercial vessels. In order to minimize restriction in this area the designated anchorage has been reduced in size for 4000 feet long as originally proposed, to 3000 feet long. Also the proposed regulations prohibiting anchoring in other parts of the River has been eliminated. Vessels will continue to be allowed to anchor in any safe area as is the current practice. In view of this, it is not expected that overcrowding of the Belle Isle anchorage area will become a problem.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The Detroit River is a major waterway bounded by municipal and industrial areas that have been exposed to waterborne commerce for some time. The creation of this anchorage will be in a location which is adjacent to an area that is already frequently exposed to use by the types of vessels that will moor in the anchorage.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035, 2071 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Part 110 is amended by adding § 110.206 to read as follows:

§ 110.206 Detroit River, Michigan.

(a) *The Anchorage grounds.* Bell Isle Anchorage. The area is the Detroit River immediately downstream from Belle Isle on the U.S. side of the International Boundary lying within the following boundaries: beginning at a point bearing 250 T, 5400 feet from the James Scott Memorial Fountain (42 ° 20′06″N. 82° 59′57″W.) at the West end of Belle Isle; then 251 T, 3000 feet; thence 341 T, 800 feet; thence 071 T, 3000 feet; thence 161 T, 800 feet to the point of beginning.

(b) *The regulations.* Vessel shall be anchored so as not to swing into the channel or across steering courses.

Dated: January 7, 1986.

A.M. Danielsen,

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

[FR Doc. 86–1232 Filed 1–17–86; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL–2957–8]

Approval and Promulgation of Implementation Plans; Federal Assistance Limitations; Indiana

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

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes to limit certain federal funding assistance for Clark, Floyd, Lake, and Porter Counties, Indiana. These limitations apply to funds provided under the Clean Air Act and Title 23 of the United States Code. USEPA is proposing this action, pursuant to section 176(a) of the Clean Air Act (Act), because the State of Indiana has failed to make reasonable efforts to submit a State Implementation Plan (SIP) for Clark, Floyd, Lake, and Porter Counties that considers each of the elements in section 172 of the Act.

Section 172(b)(11)(B) of the Act requires the implementation of an inspection and maintenance (I/M) program in areas that have obtained extensions of the December 31, 1982, deadline for attaining the National Ambient Air Quality Standards (NAAQS) for ozone and/or carbon monoxide. The State of Indiana requested an extension of the deadline for Clark, Floyd, Lake, and Porter Counties, which the USEPA approved on February 11, 1982 (47 FR 6274). Therefore, the State of Indiana is required to implement an I/M program in these four counties.

The State of Indiana has implemented an I/M program in these counties but has failed to submit a detailed description of an adequate enforcement mechanism as part of its SIP. As a result, USEPA is today proposing to find that the State of Indiana has failed to submit, and to make reasonable efforts

to submit, a SIP that considers each of the elements of section 172 of the Act. If USEPA takes final action affirming these findings, the funding limitations will apply in Clark, Floyd, Lake, and Porter Counties, Indiana.

A public hearing on this proposed action will be held on the date and at the location listed below.

DATES: The public hearings on these proposed Federal funding restrictions will be held at the locations listed below. The hearing in the Northwest Indiana area will be held on Tuesday, March 18, 1986, starting at 10:30 a.m. CST. The hearing in the Clark/Floyd Counties area will be held on Friday, March 21, 1986, starting at 11:00 a.m. EST. All comments submitted to USEPA by March 21, 1986, or at these public hearings will be considered.

Additionally, USEPA is keeping the public comment period open until April 21, 1986, to provide an opportunity for submission of rebuttal information and supplementary information.

ADDRESSES: The public hearings on these issues will be held at:

March 18, 1986, Northwest Indiana Public Hearing:
County Commissioners Courtroom, Board of Commissioners of Lake County, 2293 North Main Street, Crown Point, Indiana 46307

March 21, 1986, Clark/Floyd Counties Public Hearing:
Hoosier Room, University, Center, Indiana University Southeast, 4201 Grant Line Road, New Albany, Indiana 47150

Copies of Indiana's SIP revision submittals, USEPA's proposals and rulemakings, and other pertinent documents to today's proposal are available at the following addresses for review: (It is recommended that you telephone Robert B. Miller, at (312) 353-0396, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

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

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION:

A. Background

Congress amended the Clean Air Act, 42 U.S.C. 7401 et seq., in 1977 to address the major health problem posed by the failure of certain areas to attain the NAAQS. Congress required States to revise their State Implementation Plans (SIP) to provide for attainment of the standards by December 31, 1982, and to submit the revised plans to USEPA by January 1, 1979. For areas with serious ozone or carbon monoxide (CO) problems which the States demonstrated were unable to attain these standards by the end of 1982, even with the implementation of all reasonably available measures, Congress allowed an extension of the attainment date up to December 31, 1987 (section 172(a)(2)).

In return for this extension, the Act requires States to submit additional air pollution control measures in their 1979 ozone/CO SIP revisions (section 172(b)(11)). One such additional measure was a schedule for implementation of an inspection and maintenance (I/M) program, along with certification that the State and local governments had the legal authority to implement and enforce the program (sections 172(b)(10) and 172(b)(11)(B)).

The State of Indiana requested an extension of the attainment deadline to 1987 for ozone for Clark, Floyd, Lake, and Porter Counties, and for carbon monoxide for Lake County. USEPA approved the request on February 11, 1982 (47 FR 6274). Therefore, the Clean Air Act requires Indiana to implement an I/M program in these counties.

On January 2, 1981 (46 FR 36), USEPA conditionally approved the revised 1979 Indiana ozone/CO SIP, including the commitment to implement I/M. The Indiana SIP included certification that the State has sufficient legal authority to implement and enforce an I/M program, and also contained a schedule for the completion of all actions necessary to implement the program by January 1, 1983. However, USEPA required the State, as part of the conditional approval, to submit a detailed description of its enforcement mechanism, including procedures, penalties, letters of commitment from responsible enforcement agencies, and other elements required in USEPA's I/M policy. The State committed to submit this information by December 30, 1980.

Indiana submitted its draft 1982 revisions to its ozone/CO SIP on September 2, 1982. If adopted, this plan would have formally withdrawn the 1979 commitment to implement an I/M program. It additionally stated that a new I/M program would not readopted unless attainment would not otherwise occur by December 31, 1987, as indicated by future air quality data.

In a letter dated November 10, 1982, USEPA provided its evaluation of and comments on the September 2, 1982, submittal. The letter stated that the I/M portion of Indiana's September 2, 1982, plan did not contain the various elements required under USEPA's 1982 SIP policy in that there was no commitment to implement I/M by December 31, 1982, and no rules and regulations for I/M were included.

On February 3, 1983 (48 FR 5106), USEPA proposed to disapprove the I/M portion of the 1982 Indiana ozone/CO SIP of these same reasons. On March 22, 1983, USEPA notified affected Federal, State, and local agencies that the USEPA/DOT procedures for imposing the funding limitations under section 176(a) were being initiated. This notification started a 30-day consultation period in accordance with these procedures.

To ensure that Federal funds do not further contribute to the already serious air pollution problem and to encourage State cooperation, Congress adopted section 176(a) of the Act. Section 176(a) requires withholding of certain Federal assistance funds for highway construction and air quality programs, if the USEPA Administrator finds that a State has failed to submit, or to make reasonable efforts to submit, a SIP which considers each of the elements of section 172 of the Act, including the requirement for I/M. On April 10, 1980, after prior notice and public comment, USEPA and the Department of Transportation (DOT) published their final policies and procedures for imposing funding restrictions under section 176(a) (45 FR 24692). This notice should be used as a reference in reviewing today's notice.

Between March 22, 1983, and the date of this notice, USEPA officials consulted with Federal, State, and local officials in an effort to resolve this issue.

A summary of the significant events that occurred since USEPA initiated this consultation period follows:

On March 22, 1983, Valdas V. Adamkus, USEPA Regional Administrator, notified John O. Hibbs, Federal Highway Administration (FHWA) Regional Administrator, that the State of Indiana had failed to meet

the requirements of the Act, as set forth in the February 3, 1983, **Federal Register** notice (48 FR 5106). In this letter, the USEPA initiated the 30-day consultation period outlined in the April 10, 1980, **Federal Register** (45 FR 24692) guidelines for the section 176(a) highway funding restrictions process.

On April 21, 1983, the FHWA made recommendations regarding the section 176(a) schedule and procedures to the USEPA. These recommendations included: extending the consultation period to June 6, 1983; allowing 1982 attainment areas adequate time to apply for redesignation; coordinating action for areas included in two Federal regions; and scheduling a meeting with affected State and local agencies concerning the 176(a) restrictions process.

On April 26, 1983, the Region V Office of Regional Counsel provided its comments on the inadequacy of the Indiana I/M enforcement mechanism to the Region V Air Programs Branch, including the lack of specific statutory citations for enforcement authority, letters of commitment from responsible enforcement agencies, procedures for checking sticker compliance, responsible prosecuting officials and courts, and criteria for imposing fines. A copy of this memorandum was forwarded to the State.

On May 2, 1983, Indiana responded to USEPA's February 3, 1983, proposal. Indiana committed to implement a biennial I/M program in Clark, Floyd, Lake, and Porter Counties by January 1, 1984, and indicated the State's intention to use a "sticker" enforcement program.

On May 13, 1983, USEPA responded to FHWA's April 21, 1983, letter. USEPA agreed to extend the consultation period and to meet with State and local officials, if requested.

On May 27, 1983, a conference call was held with the State. On June 24, 1983, USEPA summarized this call in a letter to the Indiana State Health Commissioner, Dr. Ronald G. Blankenbaker. Major issues discussed included enforcement, program commitments, emission reductions, and program implementation.

On July 5, 1983, the USEPA forwarded several documents to FHWA as follow-up to USEPA's May 13, 1983, letter on USEPA's highway funding restrictions policy.

On July 28, 1983, the State provided additional information regarding its I/M program in response to USEPA June 24, 1983, letter.

On August 3, 1983, USEPA proposed (48 FR 35316) sections 176(b) and 173(4) restrictions in Indiana because of the State's failure to implement the I/M program to which it committed as a part of its conditionally approved 1979 ozone/CO SIP. Section 176(b) withholds air program funds, and section 173(4) imposes a construction moratorium on new, and modifications of existing, major stationary sources.

On September 26, 1983, USEPA commented to the State on the Indiana draft I/M regulation and identified a number of deficiencies, including the enforcement mechanism, start-up date, and emission reductions.

On December 2, 1983, Indiana submitted its 1982 ozone and CO SIP, as adopted in final by the State. This submittal contained most of the required I/M elements, but lacked a detailed description of the State's I/M enforcement mechanism.

On January 4, 1984, the State submitted as a SIP Revision its revised I/M rule, 325 IAC 13–1.1, as adopted by the Indiana Air Pollution Control Board (IAPCB) on October 5, 1983.

On January 23, 1984, USEPA's Office of Mobile Sources (OMS) provided comments to Region V on the State's December 2, 1983, I/M plan. OMS noted that the plan did not contain an adequate description of the State's enforcement mechanism and commented on several other I/M program deficiencies. A copy of this memorandum was provided to the State.

On May 31, 1984, Indiana began inspecting vehicles in Clark, Floyd, Lake, and Porter Counties. However, the State did not at the same time implement an adequate enforcement mechanism.

On September 28, 1984, USEPA informed the State that the 1982 ozone/CO SIP had several I/M issues which still required resolution: particularly the enforcement mechanism and emission reduction demonstration. USEPA indicated the possibility of future Federal funding and growth restrictions unless the State adequately addressed these issues.

On October 9, 1984, USEPA re-proposed the Indiana 1982 ozone and CO plan (49 FR 39574). In the notice, USEPA proposed to approve the I/M plan if certain deficiencies were resolved. The major I/M deficiencies listed concerned the lack of a detailed description of an acceptable enforcement mechanism and the need for an updated emission reduction demonstration.

On October 24, 1984, Indiana responded to USEPA's September 28, 1984, letter. The State expressed its concern regarding possible federal funding restrictions. The State considered the timing of such an action to be inappropriate inasmuch as Illinois, Michigan, and Ohio were still in the planning stages for I/M.

On November 7, 1984, USEPA presented testimony at an IAPCB meeting. This testimony is documented in a November 8, 1984, USEPA memorandum. Major issues discussed in the testimony were the continued lack of an I/M enforcement mechanism and efforts taken by other States to correct low compliance rates.

On November 28, 1984, Indiana Governor Orr documented, by letter, a meeting between the Administrator of the USEPA and himself. Among other issues, the status of the Indiana I/M program and programs in neighboring States were discussed at this meeting.

On November 30, 1984, staff of the IAPCB transmitted to USEPA a possible I/M enforcement mechanism, including a proposed implementation schedule, which the staff intended to propose to the IAPCB at its January 2, 1985, meeting.

On December 21, 1984, USEPA provided comments on the State's November 30, 1984, proposed enforcement mechanism and outlined several deficiencies.

At the January 2, 1985, meeting of the IAPCB, it deferred action on the I/M enforcement mechanism to the Office of the Governor.

On January 2, 1985, in a letter to Governor Orr, the USEPA Administrator addressed the need for the State to quickly adopt and implement an effective I/M enforcement mechanism.

On February 6, 1985, in a letter to the USEPA Regional Administrator, Governor Orr outlined his strategy to support the adoption, during the Indiana Legislature's 1985, session of revised legislation concerning an I/M enforcement mechanism. The Governor proposed a one-time $5.00 vehicle excise tax credit for complying vehicles and a $100.00 fine beginning July 1986 for noncomplying vehicles. Monies generated by the enforcement mechanism were to be shared equally by the enforcing agency and the State.

On February 8, 1985, the State submitted to USEPA its comments on the October 9, 1984, **Federal Register** notice. These comments addressed I/M emission reductions and several minor deficiencies. The State included the Governor's proposed $5.00 credit and $100.00 fine. Also included was a commitment to suspend the vehicle registration of noncomplying vehicles.

On March 13, 1985, in response to Governor Orr's February 6, 1985, letter, USEPA expressed concern at the untimeliness of the proposed July 1986 issuance of $100.00 citations, because

that date is several months after the end of the first test cycle and the emission reductions the State claims for its I/M program would no longer be achieved. USEPA also informed the State of its intention to notify FHWA that the procedures to impose section 176(a) restrictions were being reinitiated, beginning with the required 30-day consultation period.

On April 15, 1985, USEPA notified FHWA, by letter, that the State of Indiana had failed to submit, and had not made reasonable efforts to submit, an approvable 1982 ozone/CO SIP, in that the State's plan lacked the required detailed description of its I/M enforcement mechanism. In this letter, USEPA reinitiated the 30-day consultation period under the section 176(a) procedures.

On April 25, 1985, in a letter to the USEPA Administrator, Governor Orr documented a meeting he had with the Administrator on April 23, 1985, to discuss I/M and a second meeting that day between USEPA and the Indiana Congressional delegation on the same issue.

On May 9, 1985, USEPA met with the FHWA and the State of Indiana. This meeting was documented in a June 28, 1985, memorandum. At this meeting, the section 176(a) restrictions process and the corrective actions necessary to satisfactorily resolve the situations were discussed. USEPA informed the attendees at the conclusion of the meeting that it was continuing the process to impose restrictions because the State had failed to demonstrate any concrete actions to submit a detailed description of an effective I/M enforcement mechanism.

Since the end of the consultation period on May 15, 1985, the State has taken several steps to implement a temporary enforcement mechanism. As a result of an announcement by Governor Orr on June 6, 1985, State and local police began issuing warning tickets on July 1, 1985, to noncomplying vehicles, and the monthly test rate during June, July, and August increased significantly. However, overall compliance at the end of August was only at 75.7 percent in Clark and Floyd Counties and 62.7 percent in Lake and Porter Counties.

The Governor also asked that State and local police begin issuing arrest tickets as of September 1, 1985. Because of the high volume of traffic at testing stations during August and September, the police were temporarily postponing that effort until such time as testing volumes decreased.

If and when the State of Indiana begins to fully enforce its I/M program and substantially raises the compliance rate, a new emission reduction demonstration must be submitted to USEPA, along with the detailed description of the enforcement mechanism. The State must show that the program meets the required I/M emission reductions before USEPA can give final approval to the Indiana I/M program as part of the 1982 ozone/CO SIP.[1] This demonstration must take into consideration the start date of enforcement, the actual compliance and failure rates prior to enforcement, and the expected failure rate based on program enforcement.

B. Proposed Findings

Based on the failure of the State of Indiana to submit a detailed description of its I/M enforcement mechanism as part of its ozone/CO SIP, USEPA proposes the following:

1. To find that the State of Indiana has failed to submit, and to make reasonable efforts to submit, an approvable SIP for ozone and carbon monoxide that considers each of the elements required by Section 172 of the Act;

2. To disapprove the I/M portion of the ozone/CO SIP because of the lack of a detailed description of the enforcement mechanism; and,

3. To impose federal funding restrictions on Clark, Floyd, Lake, and Porter Counties under section 176(a) of the Act.

During the public comment period, USEPA will consider any comments on this issue. If Indiana fails to remedy this situation before USEPA takes final action, the resulting funding limitations become effective on the date that the final rulemaking is published in the **Federal Register.** Upon final rulemaking, the Secretary of Transportation will not approve any projects or award any grants in Clark, Floyd, Lake, or Porter Counties under Title 23 of the United States Code, except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. Furthermore, the Administrator of USEPA will not approve any projects or award any grants authorized by the Clean Air Act unless they qualify for the exemptions noted in the April 10, 1980, policy notice.

If USEPA imposes funding restrictions under section 176(a), USEPA proposes to remove these restrictions only after the following are submitted and approved: (1) Evidence that the enforcement mechanism has resulted in a 95 to 100 percent level of compliance in Clark, Floyd, Lake, and Porter Counties; (2) a detailed description of the enforcement mechanism; and, (3) a revised emission reduction demonstration which shows that the program still meets the required emission reduction based on the MOBILE model used by the State. These items must be submitted and approved as part of the ozone/CO SIP before the restrictions are removed.

Although USEPA has the discretion to withhold certain grants, pursuant to section 316 of the Act, for the construction of sewage treatment works available under section 201(g) of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, USEPA is not proposing to impose these restrictions on Clark, Floyd, Lake, and Porter Counties at this time. USEPA will publish a separate notice of proposed rulemaking and will provide an opportunity for comment before imposing these additional funding restrictions on sewage treatment works. For more information on the scope and procedures for these restrictions, see 45 FR 24692 (April 10, 1980) and 45 FR 53382 (August 11, 1980).

C. Opportunity for Public Hearing

As stated elsewhere in this rulemaking, section 176(a) requires the withholding of certain Federal assistance funds for highway construction and air quality programs, if USEPA finds that the State has failed to submit an approvable 1982 ozone/CO SIP.

USEPA is announcing public hearings on its proposed actions regarding these restrictions under the Clean Air Act. One hearing will be held on March 18, 1986, starting at 10:30 am CST, in the County Commissioners Courtroom at the Board of Commissioners of Lake County, 2293 North Main Street, Crown Point, Indiana 46307. The other hearing will be held on March 21, 1986, starting at 11:00 am EST, in the Hoosier Room at the University Center, Indiana University, Southeast, 4201 Grant Line Road, New Albany, Indiana 47150.

D. Request for Comment

Interested parties are invited to comment on all aspects of the proposed findings regarding the I/M portion of the Indiana ozone/CO SIP. USEPA is soliciting comments specifically on its proposed finding that the State has failed to make reasonable efforts to submit a SIP which satisfies the requirements of section 172 of the Act.

USEPA will consider all comments made at the public hearings and all those written comments received by March 21, 1986. Additionally, USEPA is

[1] Exact percent of required emission reductions will depend on the modeling program used by the State in designing its I/M Program.

keeping the public comment period open until April 21, 1986, to provide an opportunity for submission of rebuttal information and supplementary information.

E. Regulatory Impact

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

If USEPA takes final action to find that the State has failed to submit, and to make reasonable efforts to submit, a SIP that considers each of the elements required by section 172, certain highway construction funds under Title 23 of the United States Code, and air quality program funds under the Clean Air Act, will be withheld. Thus, some small entities will be affected by final USEPA action.

USEPA has, in the past, made efforts to quantify the impacts of the Clean Air Act restrictions under section 176(a), but has been unable to do so with any degree of reliability. USEPA's lack of success is due, in large part, to the highway project exemptions authorized for safety projects, mass transit projects, or transportation improvement projects related to air quality improvement or maintenance. Careful review and evaluation of each highway project is necessary to determine whether or not a project is exempt.

Consequently, USEPA is making no quantified assessment of the potential economic impact on small entities that may result from today's proposal.

Furthermore, although USEPA believes that a final action may have some impact on small entities, this impact cannot affect the Agency's actions. Under the Clean Air Act, the imposition of the funding restrictions in section 176(a) is automatic and mandatory whenever the USEPA determines that a State has failed to submit, or to make reasonable efforts to submit, a SIP which considers each of the elements of section 172.

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

Authority: 42 U.S.C. 7401–7642.

Dated: September 27, 1985

Alan Levin

Acting Regional Administrator.

[FR Doc. 86–1212 Filed 1–17–86; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 766

[OPTS–83002; FRL–2916–4]

Polyhalogenated Dibenzo-p-Dioxins/Dibenzofurans; Testing and Reporting Requirements

Correction

In FR Doc. 85–29669, beginning on page 51794 in the issue of Thursday, December 19, 1985, make the following corrections:

1. On page 51794, second column, fourteenth line from the bottom of the page, "dibenzp-" should read "dibenzo-".

2. On page 52797:

a. In the second column, fourth line, remove the fraction "⅛" appearing between "respect" and "to".

b. In the third column, in the paragraph headed "1. *Unreasonable Risk*:

(1) In the sixth line from the bottom of that paragraph, "list" should read "lists".

(2) In the second line from the bottom, remove the comma appearing between "given" and "the".

3. On page 51798:

a. In the second column:

(1) In the eighth line, "indiced" should read "indicated".

(2) In the sixteenth line, "clincially" should read "clinically".

(3) In the thirty-first line, "3,4,4,5" should read "3,4,4,",5".

(b) In the third column, second complete paragraph:

(1) In the second line, remove the comma after the second word.

(2) In the twelfth line, "every" should read "very".

4. On page 51800, second column, second complete paragraph, eighth line, "cost of" should read "cost to".

5. On page 51810, third column, § 766.1 (a), first line, "that" should read "the".

6. On page 51811, third column, § 766.4(k), fifth line, "ius" should read "is".

7. On page 51813, second column, § 766.25, introductory text, first line, insert "test" between "analytical" and "method".

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BPO–051–P]

Medicare Program; Processing of Claims by Electronic Means as a Condition of Qualification for the Periodic Interim Payment Method of Reimbursement

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

ACTION: Proposed rule.

SUMMARY: This proposal would require that providers submit claims for Medicare payment electronically, to qualify for periodic interim payments. The requirement would increase the accuracy and efficiency of Medicare claims processing.

DATE: To assure consideration, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by March 7, 1986.

ADDRESS: Address comments in writing to the following address. Health Care Financing Administration, U.S. Department of Health and Human Services, Attention: BPO–051–P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309—G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC; or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BPO–051–P.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Dan Baker, (301) 594–5415.

SUPPLEMENTARY INFORMATION:

I. Background

For cost reporting periods beginning before October 1, 1983, section 1814(b) of the Social Security Act (the Act) requires that providers furnishing health care services to Medicare beneficiaries be reimbursed on the basis of the lesser

of reasonable cost or customary charges for these services. For cost reporting periods beginning on or after October 1, 1983, section 1886(d) of the Act modifies the requirements of section 1814(b) by requiring that Medicare payment to most hospitals for hospital inpatient services be made under a prospective payment system.

Under the cost reimbursement method, the actual costs of services cannot be determined until the provider submits a detailed cost report at the end of its accounting period. However, section 1815(a) of the Act requires that periodic payments be made to a provider, at times the Secretary believes appropriate (but not less often than monthly), for the services it furnishes. The interim payments made to a provider during its cost reporting period are set by the provider's fiscal intermediary according to estimates based on the best available data. Adjustments are required as often as necessary to maintain interim payments that approximate, as closely as possible, the reimbursable cost the provider is currently incurring to furnish covered services to Medicare beneficiaries. In addition, an adjustment for underpayments or overpayments for the period covered by the cost report is made at the end of the cost reporting period based on actual costs.

The Medicare regulations at 42 CFR 405.454 permit the interim payments required by section 1815(a) of the Act to be determined by a "regular method", or by a "periodic interim payment (PIP)" method. Under the regular method, the payments are determined by relating the estimated reimbursement to Medicare utilization as reflected by the patient days or charges on bills submitted to the intermediary in hard-copy form or by electronic means. As such, payments are made after the provider bills the program for services provided to beneficiaries, and the payment amount is related to the specific bills. Under the PIP method, interim payments are not based on actual bills submitted, but are based on estimated annual costs attributable to estimated Medicare utilization of the provider. The estimated Medicare cost is then paid to the provider in level payments without regard to submitted bills. The PIP method is available for hospital and skilled nursing facility (SNF) inpatient services provided under Part A of Medicare and for home health agency (HHA) services provided under Parts A and B. Both the regular and PIP methods are intended to reimburse each provider in amounts that approximate costs as closely as possible so that final adjustments at the end of the provider's cost reporting year are as small as possible.

For cost reporting periods beginning on or after October 1, 1983, hospitals subject to the prospective payment system are paid a prospectively determined amount for each discharge based on actual bills submitted. The payments constitute final payment for inpatient operating activities for each discharge claimed. However, under § 405.454(m)(2), a hospital may elect to receive biweekly PIP payments representing its estimated annual prospective amount. In this case, a year-end reconciliation is required even though the hospital is under the prospective payment system. Also, payments to hospitals under prospective payment for hospital costs still payable on a reasonable cost basis (for example, capital-related or direct medical education costs) continue to require a year-end reconciliation based on a submitted cost report. All prospective payment system hospitals receive level biweekly interim payments for these costs. However, these payments are not PIP payments because the payment method is not at the hospital's option.

II. Periodic Interim Payment Method

The PIP method is an administrative device to reduce paperwork and alleviate cash flow problems experienced by providers. It permits payment of predetermined, standard amounts for furnished services that are not based on individual patient bills and, therefore, are not dependent on provider and intermediary bill processing practices. However, a PIP provider must continue to submit bills for subsequent intermediary verification of the PIP rate. Under § 405.454(j)(4), providers reimbursed under the PIP method receive payment for a two-week period, and these payments are issued no earlier than 14 days after the end of the period to which they apply. The intermediary reviews the provider's PIP rate at specified times during the year and at the end of the provider's cost reporting period. The provider's rate is adjusted by the intermediary, as necessary, after each review. Section 405.454(j)(1) describes the criteria a provider must meet to qualify for PIP. The criteria include the following:

- The provider's estimated annual Medicare reimbursement must be at least $25,000.
- The intermediary must determine that the Medicare cost report filed by the provider is an accurate basis for computing the PIP.
- The provider must have the capability to maintain the records needed to complete the Medicare cost report accurately and timely.

The intermediary's approval of a provider's request to use the PIP method must be conditioned upon its best judgment as to whether payment can be made to the provider without undue risk of overpayments by the Medicare program. Also, the intermediary should terminate PIP for the provider if experience indicates that proper payment cannot be made using PIP or if the provider no longer qualifies for PIP.

III. Discussion of Proposed Change

We estimate that Medicare intermediaries save 50 cents per bill in data entry costs for each claim processed electronically. Additional savings would also result from reduced processing errors because the processing of hard-copy bills results in 10 times the errors of electronically processed bills. Since the intermediary claims processing workload exceeded fifty million bills in fiscal year (FY) 1983, there would be considerable savings to Medicare if we could increase the use of electronic claims processing.

Many providers currently on PIP continue to submit claims in hard-copy because there is no incentive to submit the bills through electronic means. However, PIP providers are among the more sophisticated and better equipped providers due to PIP qualification requirements, and PIP providers typically have their billing data stored in a computer. We believe that PIP providers would incur minimal expense to convert their billing to an electronic method. Further, the expenses incurred would be offset by operational savings in areas such as clerical help, storage, mailing, association of errors, and resubmissions.

Despite our continued efforts to promote the advantages of electronic claims processing, many PIP providers have not converted to an electronic method even if they have the capability to do so. Accordingly, a significant obstacle in promoting electronic processing is the PIP method of reimbursement as presently constituted. The PIP method is utilized by approximately 48 percent of all hospitals and 24 percent of all hospitals, SNFs, and HHAs. Further, PIP accounts for almost sixty percent of the benefit payments made by Medicare intermediaries. Providers on PIP receive a regular payment on a biweekly basis regardless of how efficiently they process their bills and submit them to

the intermediary. Since these providers already receive regular payments independent of the actual bills that they submit, many providers incorrectly believe that a more efficient billing process would result in no additional direct benefit to them. Therefore, most PIP providers have been reluctant to process claims electronically, and the Medicare program has not had the benefit of the significant program savings that would occur with increased use of electronic processing.

To correct this situation, we propose to revise § 405.454(j) to add a requirement that all providers who use PIP must submit their Medicare claims electronically. We believe that most of the providers currently on PIP that submit hard copy bills would convert to electronic billing to remain on PIP. We also believe the conversion to electronic claims processing would not be an undue burden on providers. In fact, benefits should accrue to providers because bills submitted electronically are generally more accurate, and fewer bills would require additional processing due to errors.

Whether bills are submitted electronically or on paper, the provider incurs the same data entry workload preparing the billing document. Further, a second data entry operation is required by the intermediary for each hardcopy bill, but not for bills submitted electronically. Also, electronic submissions require correction far less frequently than hardcopy bills because they are subject to automated edits by the provider prior to submission. Finally, most providers would find that electronic claims processing provides a mechanism for a bill-by-bill reconciliation that is more efficient and less complex than the current PIP process.

We would make exceptions to the electronic processing requirement for cases in which electronic submission is impractical. Providers that have intermediaries that do not accept electronic billing would be exempt. We would make a determination as to whether a provider should be exempt based on a request submitted by the provider. The specific procedures involved would be provided in a future HCFA manual issuance.

To ensure a smooth transition, the electronic processing requirement would not become effective for HHAs until one year after the date of publication of the final rule and for all other providers, six months after publication.

IV. Regulatory Impact Statement and Flexibility Analysis

A. Requirements

1. Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that are likely to: (1) Have an annual effect on the economy of $100 million or more, (2) cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions, or (3) result in significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or import markets. We estimate that implementing this proposal would result in a five-year savings to the Medicare program of approximately $33.4 million. As discussed in section E. below, we believe that any additional expenses incurred by providers (primarily HHAs) for the purchase of electronic equipment would be more than offset by administrative savings because of significant reductions of billing errors. Because the annual impact (see Table 2 below) in each of the first five years under the proposal would not exceed the $100 million threshold, and because no other threshold criteria under Executive Order 12291 would be exceeded, this proposed rule is not considered a major rule and an impact analysis is not required.

2. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 through 612) requires us to prepare and publish an initial regulatory flexibility analysis for proposed regulations unless the Secretary certifies that the regulations would not have a significant economic impact on a substantial number of small entities. We believe that a substantial number of small entities (primarily HHAs) may be significantly affected by this proposal, and therefore, we are providing an initial regulatory flexibility analysis. We invite public comment on this analysis and ask that data in support of comments be provided.

B. Providers Paid Under PIP

Section 405.454(j) explains that the PIP method is available for Part A hospital and SNF inpatient services and for both Part A and Part B HHA services. The table below provides the number of providers in each category paid under the PIP method and the percentage of total providers paid under that method.

TABLE 1

Provider	Number paid under PIP [1]	Percent of eligible providers paid under PIP
Hospitals	3,201	46.0
SNF's	243	4.1
HHA's	785	16.6
Total	4,229	24.7

[1] As of Sept. 30, 1984.

As shown above, hospitals represent the majority of providers under the PIP method. They compose more than 75 percent of the approximate total number of facilities paid under PIP as of September 30, 1984.

C. Electronic Media Claims Processing

There are generally three methods of submitting claims that may be considered electronic media claims processing.

- *On-line Method*—A provider's computer is linked with the intermediary's computer. Whenever claims information is entered in the provider's system, it is automatically transmitted to the intermediary's system. Relative to the other methods, this method is significantly more costly to set up and may not be available with all intermediaries.
- *Call-up Method*—A provider periodically enters all its claims information in its computer and, through the use of a "modem" (that is, a device that translates or modulates a computer file into a binary code that can be transmitted on phone lines, and demodulates files received in binary code), is able to transmit the information to the intermediary's computer by simply calling a particular phone number. Thus, by telephone lines, the computers of the providers and intermediaries may exchange claims data with practically no manpower requirements. The primary cost involved under this method, assuming that the provider has a computer, is the purchase of appropriate telecommunications software and a modem.
- *Mailing Method*—A provider periodically mails a magnetic tape or disk containing claims information to the intermediary, where the tape or disk is simply placed onto the intermediary's computer, and the information is electronically transferred into the intermediary's system. Of the three methods discussed here, this method is the simplest and least costly to utilize.

As previously discussed, the alternative to processing claims electronically is to submit hard-copy bills, which are individual bills typed by

the provider. In most cases, the provider types or enters the information into a computer, which then prints an individual hard-copy bill. Under this method, the intermediary must then retype or re-enter the information so that its computer is able to process the claim. This requires use of a great deal of needless manpower by the intermediary, since the same information must be entered twice.

We estimate that approximately 40 percent of all provider claims are currently submitted in an electronic media format. Applying this approximation to the number of providers presently under PIP, we estimate that around 2,500 providers currently under PIP are not submitting claims electronically and, therefore, may be affected by this proposed rule. The approximate number of each provider category affected would be as follows:

Hospitals	1,900
SNF's	150
HHA's	450
Total	2,500

In submitting this proposal for public comment, we are especially interested in data regarding the capacity of providers to submit electronic media claims; for example, the availability of computers and the necessary software that would be compatible with the intermediaries' systems. To date, there has been little problem regarding providers' systems being compatible with intermediaries' systems.

D. Bill Processing

Table 2 below provides data on the estimated number of bills used as the basis of our estimate of savings in fiscal years (FYs) 1987–1991.

TABLE 2

[In millions]

Fiscal year	Total part A, bill volume [1]	PIP provider bill volume	Electronic media claim bill without regulation [2]	New electronic media claims due to regulation		Ongoing electronic media claims due to regulation		Total savings
				Volume [3]	Savings	Volume [4]	Savings	
1987	61.4	36.8	22.0	9.0	$4.5			$4.5
1988	64.8	39.5	23.7	3.2	1.6	9.5	$4.7	6.3
1989	67.6	41.2	24.8	.7	.3	13.2	6.6	6.9
1990	70.0	42.7	25.6	.5	.3	14.5	7.3	7.6
1991	74.0	45.0	27.0	.5	.2	15.8	7.9	8.1
Total								33.4

[1] Hospitals, SNF's, and HHA's.
[2] Assuming that 60 pct of PIP provider bill volume will be electronic media claims prior to fiscal year 1987.
[3] Annual increase resulting from additional conversions to electronic media claims.
[4] Annual increase in electronic media claim bill volume related to prior provider conversions to electronic media claims

Based on the above data, we estimate that if all providers presently under PIP were to submit electronic media claims, we would save approximately $33.4 million in administrative costs through FY 1991. We estimate that the cost of processing claims submitted in an electronic-media format is approximately 50 cents per claim less than for those submitted in hard-copy format. The greatest portion of the difference in cost is attributable to the fact that the intermediary would no longer be required to type or enter the claims information and the number of billing errors would be greatly reduced through FY 1991. In summary, we estimate that this proposed rule would result in a five-year reduction of administrative costs directly attributable to the reduced cost of claims processing by the intermediary, of $33,400,000.

E. Reduction of Billing Errors

While we have no figures on overall frequency of billing errors, we know from experience with intermediaries that a substantial amount of time and resources are expended, both by intermediaries and providers, correcting such errors. We also estimate that there are 10 times more errors when hard-copy bills are processed than when bills are processed electronically. The difference in frequency of billing errors is attributable to the following circumstances:

- The need for intermediaries to re-enter data from hard-copy bills, leading to a significant increase in the likelihood of simple typing errors.
- Most providers who submit electronic media claims also have automatic (electronic) screening capabilities; that is, information is double-checked before being transmitted or sent to the intermediary.

In addition to the much higher frequency of errors when processing hard-copy bills, the amount of manpower required to correct such errors is much higher, because the errors may be either on the part of the provider or the intermediary.

We believe that significant reductions in the number of billing errors will benefit providers to such an extent that their administrative savings would, in most cases, more than offset the costs of additional electronic equipment necessary for processing claims electronically (discussed in section F following).

F. Discussion of Comparative Effects

We believe that among the three categories of providers potentially affected by this proposed rule, HHAs are the least likely to have systems presently capable of generating electronic media claims. Based on the size and complexity of hospitals and SNFs, and based on informal discussions with providers, we believe that almost all such facilities presently have systems capable of electronic billing, at least by the mailing method. HHAs, on the other hand, vary a great deal in size and volume of services. Many are relatively small and rely on manual office procedures. (The smallest HHAs are sometimes ineligible for PIP because they do not meet all of the criteria in § 405.454(j).)

As previously stated, we have no conclusive data regarding the present capacity of all providers to utilize electronic billing. Therefore, until such time as we have more conclusive information, we are assuming that a negligibly small number of hospitals and SNFs and as many as one-half of all HHAs have no capacity for electronic billing. We believe that this is a conservatively high assumption. Based on this assumption, we believe that as many as 225 HHAs would be required to purchase electronic systems as a condition for retaining PIP.

An institution would be capable of submitting bills electronically with, at a minimum, one of the many personal computers available in the market today designed for business use. These systems and the necessary software cost from $5,000 to $10,000, and require minimal training to operate. Therefore, if our conservative estimate from the previous paragraph were correct, and approximately 225 home health agencies would be required to purchase entire systems, their cost, exclusive of training and manpower, would range from $1,125,000 to $2,250,000. We believe that this cost would be offset by administrative savings because of reduced billing errors.

G. Impact of Ineligibility for PIP on Providers

Ineligibility for PIP under current policies could adversely affect provider cash flow in one or both of the following ways:

- PIP has a shorter average lag time (by approximately 16 days) between the period covered and receipt of payment than regular interim payments. Therefore, loss of PIP eligibility would, in some cases, delay payment.
- PIP offers a predictable level of cash flow that allows providers, in some cases, to more easily manage and budget their resources. If providers experienced internal billing or accounting problems, or brief periods of reduced utilization, the PIP method assures continued payment. Loss of PI eligibility may leave some providers financially vulnerable for short periods.

We believe that these potential cash flow problems are minimal. Accelerated payments continue to be available for certain types of payment delays, and interest charged on loans necessary for working capital is reimbursable to providers paid on the basis of costs.

H. Summary

While we estimate that implementation of this rule would result directly in a five-year savings to the program of approximately $33.4 million (and significant indirect savings because of reduced billing errors), there may be temporary adverse effects on a very small number of hospitals and SNFs and as many as 225 HHAs. If all affected providers chose to purchase computer systems capable of generating bills electronically, their cost would be in the range of $5,000 to $10,000 per facility or agency. We believe that these one-time costs would be more than offset by administrative savings associated with a significant reduction in billing errors. Further, a provider's decision to continue billing in hard-copy form, would result in its ineligibility for the PIP method. However, the effects of such an outcome would be minimal because of the availability of accelerated payments and coverage of interest on loans necessary for working capital under the regular interim payment method.

V. Reporting and Recordkeeping Requirements

The uniform bill data set (DCFA–1450) was most recently approved by OMB on October 28, 1984, and the approval number is 0938–0279. Our proposed change to § 405.454(j)(1) is subject to review by the Office of Management and Budget (OMB) under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504–3507). A notice will be published in the **Federal Register** when approval is obtained.

Organizations and individuals who wish to submit comments on the information collection requirements should direct them to the agency official whose name appears in the beginning of the preamble and to the Desk Officer for HCFA at the following address:

Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503, Attention: Fay Iudicello.

VI. Response to Comments

Because of the large number of comments we receive on proposed regulations, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and respond to them in the preamble to that rule.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 405 would be amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart D—Principles of Reimbursement for Providers, Outpatient Maintenance Dialysis, and Services by Hospital-Based Physicians

1. The authority citation for Subpart D reads as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

2. Section 405.454 is amended by reprinting the introductory language of paragraphs (j) and (j)(1) unchanged, and adding a new paragraph (j)(1)(v) to read as follows:

§ 405.454 Payments to providers.

* * * * *

(j) Periodic interim payment method of reimbursement. In addition to the regular methods of interim payment on individual provider billings for covered services, the periodic interim payment (PIP) method is available for Part A hospital and skilled nursing facility inpatient services and for both Part A and Part B home health agency services.

(1) Any participating provider that establishes to the satisfaction of the intermediary that it meets the following requirements may elect to be reimbursed under the PIP method, beginning with the first month after its request that the intermediary finds administratively feasible:

* * * * *

(v) The provider submits Medicare claims electronically except when HCFA determines, based on a request by a provider for an exemption, that electronic submission is impractical.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.733. Medicare—Hospital Insurance)

Dated: October 23, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

Approved: November 6, 1985.

Margaret M. Heckler,

Secretary.

[FR Doc. 86–1028 Filed 1–17–86; 8:45 am]

BILLING CODE 4120-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 462]

Exemption of Demurrage From Regulation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time.

SUMMARY: Based on requests filed by the American Paper Institute, Inc., Association of American Railroads, National Industrial Transportation League, and Society of the Plastics Industries, Inc., and because the Commission's decision in Section 5b Application No. 7, *Railroad Per Diem Demurrage and Storage Agreement*, has not yet been served, good cause has been shown to grant and extension of time. The Advance Notice of Proposed Rulemaking was published on December 18, 1986, at 50 FR 51565,[1] and set January 17, 1986, as the comment date. A 60-day extension of time is granted.

DATE: Comments are due March 18, 1986.

ADDRESSES: Send an original and 15 copies of comments referring to Ex Parte No. 462 to: Office of the Secretary, Case

[1] The summary in that notice was not in accord with the Commission's decision. The decision governs.

Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

Decided: January 13, 1986.

By the Commission, J.J. Simons, Acting Chairman.

James H. Bayne,

Secretary.

[FR Doc. 86–1194 Filed 1–17–86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Ringed Sawback Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list the ringed sawback turtle (*Graptemys oculifera*) as a threatened species. This basking turtle is found only in the Pearl River system of Mississippi and Louisiana. It seems to prefer wide sand beaches and a narrow channel with at least moderate current, and characteristically spends many hours basking in open sunshine on logs and debris over deep water. Some of its former habitat has been modified by reservoir construction and flood control, while other areas are marginal habitat due to water quality degradation and corresponding loss of its molluscan food supply. Most of the remaining habitat is threatened by flood control projects. This proposal, if made final, will implement the protection of the Endangered Species Act for this species. The Service seeks relevant data and comments from the public.

DATES: Comments from all interested parties must be received by March 24, 1986. Public hearing requests must be received by March 7, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan at the above address (601/960–4900 or FTS 490–4900).

SUPPLEMENTARY INFORMATION:

Background

The ringed sawback turtle was described by Baur in 1890 as *Malacoclemmys oculifera*, and renamed *Graptemys oculifera* in 1893. The type specimens were a group of turtles acquired for the United States National Museum by Gustave Kohn, and reportedly came from Mandeville, Louisiana, and Pensacola, Florida (Cagle, 1953). On the basis of a 1900 statement to this effect by George E. Beyer, then Curator of the Tulane Museum, Cagle says they were probably purchased in the French Quarter Market in New Orleans, Louisiana. Due to the absence of ringed sawback turtles from collections in southern Alabama and Florida, Cagle considers the Pensacola record to be erroneous, although Kohn had accepted the locality data of the individual from whon the purchase was made. The Mandeville record is probably from the Pearl River, 26 miles to the east, since there is no suitable habitat near Mandeville.

The ringed sawback turtle is a small turtle having a yellow ring bordered inside and outside with dark olive-brown on each shield of the upper shell or carapace, and a yellow undershell or plastron. The head has a large yellow spot behind the eye, two yellow stripes from the orbit backwards and a characteristic yellow stripe covering the whole lower jaw (Cagle, 1953). Males grow to 4 inches (10 cm) and females to 7 inches (18 cm) in plastron length.

The ringed sawback turtle's habitat is typically riverine with a moderate current and numerous basking logs. The river must be wide enough to allow sun penetration for several hours. Nesting habitat consists of large, high sand and gravel bars adjacent to the river. Good water quality is necessary for the production of snails and mollusks on which the ringed sawback turtle feeds. This basking turtle is not able to inhabit large lake areas or polluted waters.

A questionnaire survey of herpetologists and museum curators reflecting several decades of sustained collecting effort, as well as its own field studies, provided the Service with strong evidence that this species is restricted to the main channels of the Pearl and Bogue Chitto Rivers of Mississippi and Louisiana. No survey respondent had recorded the ringed sawback turtle from outside this river system. Cagle (1953) examined 51 specimens taken from unspecified sites on the Pearl River and considered the ringed sawback turtle to be restricted to the Pearl and Bogue Chitto Rivers, noting that it was absent from streams to the east. It occurs in most reaches of the Pearl River upstream to Neshoba County, Mississippi (Cliburn, 1971), and in the Bogue Chitto River upstream to Franklinton, Louisiana (James Dobie, Auburn University, personal communication). The Amite and Tangipahoa Rivers to the west appear to have suitable habitat but, when searched, have not produced any specimens of the ringed sawback turtle. Cliburn (1971) collected 37 representatives of this species in his study of *Graptemys* in Mississippi, and found the species in the Pearl River up to Neshoba County. He concluded that, in Mississippi, it was restricted to the mainstem Pearl River.

McCoy and Vogt (1980) established 14 observation stations in the Pearl River system and one in the Wolf River, a small coastal stream to the east. They found no turtles of this species in the Wolf River. In the Pearl River they observed ringed sawback turtles at 8 stations, with 20 or more individuals observed at two of these stations. These two stations, representing population centers, are more than 100 river miles (rmi) or 161 river kilometers (rkm) apart. McCoy and Vogt (1980) established three trap sites at which they caught only 3 ringed sawback turtles in 15 trap days. At these same stations, Cliburn (1971) had captured 21 individuals. McCoy and Vogt (1980) reported one sight record and one other casual observation of this species is smaller tributary streams of the Pearl River that the Service considers to be very doubtful in light of tis own survey results.

Service biologists in 1984 and 1985 surveyed various river reaches in the Pearl River from Edinburg, Mississippi, downstream. In one river reach upstream they identified 75 percent of the *Graptemys* as *G. oculifera*, which compares favorably with Cliburn's collections. Comparing Cliburn's data with the Service survey suggests that the ringed sawback turtle population has remained stable in the Pearl River above Ross Barnett Reservoir and in a reach of the Pearl River near Monticello and Columbia. The Service survey below Ross Barnett Reservoir observed only 41 *Graptemys* in a 7-mile (11.3 km) reach, with most of these turtles large enough to be adults. Cable's (1953, 1954) studies indicated a population comprised of 80 percent juveniles. Based on this comparison, the population near Jackson appears to be declining. Service survey of the Pearl River at Columbia found a river reach almost devoid of any turtle species. While the ringed sawback turtle is still abundant at some locales, it is

almost extirpated from some other river reaches, with little evidence of a healthy population in those areas.

Virtually all the land adjacent to the Pearl and Bogue Chitto Rivers is privately owned. The National Park Service administers public land on a short river reach of the Pearl above Ross Barnett Reservoir. The Service administers Bogue Chitto National Wildlife Refuge, consisting of several thousand acres at the confluence of the Pearl and Bogue Chitto Rivers. Pearl River Valley Management District controls Ross Barnett Reservoir, the only impoundment on the Pearl River.

The Service published a notice of review of the status of twelve species of turtles, including the ringed sawback turtle, in the **Federal Register** on June 6, 1977 (42 FR 28903). Seventy percent of those responding to the notice recommended listing the ringed sawback turtle as threatened. One agency commented that the available information did not indicate the ringed sawback turtle warranted protection. Another agency stated that it considered the most significant threat to basking turtles to be wanton shooting, but did not address the ringed sawback turtle specifically.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the ringed sawback turtle (*Graptemys oculifera*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The survival of the ringed sawback turtle is presently threatened by habitat modification for flood control and navigation. The ringed sawback turtle must have structures on which it can bask and be safe from predation, and it must have suitable nesting habitat. These structures are generally logs, snags, and other debris commonly occurring in streams. Navigation and flood control measures often require the removal of logs, snags, and river bars to facilitate water flows. Flood control projects also contribute to sedimentation in downstream river reaches. This is especially true where flood control measures consist of floodplain clearing and channelization of tributary streams to facilitate water flow. Increased turbidity and siltation impact the snails and mollusks on which the ringed sawback turtle feeds.

The ringed sawback turtle has been impacted by habitat modification in 21 percent of its historic range in the Pearl River by construction of the Ross Barnett Reservoir, 30 rmi (48 rkm), West Pearl channel to Bogalusa, 58 rmi (93 rkm), and the floodplain clearing at Jackson, Mississippi, 8 rmi (13 rkm) (U.S. Army Corps of Engineers, 1983). Projects planned or authorized by the Corps of Engineers (Corps) will impact up to 28 percent of the remaining Pearl River habitat. These planned or authorized projects are:

(1) A navigation channel in the East Pearl up to Picayune (about 30 rmi or 48 rkm); (2) a channel 5 ft (1.5 m) deep from Jackson to Carthage, 100 rmi (161 rkm); (3) a channel 2 ft (0.6 m) deep from Carthage to Endinburg, 28 rmi (45) rkm); (4) Schoccoe Dam (up to 70 rmi or 113 rkm); and (5) a channel 3200 ft (1000 m) long through the old Jackson Sanitary Landfill. In addition, the Corps has flood control studies ongoing or planned for Pearl River reaches at Slidell, Louisiana, and Pearlington, Morgantown, Monticello, Foxworth, Columbia, Carthage, and Leake County, Mississippi. A channel is authorized for 100 rmi (161 rkm) of the Bogue Chitto River, and flood control studies are planned for Bogue Chitto River reaches at Franklinton, Louisiana, and Tylertown, Mississippi. This authorized project would eliminate the Bogue Chitto River as suitable habitat for the ringed sawback turtle. The Corps has Section 205 flood control studies ongoing or planned for Canal A at Pearl-Flowood, Caney Creek, Three-Mile Creek, Dry Creek, Webb Creek, and Sellers Creek in the Pearl River basin.

The Soil Conservation Service (1983) has constructed 25 watershed structures and 49.5 mi (80 km) of drainage ditches in the Pearl River basin, and is continuing this type of construction. These projects impact the ringed sawback turtle by increased sedimentation from drainage ditches. Also, where these ditches drain agricultural fields, the runoff of pesticides contributes to water quality degradation.

Legislation has been introduced to allow local funding of flood control measures, including the Edinburg and Shoccoe dams. The city of Jackson has accomplished some flood plain clearing and is studying the feasibility of a parkway levee that would contain flood waters below Ross Barnett Reservoir. County supervisors throughout the Pearl River basin have proposed numerous flood control measures.

Impoundments obviously eliminate the ringed sawback turtle's required habitat by inundation. Flood control and navigation channel modification in ringed sawback turtle habitat may eliminate basking and nesting sites, change water flows, harm the food source, and increase turbidity and siltation to the detriment of the ringed sawback turtle. Channel modification in tributary streams can increase turbidity and siltation in the Pearl River and impact snails and mollusks. Authorized and planned projects, sand and gravel dredging, and the result of navigation and flood control studies could modify most, if not all, of the known ringed sawback turtle habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Wanton shooting (use of the basking turtles for target practice) and collecting pose a threat to the ringed sawback turtle. This threat becomes more serious as the population declines owing to impacts of habitat alteration. The threat from collecting for scientific and educational purposes is declining. In previous years, relatively large numbers of ringed sawback turtles were collected for museums. A changing awareness on the part of many scientists seems to be reducing this threat. Collecting for commercial purposes is a more serious threat. This very attractive turtle has been advertised for retail sale at $65 each. The turtle is quite vulnerable to knowledgable collectors, who can seriously decimate a local population in a short period of collecting.

C. *Disease or predation.* There is no known threat from disease. While this species is subject to some natural predation, the only serious threat is wanton shooting as discussed in Factor "B" above. The alteration of habitat as discussed in Factor "A" could make the ringed sawback turtle more susceptible to natural predators.

D. *The inadequacy of existing regulatory mechanisms.* The ringed sawback turtle is listed as endangered under Mississippi Department of Wildlife Conservation Public Notice 2408. Because of this State protection, the Lacey Act applies to the taking and transportation of the ringed sawback turtle from Mississippi. Louisiana does not recognize the ringed sawback turtle as a protected species and as a result the Lacey Act is not enforceable in Louisiana. This discrepancy increases the difficulty of enforcing the Lacey Act because the capture locale must be proven. Both states require permits to collect the ringed sawback turtle for scientific purposes, but compliance is

extremely difficult to enforce. The loss or alteration of habitat is the greatest threat to the ringed sawback turtle, but no regulations requiring consideration of this species during project planning yet exist. Listing under the Endangered Species Act would provide must needed protection through sections 7 and 9 and the recovery process.

E. *Other natural or manmade factors affecting its continued existence.* Water quality degradation also poses a serious threat to the ringed sawback turtle. This impact includes bioaccumulation of toxic materials and the loss of food organisms. The total effects of pollution and siltation upon the ringed sawback turtles themselves have not been documented. However, the effects on mollusks and snails are well documented, and this group of organisms is the primary food source of the ringed sawback turtle. Thus water quality degradation can reduce or eliminate the turtles' food supply. The reduced population of ringed sawback turtles in river reaches that have otherwise suitable habitat, but are polluted from some source, tends to support this conclusion.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the ringed sawback turtle as threatened. A threatened species is any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Threatened status was chosen because, even though the Pearl River population of ringed sawback turtles appears presently stable, the potential modification of the Pearl River for flood control appears to pose serious threats to the species' survival. Endangered status is not appropriate because the species is not faced with imminent extinction, unless the Pearl River is modified greatly. Critical habitat is not being proposed for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. There are two good population centers of ringed sawback turtles in the Pearl River and to designate these as critical habitat would make this species more susceptible to collectors as discussed under Factor "B" in the "Summary of Factors Affecting the Species." Publication of critical habitat descriptions would make this species even more vulnerable and increase law enforcement problems. Therefore, it would not be prudent to determine critical habitat for the ringed sawback turtle at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat.

If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Expected Fedral involvement with the ringed sawback turtle includes U.S. Army Corps of Engineer projects for flood control and navigation, activities permitted by the Corps, and Soil Conservation Service watershed projects. The lower Pearl River requires maintenance dredging for navigation. Corps projects and plans for flood control include significant Pearl River reaches from Edinburg to the Mississippi coast and most of the Bogue Chitto River in Louisiana and Mississippi. The SCS has at least 10 watershed projects planned or in operation within the Pearl River basin.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce listed species. it is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

If listed under the Act, the Service will review this species to determine whether it should be considered under the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any

threat (or lack thereof) to the ringed sawback turtle;

(2) The location of any additional populations of the ringed sawback turtle and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on the ringed sawback turtle.

Final promulgation of the regulation on the ringed sawback turtle will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to Endangered Species Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Cagle, F.R. 1953. The status of the turtle *Graptemys oculifera* (Baur). Zoologica 83:137–144.

Cagle, F.R. 1954. Two new species of the genus *Graptemys*. Tulane Studies in Zoology 1:166–186.

Cliburn, J.W. 1971. The ranges of four species of *Graptemys* in Mississippi. J. Mississippi Acad. Sci. 16:16–19.

McCoy, C.J., and R.C. Vogt. 1980. Distribution and population status of the ringed sawback *Graptemys oculifera* (Baur) in Mississippi and Louisiana. A status survey report for the U.S. Fish and Wildlife Service. 23 pp.

U.S. Army Corps of Engineers. 1983. Project Maps. Vicksburg District.

U.S. Soil Conservation Service. 1983. Watershed Progress Report. U.S. Department of Agriculture, Jackson, Mississippi.

Author

The primary author of this proposed rule is James Stewart (see **ADDRESSES** section). George Drewry of the Service's Washington Office of Endangered Species served as editor.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under Reptiles, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
REPTILES							
Turtle, ringed sawback	Graptemys oculifera	U.S.A. (LA, MS)	Entire	T		NA	NA

Dated: December 18, 1985.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–1163 Filed 1–17–86; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 51, No. 13
Tuesday, January 21, 1986

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.

COMMISSION ON CIVIL RIGHTS

Georgia Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m., on January 30, 1986, at the Holiday Inn Downtown, 175 Piedmont Avenue, NE., Ellis Room, Atlanta, Georgia. The purpose of the meeting is to hold a briefing session for a community forum on the status of working women in Georgia.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, John Ruffin, or Bobby Doctor, Director of the Southern Regional Office at (404) 221–4391, (TDD 404/221–4391). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at lest five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC., January 14, 1986.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 86–1184 Filed 1–17–86; 8:45 am]

BILLING CODE 6335–01–M

Georgia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 6:00 p.m., on January 31, 1986, at the Holiday Inn Downtown, 175 Piedmont Avenue, NE., Ellis Room, Atlanta, Georgia. The purpose of the meeting is to conduct a community forum on the status of working women in Georgia.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, John Ruffin, or Bobby Doctor, Director of the Southern Regional Office at (404) 221–4391, (TDD 404/221–4391). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at lest five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC., January 14, 1986.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 86–1185 Filed 1–17–86; 8:45 am]

BILLING CODE 6335–01–M

Hawaii Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:00 noon, on February 3, 1986, at the Wakiki Trade Center, 2255 Kuhio Avenue, Suite 1800 (Board /Room), Honolulu, Hawaii. The purpose of the meeting is to discuss affirmative action efforts in the State Department of Education and review a draft project proposal on Native Hawaiian Homelands.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Andre Tatibouet or Philip Montez, Director of the Western Regional Office at (213) 688–3437, (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 14, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[[FR Doc. 86–1186 Filed 1–17–86; 8:45 am]

BILLING CODE 6335–01–M

Virginia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Virginia Advisory Committee to the Commission will convene at 7:30 p.m. and adjourn at 9:30 p.m., on February 5, 1986 and convene at 9:00 a.m., and adjourn at 12:00 noon on February 6, 1986, at City Hall, 900 E. Broad Street, 5th Floor Conference Room, Richmond, Virginia. The purpose of the meetings is to release a Committee report on civil rights complaints and enforcement in Virginia and to discuss future program activities including a possible project on voting rights.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Benjamin Bostic or John Binkley, Director of the Mid-Atlantic Regional Office at (202) 254–6717, (TDD 202/254–5461). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 14, 1986.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 86–1187 Filed 1–17–86; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Motor Freight Transportation and Warehousing Survey; Consideration

The Bureau of the Census hereby gives notice that we plan to conduct in 1986 the Motor Freight Transportation and Warehousing Survey. This annual survey will be conducted under authority of Title 13, United States Code, sections 182, 224, and 225, and will collect data on 1984 and 1985 revenues and expenses of selected firms engaged in trucking or warehousing operations. This survey will be a continuing and timely source of economic data for the trucking and warehousing industries. Such a survey, if conducted, shall begin not earlier than February 20, 1986.

Information and recommendations received by the Bureau of the Census show that the data have significant application to the information needs of the public, the trucking and warehousing industries, and governmental agencies, and that the data are not publicly available from nongovernmental or other governmental sources on a continuing basis.

The Bureau of the Census needs reports only from a selected sample of trucking and warehousing firms operating in the United States, with probability of selection based on payroll size. The sample will provide, with measurable reliability, statistics on the subject specified above.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, DC 20233.

Any suggestions or recommendations concerning this survey will receive consideration if submitted in writing to the Director, Bureau of the Census, within 30 days of publication of this notice in the **Federal Register.**

Dated: January 14, 1986.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 86-1227 Filed 1-17-86; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 1-86]

Foreign-Trade Zone 64—Jacksonville, FL; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Jacksonville Port Authority (JPA), grantee of Foreign-Trade Zone 64, requesting authority to expand its zone in Jacksonville, within the Jacksonville 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 January 10, 1986.

On December 29, 1980, the Board authorized JPA to establish a foreign-trade zone (Board Order 170, 46 FR 1330). The project currently involves an industrial park site at Jacksonville International Airport, a warehouse on North Ellis Road, and sites at the JPA Talleyrand Dock and Blount Island Terminal.

The proposed expansion involves 21 acres and 300,000 square feet of warehouse space at 5400/5510 West 12th Street, Jacksonville. The parcel is part of a warehousing complex that includes the North Ellis Road zone site. The complex is owned by Unit Distribution, the designated zone operator. The additional space is needed mainly to accommodate a user involved in the warehousing/distribution of auto parts.

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: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Howard Cooperman, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southeast Region, 99 S.E. 5th Street, Miami, FL 33131; and Colonel Charles T. Myers, III, District Engineer, U.S. Army Engineer District Jacksonville, P.O. Box 4970, Jacksonville, FL 32232.

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 18, 1986.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 2831 Talleyrand Ave., Jacksonville, FL 32206.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania, NW., Washington, DC 20230.

Dated: January 14, 1986.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 86-1226 Filed 1-17-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-351-502]

Postponement of Final Antidumping Duty Determination; Fuel Ethanol From Brazil

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a further request from respondents in this investigation that the final determination be postponed, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A), and that we have determined to postpone our final determination as to whether sales of fuel ethanol from Brazil have been made at less than fair value until not later than February 7, 1986.

EFFECTIVE DATE: January 21, 1986.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Shimabukuro or Ray Busen, Office of Investigations, Import Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-5332 or 377-3464, respectively.

SUPPLEMENTARY INFORMATION: On March 25, 1985, we published a notice in the **Federal Register** (50 FR 11748) that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping duty investigation to determine whether imports of fuel ethanol from Brazil are being, or are likely to be, sold at less than fair value. On April 11, 1985, the International Trade Commission determined that there is reasonable indication that imports of fuel ethanol from Brazil are threatening to materially injure a U.S. industry. (U.S. ITC Pub. No. 1678, April 1985). On September 25, 1985, we published a preliminary determination of sales at less than fair value with respect to this merchandise (50 FR 38871). The notice stated that if the investigation proceeded normally, we would make our final determination by December 2, 1985.

On October 7, 1985, Interbras, a respondent, requested that we extend the period for the final determination until not later than 105 days after the date of the preliminary determination. On October 8, 1985, counsel for Copersucar, Cotia, and Costa Pinto, respondents, requested that we extend the period for the final determination until 60 days from December 2, 1985. On October 17, 1985, the final determination was postponed until January 31, 1986.

On December 30, 1985, Willkie Farr & Gallagher requested, on behalf of exporters Copersucar, Cotia, Costa Pinto, and Interbras/Internor, a further extention to February 7, 1986, which is 135 days after the publication of the preliminary determination, under section 735(a)(2) of the Act (19 U.S.C. 1673d(a)(2)). Collectively, these respondents account for a significant proportion of the exports of fuel ethanol. Section 735(a)92)(A) of the Act provides that the Department may postpone its final determination concerning sales at less than fair value until not later than 135 days after the date of publication of its preliminary determination if exporters who account for a significant proportion of the merchandise which is the subject of the investigation request a postponement after an affirmative preliminary determination. The Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly, the Department will issue a final determination in this case not later than February 7, 1986.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

January 14, 1986.

[FR Doc. 86-1256 Filed 1-17-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce has received timely requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: January 21, 1986.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard W. Moreland, Office of Compliance, International Trade Administration, U.S Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/ 2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32558) a notice outlining the procedures for requesting administrative reviews during the anniversary month of a prodceeding. The Department has received timely requests, in accordance with §§ 353.53a(a)(2) and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than January 31, 1987.

	Periods to be reviewed
Antidumping Duty Proceedings and Firms	
Tuners (of the type used in consumer electronic products) from Japan:	
Shin-Shirasuna	12/84-11/85
Elemental Sulphur from Canada:	
Texaco Canada, Inc	12/84-11/85
Canadian Reserve Oil & Gas	12/84-11/85
Cornwall Chemicals, Ltd	12/84-11/85
Staples and Staple Machines from Sweden:	
Josef Kihlberg	12/84-11/85
Steel Wire Strand for Prestressed Concrete from Japan:	
Shinko Wire/All exporters (except Mitsui)	12/84-11/85
Suzuki Metal/All exporters (except Mitsui)	12/84-11/85
Tokyo Rope/All exporters (except Mitsui)	12/84-11/85
Countervailing Duty Proceeding	
Litharge, Red Lead, and Lead Stabilizers from Mexico	12/84-12/85

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c)).

Dated: January 14, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-1258 Filed 1-17-86; 8:45 am]

BILLING CODE 3510-DS-M

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received timely requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings, and suspended investigations. In accordance with the Commerce Regulations, we are initiating administrative reviews.

EFFECTIVE DATE: January 21, 1986.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/ 2786.

SUPPLEMENTARY INFORMATION: .

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department received timely requests, in accordance with §§ 353.53a(a)(5) and 355.10(a)(2) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspended investigations.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspended investigations. We intend to issue the final results of these reviews not later than January 31, 1987.

We are also correcting certain review periods for certain cases which were incorrectly listed in a previous initiation notice (50 FR 48825, November 27, 1985).

Antidumping duty proceeding and firms	Periods to be reviewed
Synthetic methionine from Japan: Mitsui & Co., Ltd.; Nippon Soda	7/82-6/83
Animal glue and inedible Gelatin from the Netherlands: Holding Trobas	12/82-5/84
Pig iron from Canada: Dofasco	7/83-6/85
Roller chain, other than bicycle, from Japan:	
Daido Kogyo	4/81-3/83
Deer Island (Ameriport)	4/81-3/83
Enuma Chain	4/81-3/83
Izumi Chain	4/81-3/83
Katayama	4/81-3/83
Meisei Trading	4/81-3/83
Mitsubishi Motors	4/81-3/83
Naniwa Kogyo	4/79-3/83
Nissan Motors	4/81-3/83
Rocky Asia	4/81-3/83
Shima Trading	4/81-3/83
Suzuki	4/82-3/83
Takasago	4/81-8/83
Tsubakimoto	4/81-8/83
Yamakyu	4/81-3/83
Cyanuric acid from Japan: Shikoku Chemicals	[1] 11/83-3/85
Dichloro isocyanuric acid from Japan: Shikoku Chemicals	[1] 11/83-3/85

Antidumping duty proceeding and firms	Periods to be reviewed
Nissan Chemical Industries	[1] 11/83-3/85
Trichloro isocyanuric acid from Japan:	
Shikoku Chemicals	[1] 11/83-3/85
Nissan Chemical Industries	[1] 11/83-3/85
Carbon steel wire rods from Trinidad/Tobago: ISCOTT	[1] 11/84-10/85

[1] Corrected periods.

Countervailing duty proceeding	Period to be reviewed
Sodium gluconate from the EC	11/83-12/84

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c)).

Dated: January 14, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-1269 Filed 1-17-86; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Financial Assistance Application Announcements; Indianapolis, IN

Correction

In FR Doc. 86-644 appearing on page 1418 in the issue of Monday, January 13, 1986, make the following correction:

In the first column in the eighth line of the last complete paragraph, "MBDC supports MBDC" should read "MBDA supports MBDC".

This document also corrects the subject heading, which should have read as set forth above.

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of General Permit

A general permit was issued on January 9, 1986, to the VEB Fischfang Rostock, 2501 Rostock 5, German Democratic Republic, to take marine mammals incidental to commercial fishing operations under Category 1: Towed or Dragged Gear, pursuant to 50 CFR 216.24.

The general permit allows the taking of not more than 10 cetaceans and 8 phocid seals annually by certificate holders operating under this permit within the U.S. fishery conservation zone of the North Atlantic Ocean. The permit is valid until December 31, 1986.

This general permit is available for public review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, DC.

Dated: January 13, 1986.

J.W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 86-1188 Filed 1-7-86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of General Permit

A general permit was issued on January 10, 1986, to the Embassy of the People's Republic of Poland, New York, New York, to take marine mammals incidental to commercial fishing operations under Category 1: Towed or Dragged Gear, pursuant to 50 CFR 216.24.

The general permit allows the taking of not more than 24 cetaceans and 70 pinnipeds annually by certificate holders operating under this permit within the U.S. fishery conservation zone of the North Pacific Ocean. The permit is valid until December 31, 1986.

This general permit is available for public review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, DC.

Dated: January 13, 1986.

J.W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 86-1189 Filed 1-17-86; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group D (Production) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 9:00 a.m., Thursday, 6 February 1986.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, Suite 307, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Thomas Henion, AGED Secretariat, 201 Varick Street, New York, 10014

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The Working Group D area includes all production aspects of critical electronic components for the defense electronic supply base; the transition of components from research and development into production, e.g., manufacturing technology; policy and acquisition steps necessary to insure that there is a sufficient domestic supply base for critical electronic components; and steps necessary to insure the continuing availability of skilled people to support the critical electronic component supply base. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has beend etermined that this Advisory Group 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.

January 14, 1986.

[FR Doc. 86-1164 Filed 1-17-86 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

University Research Initiative Program

This is a reiteration of the notice published in the *Commerce Business Daily* on December 12, 1985. The U.S. Army Research Office has been assigned responsibility for coordinating the University Research Initiative for the Department of the Army.

The University Research Initiative shall be implemented by establishing a number of Centers of Excellence in scientific areas of interest to the Army. Each center will be required to establish a program for providing fellowships for training graduate students in the area

specified. It is anticipated that a center may require funds for acquiring or building state-of-the-art instrumentation and this requirement should be carefully stated in proposals for support. Each center will be funded for a maximum of five years at an annual level not exceeding three millions dollars. Candidate areas for centers are briefly outlined below:

Manufacturing Science, Reliability and Maintainability Technology

This research program should emphasize the following aspects of manufacturing, reliability and maintainability: (1) Emerging processing methods which offer unusually strong potential for improved quality, reproducibility and yield of product; (2) in-process, nondestructive characterization techniques for real-time inspection and closed loop computer control of critical parameters in the manufacturing process; (3) fundamental research on principles that establish the relationships among processing, structure and properties of materials; and (4) improved testing and evaluation methodology which is lower in cost, more accurate and more realistic.

Electro-optics, Signal Processing and Image Understanding

Research relevant to this topic includes, but is not limited to the following areas: (1) Detectors and sensors for converting carriers data for processing, with emphasis on electromagnetic detection; (2) signal and/or image processing with the object of separating target from background objects; (3) interface to the human operator; and (4) electro-optic and laser techniques which bear on optical countermeasures including the development of tunable infrared lasers and techniques for rapidly switching laser beams of moderate power.

Advanced Propulsion Systems

Basic research tasks in this area may include, for example, work related to internal aerodynamics, combustion, heat transfer, composite and ceramic materials applications, power transmissions, compound cycle concepts and analyses, bearings and seals, lubrication, and shaft dynamics. Aeropropulsion research concerned with small radial and axial flow componentry, compressor-diffuser interfaces and turbines is also of strong interest.

Geosciences

Research in this area should be directed toward the development of new, rapid response, *in situ* and remote techniques and sensors for measuring temperature, humidity and windfields. Additional research might include modelling of the planetary boundary layer, studies of battlefield aerosols and improved methods for estimating the areal distribution of rain and rainfall rates.

Fast Reaction Kinetics

Research in this area is expected to advance our understanding of the combustion of energetic materiels; i.e., materials which undergo fast, highly exothermic reactions. Research will include studies to clarify the mechanisms of the initial decomposition of energetic materials and subsequent reactions of the resulting fragments. Work will include kinetic studies, theoretical modelling and the development of new, fast diagnostic techniques.

Intelligent Control Systems

Intelligent control systems pose substantial mathematical, computational, algorithmic and systems problems in several areas of Army interest. To support these areas, increased efforts are needed in nonlinear analysis, decision theory, statistical signal processing and random field theory, nonlinear dynamical systems and stochastic and deterministic distributed information processing and control.

High Frequency Microelectronics

The ability to react in real-time and to utilize new artificial intelligence techniques calls for new approaches in electronic device technology. Fundamental investigations of potential interest include fabrication techniques, computer-aided design and advanced architectures. Microcircuit fabrication at dimensions much smaller than those of the Very High Speed Integrated Circuits (VHSIC) program represents one of the greatest research needs in the area of high frequency microelectronics. Technology needed to achieve predicted system goals is envisioned to be based upon quantum transport phenomena, such as tunneling.

Ultra Dynamic Performance Materials

The Army needs improved understanding of the behavior of materials under conditions of high impingment of energy. Research is needed which will lead to an increased capability in the design of advanced materials for use under conditions of impact, shock and penetration. Work should be done in several areas inciuding, for example, analytical and numerical modelling of dynamic deformation and impact phenomena, studies of adiabatic shear bands and dynamic fracture, and the development of high-strength, high-density alloys.

Biosystems and Biotechnology

Basic research is needed to further our understanding of the mechanisms involved in complex biological system functions and of the dynamic structures supporting those functions. Efforts should include research to determine the extent to which the architecture of proteins is essential to their capacity to function as enzymes in catalyzing chemical reactions, as membrane receptors for electrochemical gating or as components of complex supramolecular ensembles functioning in photosensitive electron transfer reactions. Additional research should focus on the application of molecular genetics and biotechnology to the ultimate development of prophylactic and therapeutic treatment of toxins of biological origin.

Advanced Construction Technology

Research in the engineering and materials sciences area which is focused on advancing construction technology is needed. Such research, for example, would be concentrated on integration of the newest materials into lightweight but durable structures, NDT, prognostics, response to shock or electromagnetic pulse environments and efficient architectural design concepts. All such elements of research should be organized to obtain the long term objective of reduced life-cycle cost constrained by structural function.

The Army Research Office has issued a special Broad Agency Announcement (BAA) in accordance with FAR 6.102(d)(2) which provides further details on this program and the procedures for submission of proposals. Proposals in response to the special BAA must be received no later than 28 February 1986. Proposals received after that date will not be considered. Organizations desiring a copy of the special BAA may obtain it by submitting a written request (telephone requests will not be accepted) to: US Army Research Office, ATTN: SLCRO–URI–86, P.O. Box 12211, Research Triangle Park, NC 27709–2211.

Jack L. Harless,

Chief, Procurement Office.

[FR Doc. 86–1198 Filed 1–17–86; 8:45 am]

BILLING CODE 3710-92-M

ENDANGERED SPECIES COMMITTEE

Cancellation of Hearing; Withdrawal of Exemption Application

AGENCY: Endangered Species Committee.

ACTION: Cancellation of hearing—withdrawal of exemption application.

SUMMARY AND DATES: The Consolidated Grain and Barge Company of St. Louis, Missouri, has withdrawn its application for an exemption from section 7 of the Endangered Species Act for a barge fleeting area on the Ohio River near Mound City, Illinois.

This notice cancels the hearing scheduled for January 28, 29, and 30, 1986, to develop the record from which the Secretary of the Interior, Chairman of the Endangered Species Committee, would prepare his report to the Committee under 16 U.S.C. 1536(g) (4), (5), and 50 CFR 452.04, 452.05. The original hearing notice was published on December 6, 1985, 50 FR 49983.

FOR FURTHER INFORMATION CONTACT: Mr. Jon H. Goldstein, (202) 343–7258.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior has accepted Consolidated Grain and Barge Company's withdrawal of its application. Accordingly, the process established by the Endangered Species Act and the regulations at 50 CFR Part 452 for making a determination on whether to grant an exemption is concluded, with no exemption having been granted.

Frederick A. Miller,

Administrative Law Judge, Office of Hearings and Appeals, U.S. Department of the Interior.

[FR Doc. 86–1356 Filed 1–17–86; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 86–01–NG]

PGC Marketing Inc.; Application To Import Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Application for Blanket Authorization to Import Natural Gas from Canada for Short-Term and Spot Sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on January 2, 1986, of the application of PGC Marketing Inc. (PGC), a wholly-owned subsidiary of Lear Petroleum Corporation, for blanket authorization to import from Canada up to 300 MMcf a day of natural gas over a two-year period to make sales on an interruptible or firm basis to new markets in the United States. PGC proposes to act as an agent for sellers and purchasers, and if requested, to assist in arranging for the transportation of the imported natural gas. PGC states the terms of each transaction will be individually negotiated to be competitive with market conditions.

PGC asserts it has access to significant gas supplies in Canada from Western Gas Maketing Limited, a wholly-owned subsidiary of TransCanada PipeLines Limited, and from a field in the Yukon Territory, operated by Columbia Gas Development of Canada Ltd., as well as from other Canadian production. PGC notes another affiliate of its parent, a partner in El Dorado Interstate Transmission, has applied for a certificate of public convenience and necessity to provide natural gas for enhanced oil recovery/cogeneration markets in the San Joaquin Valley in California.

PGC requests the ERA to modify the reporting requirement imposed on similar authorizations to allow individual transactions to be treated as confidential for a 90 day period, to be consistent with the policy of the Canadian National Energy Board.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., on February 20, 1986.

FOR FURTHER INFORMATION CONTACT:

Chuck Boehl, Natural Gas Division, Office of Fuels Programs, Economic Regualtory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6050

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC. 20585. They must be filed no later than 4:30 p.m., February 20, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing

is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of PGC's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C., January 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-1267 Filed 1-17-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP).

Date and Time: Thursday, February 6, 1986, 9:00 am-6:00 pm; Friday, February 7, 1986, 9:00 am-4:00 pm.

Place: U.S. Department of Energy, Room A-410, 19901 Germantown Road, Germantown, MD 20874.

Contact: Dr. P.K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER-221, Washington, DC 20545, Telephone: 301/353-4829.

Purpose of Panel:

To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda:

Thursday, February 6, 1986

—Presentation and Discussion of the FY 1986 Budget and the FY 1987 Presidential Request Budget (if available) for the National Science Foundation Elementary Particle Physics Program

—Presentation and Discussion of the FY 1986 Budget and the FY 1987 Presidential Request Budget (if available) for the Department of Energy High Energy Physics Program

—Status Report and Discussion on Superconducting Super Collider (SSC) R&D

—Discussion of the Report of the Subpanel on Non-Accelerator Particle Physics

—Discussion on the Initiation of a Technical Advisory Group for advanced Detector R&D

—Public Comment (10 minute rule)

February 7, 1986

—Status Report on Standford Linear Collider (SLC) Construction, SLAC Linear Collider (SLC) Detector Fabrication, and Positron-Electron Project (PEP) Upgrade Plans at the Stanford Linear Accelerator Center (SLAC)

—Status Report on Tevatron Construction and Fabrication of Collider Detector Facility (CDF) and D-Zero Detectors at Fermilab

—Status Report on the Cornell Electron Storage Ring (CESR)/CLEO Improvement Project at Cornell

—Report on CY 1986 US/USSR Cooperative Program on Fundamental Properties of Matter

—Public Comment (10 minute rule)

Public participation:

The meeting is open to the public. The Chairperson of the panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes:

Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on January 14, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86-1206 Filed 1-17-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ERB3-437-005]

Commonwealth Edison Co.; Notice of Refund Report

January 14, 1986.

Take notice that on December 11, 1985, Commonwealth Edison Company ("Edison") filed a Refund Report pursuant to the Commission's October 2, 1984 letter order in the above-referenced proceedings. In compliance with the Commission's order, Edison submitted copies of the following:

1. A summary of the distribution of SNFDC-related refunds to the five municipal customers, based on megawatthour sales to such customers from September 1979 through December 1984;

2. Workpapers showing Edison's total SNFDC obligation to the Department of Energy for nuclear fuel consumed prior to April 7, 1983; the Cities' proportionate share of such obligation; the amounts collected from the Cities from September 1979 through December 1984 for SNFDC for nuclear fuel consumed prior to April 7, 1983; megawatthour sales to the Cities for September 1979 through December 1984; the refunds due each City; and the related interest;

3. Photocopies of transmittal letters, dated November 21, 1985, and refund checks sent to the mayors of the five Cities for receipt on November 22, 1985; and

4. A notarized statement that the enclosed tabulations are accurate.

Any person desiring to be heard to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before February 10, 1986. Comments will be considered by the Commission and in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-1247 Filed 1-17-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-14-000]

Champlin Petroleum Co.; Notice of Petition for Declaratory Order

Issued January 14, 1986.

Take notice that on December 13, 1985, Champlin Petroleum Company (Champlin) filed a petition for a declaratory order pursuant to Rule

207(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission). 18 CFR 385.207(a)(2) (1985). Champlin requests that the Commission issue a declaratory order confirming that Champlin may legally receive "tight formation gas" prices under section 107(c)(5) of the Natural Gas Policy Act (NGPA) for certain production delivered to Mountain Fuel Supply Company (Mountain Fuel) between March 1, 1982, and December 8, 1982.

Champlin states that pursuant to a letter of intent dated July 31, 1982, Champlin and Mountain Fuel executed contract amendments on December 8, 1982, to provide for the payment of the NGPA section 107(c)(5) price for "tight formation gas" (defined in Order No. 99, 45 FR 56, 034 (Aug. 22, 1980)) for the nine wells involved in the petition, effective March 1, 1982.

Because of the retroactive nature of the price amendment, Mountain Fuel has deferred paying the section 107(c)(5) price for the locked-in period from March 1, 1982, to December 8, 1982, pending the outcome of this declaratory order proceeding. The volumes at issue are approximately 500 MMcf and the additional amount to which Champlin would be entitled is approximately $1,112,000.

Champlin states that 18 CFR 273.204(a)(1)(ii) (1985) provides that retroactive collection of such incentive prices may be made back to July 16, 1979, which encompasses the locked-in March 1, 1982 to December 8, 1982, period involved here. In addition, Champlin states that the Commission has held retroative section 107(c)(5) contractual agreements are permissible in a declaratory order issued September 30, 1985, in *Northwest Central Pipeline Co.*, 32 FERC ¶ 61,471, *rehearing for the sole purpose of further consideration granted*, November 29, 1985. In addition, Champlin notes that the "filed rate doctrine" under the Natural Gas Act (NGA) would not bar retroactive collections since the NGPA section 107(c)(5) gas at issue here also qualifies under either NGPA section 102 or 103, which categories are removed from the Commission's NGA jurisdiction pursuant to NGPA section 601(a)(1)(B).

Within thirty days of publication of this notice in the **Federal Register**, any person may file a protest or a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211 and 385.214 (1985). All protests filed will be considered but will not make the protestants parties to the proceeding. If you wish to become a party, you must file a petition to intervene pusurant to Rule 214.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-1248 Filed 1-17-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS72-747 et al.]

Edmund W. Mudge, III and Laura M. Boedeker, (Edmund W. Mudge, Jr.) et al.; Applications for Small Producer Certificates [1]

January 13, 1986.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make protest with reference to said applications should on or before January 29, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

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.

Docket No.	Date filed	Applicant
CS72-747	[1] 11-14-85	Edmund W. Mudge, III and Laura M. Boedeker (Edmund W. Mudge, Jr.), 3217 Republic Bank Tower, Dallas, TX 75201 and 9510 Hilldale Drive, Dallas, TX 75231.
CS74-15	[2] 12-23-85	Charles R. Bachtell (H.U. Garrett dba Garrett Production Company), 1709 Julieanna Street, Longview, TX 75604.
CS86-18-000	11-26-85	Ronny G. Altman, 1401 Fourth National Bank Building, Tulsa, OK 74119.
CS86-19-000	12-11-85	Whittington Operating Co., 11811 NO. FWY., Suite 270, Houston, TX 77068.
CS86-20-000	12-9-85	XAE Corporation, 621 N. Robinson, Suite 490, Oklahoma City, OK 73102.
CS86-21-000	12-13-85	Lois Benton Harvey Agency and W.W. Harvey Trusts A & B, P.O. Box 2605, Fort Worth, TX 76113.
CS86-23-000	12-23-85	Projects, Inc., P.O. Box 1001, Shreveport, LA 71163.
CS86-24-000	12-26-85	Ultramar Oil and Gas Limited, 16825 Northchase Drive, Suite 1200, Houston, TX 77060.
CS86-25-000	12-26-85	Caswell Silver, 4807 E. Ellsworth Avenue, Denver, CO 80222.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[1] By letter dated November 8, 1985, Edmund W. Mudge, III and Laura M. Boedeker, the heirs of Edmund W. Mudge, Jr., deceased, request that his small producer certificate be redesignated in their names.

[2] By letter dated December 19, 1985, Applicant requests that the small producer certificate issued to H.U. Garrett dba Garrett Production Company in Docket No. CS74-15 be redesignated in Applicant's name.

[FR Doc. 86-1249 Filed 1-17-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-132-003 et al.]

Michigan Gas Storage Co. et al.; Filing of Pipeline Refund Reports and Refund Plans

January 13, 1986.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before January 24, 1986. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
10/18/85	Michigan Gas Storage Co.	RP85-132-003	Btu.[1]
12/2/85	Penn-York Energy Corp.	RP85-69-003	Report.

APPENDIX—Continued

Filing date	Company	Docket No.	Type filing
12/3/85	South Georgia Natural Gas Co.	RP73-49-006	Do.
12/9/85	UT Offshore System.	RP83-80-002	Do.
12/13/85	Pacific Offshore Pipeline Co.	RP85-34-002	Do.
12/13/85	Granite State Gas Transmission, Inc.	RP73-17-011	Do.
12/17/85	Arkla Energy Resources.	RP85-119-003	Do.
12/23/85	Eastern Shore Natural Gas Co.	RP72-134-030	Do.
12/23/85	....do....	RP72-134-031	Do.
12/26/85	Gas Gathering Corp..	TA85-1-13-004	Do.

[1] Refunds resulting from Btu measurement adjustments. Each company will retain its basic docket number and future related filings receive new subdocket numbers.

[FR Doc. 86-1250 Filed 1-17-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER84-694-002 et al.]

Electric Rate and Corporate Regulation Filings; Michigan Power Co. et al.

January 14, 1986.

Take notice that the following filings have have been made with the Commission:

1. Michigan Power Company

[Docket No. ER84-694-002]

Take notice that on December 30, 1985, Michigan Power Company tendered for filing a compliance filing pursuant to Commission order dated November 13, 1985.

Michigan Power Company previously refunded to Dowagaic and Paw Paw by means of a credit to their February billing, principal amounts collected in excess of the step II settlement rates Monies associated with the Step I settlement rates and the System Sales Clause, as provided in the Settlement Agreement, plus interest on the settlement amounts remain to be resolved.

Accordingly, Michigan Power Company calculated the outstanding principal balances and associated interest and finds that the City of Dowagaic and the Village of Paw Paw owe Michigan Power Company $531.14 and $330.82 respectively. The dollar amounts stated reflect the defference between overcollected Step I charges not yet refunded, System Sales Clause billings not made, and total interest for the time period October 10, 1984 through December 13, 1985, the last day to refund.

Comment date: January 27, 1986, in accordance with Standard Paragraph H at the end of this notice.

2. Cleveland Electric Illuminating Company

[Docket No. ER83-138-006]

Take notice that on January 2, 1986, Cleveland Electric Illuminating Company (CEI) tendered for filing six copies of a revised cost of service study and necessary amendments to service Schedule B-firm power service under an agreement between CEI and the City of Cleveland, Ohio, and to its FERC Electric Tariff, Original Volume No. 1, pursuant to a Commission, order issued December 2, 1985.

Comment date: January 27, 1986, in accordance with Standard Paragraph H at the end of this notice.

3. New England Power Company

[Docket No. ER86-239-000]

Take notice that on January 9, 1986, New England Power Company (NEP or the Company) tendered for filing proposed changes to the fuel and purchased economic power adjustment clause portion of its FERC Electric Tariff, Original Volume 1, Schedule II-A. In order to permit these changes to the fuel adjustment clause in NEP's wholesale tariff, NEP has also requested a waiver of the requirements of § 35.14 of the Commission's Regulations. To the extent that § 35.14 is not waived, NEP further requests waiver of the Uniform System of Accounts, Electric Plant Instructions, Section 3, Paragraph 18 (18 CFR 101).

NEP states that the revisions to the tariff are being filed so that the fuel cost savings resulting from the generation of test energy by the Millstone Unit 3 nuclear generating unit, in which the Company has an ownership interest and which is expected to begin producing test energy on or about January 20, 1986, will be treated as a reduction in plant investment rather than as a reduction in fuel costs to be flowed through to customers under the fuel adjustment clause.

NEP further states that to the extent its customers have paid part of the carrying costs associated with the Millstone Unit 3 project through the inclusion of CWIP in rates, it may be appropriate to flow a portion of the test energy savings through to its current customers. Consequently, NEP requests waiver of the Commission's accounting rules to the extent they would require NEP to credit the cost of constructing Millstone Unit 3 with the fair value of test energy flowed through its fuel adjustment clause. NEP requests a hearing to resolve the question of what portion of the test energy should be flowed through to customers.

Copies of the filing were served upon the Company's jurisdictional customers, the state regulatory commissions of Massachusetts, New Hampshire, Rhode Island and Vermont, and the Attorneys General of Massachusetts and Rhode Island.

Comment date: January 27, 1986, in accordance with Standard Pragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protest should be filed on or before the comment date. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-1253 Filed 1-17-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-3-000]

West Texas Gas, Inc.; Informal Conference

January 13, 1986.

Pursuant to the Commission's Suspension Order issued Nobember 20, 1985, in the above-captioned docket, an informal conference will be convened on Friday, January 23, 1986 at 10:00 a.m. in a room to be designated at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Issues relating to the shift of third party transportation costs from West Texas Gas' PGA to its rate base will be discussed.

All interested persons and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-1251 Filed 1-17-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-377-000, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; Alexandria Power Corp., et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Alexandria Power Corporation

[Docket No. QF86-377-000]

January 14, 1986.

On December 20, 1985, Alexandria Power Corporation (Applicant), of c/o Energy Management, Inc., 200 Boyleston Street, Chestnut Hill, Massachusetts 02167 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located on Route 104 near Smith River in Alexandria, New Hampshire. The primary energy source will be biomass in the form of wood chips, bark and fines. The electric power production capacity will be 13 megawatts. The facility has no planned usage of natural gas, oil or coal.

2. American Diversified Capital Corporation

[Docket No. QF86-418-000]

January 15, 1986.

On December 27, 1985, American Diversified Capital Corporation (Applicant), of 3200 Park Center Drive, Costa Mesa, California 92626, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 25 megawatt facility, known as the Chino Resource Recovery Power Plant, is located at 15108 Archibald Avenue in the San Bernardino County area of Chino, California 91710. The primary energy source is biomass in the form of dairy animal manure. The energy source will be converted to electric energy using a steam turbine generator.

3. High Rock Hydro Partners

[Docket No. QF86-415-000]

January 15, 1986.

On December 27, 1985, High Rock Hydro Partners (Applicant), of 1225 Eighth Street, Suite 465, Sacramento, California 95814 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 10,500 kilowatt hydroelectric facility (FERC P. 8080) will be located on the West Branch Feather River in Butte County, California.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

4. Mississippi River Alcohol Company, Inc.

[Docket No. QF86-440-000]

January 15, 1986.

On December 30, 1985, Mississippi River Alcohol Company, Inc. (Applicant), of Rural Route 1, Box 605, Belle Chasse, Louisiana 70037 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping cycle cogeneration facility will be located at the address of the Applicant immediately adjacent to the Mississippi Grain Elevator. The facility will consist of two (2) steam turbine generator sets. The primary energy source will be coal. The electric power production capacity will be 8,500 kilowatts. The thermal output will be used in the processing of corn into alcohol. Installation of the facility began in July 1985.

5. Pacific Lighting Energy Systems (Mammoth-Pacific 3 projects)

[Docket No. QF86-393-000]

January 15, 1986.

On December 26, 1985, Pacific Lighting Energy Systems (Applicant), of 6055 East Washington Boulevard, Suite 600, City of Commerce, California 90040 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located at Casa Diablo, Mammoth Lakes, California. The primary energy source will be geothermal resources. The electric power production capacity will be approximately 12,000 kilowatts. No use of natural gas, oil, or coal is planned in this facility.

9. Pacific Lighting Energy Systems (Oroville 2 project)

[Docket No. QF86-394-000]

January 15, 1986.

On December 26, 1985, Pacific Lighting Energy Systems (Applicant), of 6055 East Washington Boulevard, Suite 600, City of Commerce, California 90040 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located in Oroville, Butte County, California. The primary energy source will be geothermal resources. The electric power production capacity will be approximately 20,000 kilowatts. No use of natural gas, oil, or coal is planned in this facility.

7. Pacific Lighting Energy Systems

[Docket No. QF86-392-000]

January 15, 1986.

On December 26, 1985, Pacific Lighting Energy Systems (Applicant), of 6055 East Washington Boulevard, Suite 600, City of Commerce, California 90040 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located at Casa Diablo, Mammoth Lakes, California. The primary energy source will be geothermal resources. The electric power production capacity will be approximately 12,000 kilowatts. No use of natural gas, oil, or coal is planned in this facility.

8. Peat Products of America, Inc.

[Docket No. QF86-439-000]

January 15, 1986.

On December 30, 1985, Peat Products of America, Inc. (Applicant), of 23

Franklin Street, Bangor, Maine 04401 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 294.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located on Route 193, in Deblois, Maine. The facility will use biomass in the form of peat to generate approximately 14,400 kW of electric power. Oil or natural gas will be used for start-up purposes. However, the annual BTU input of oil and natural gas input will be less than one percent of the total annual BTU to the facility. The Applicant states that prior to placement of the facility in service the ownership will be transferred to Down East Peat, Ltd., a limited partnership with Applicant as a general partner. Should an electric utility or electric utility holding company acquire ownership, their equity interest in the facility will not exceed fifty percent.

9. Robley Point Hydro Partners

[Docket No. QF86-416-000]

January 15, 1986.

On December 27, 1985, Robley Point Hydro Partners (Applicant), of 1225 Eighth Street, Suite 465, Sacramento, California 95814 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 20,100 kilowatt hydroelectric facility (FERC P. 7728-003) will be located on the West Branch Feather River in Butte County, California.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

10. Ultrapower Inc.

[Docket No. QF86-372-001]

January 14, 1986.

On December 20, 1985, Ultrapower, Inc. (Applicant), of 16845 Von Karman Avenue, Irvine, California 92714, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located in Fresno, California and consists of steam turbine generators and fluidized-bed combustion boilers. The net electric power production capacity is 26.5 MW. The primary source of energy is biomass in the form of wood waste.

11. Urban Waste Disposal, Inc.

[Docket No. QF86-56-001]

January 15, 1986.

On January 3, 1986, Urban Waste Disposal, Inc. (Applicant), of 225 Park Avenue, New York, New York 10017 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is located at 6600 SE. 58th Avenue, Ocala, Florida. It will utilize methane gas generated from the Baseline Landfill and hot gasses generated from the pyrolysis in incoming waste to feed gas turbine engine generators to produce electricity. Four gas turbine engine-generator units will be phased in over a period of time. The initial facility will utilize one unit and will produce approximately .83 megawatts of electricity. It is estimated that 3.31 megawatts will be produced when the facility is fully operational.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-1252 Filed 1-17-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP -30256; FRL-2943-1]

Certain Companies; Applications to Register Pesticide Products; E.I. du Pont de Nemours and Co., Inc. et al.

Correction

In FR Doc. 85-30243 beginning on page 52852 in the issue of Thursday, December 26, 1985, make the following corrections:

1. On page 52852, in the second column, in paragraph "1.", in the fifth line, "+" should read "®".

2. Also on page 52852, in the third column, in paragraph "5.", in the third line, "+" should read, "®".

BILLING CODE 1505-01-M

[A-2-FRL-2947-7]

Prevention of Significant Deterioration of Air Quality (PSD) Final Determinations

AGENCY: Environmental Protection Agency.

ACTION: Notice to final action.

SUMMARY: The purpose of this notice is to announce that between August 3, 1985, and October 31, 1985, the United States Environmental Protection Agency (EPA), Region II Office, issued one final determination, the New York State Department of Environmental Conservation (NYSDEC) issued four final determinations, and the New Jersey Department of Environmental Protection (NJDEP) issued one final determination pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21. In addition, this notice announces that the NYSDEC issued one final PSD determination on June 5, 1985, that was inadvertently omitted from our previous **Federal Register** update.

DATES: The effective dates for the above determinations are delineated in the following chart (See **SUPPLEMENTAL INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Office of Policy and Management, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264-4711.

SUPPLEMENTAL INFORMATION: Pursuant to the PSD regulations, the EPA Region II Office, the NYSDEC, and the NJDEP

have made final determinations relative to the sources listed below:

Name of applicant	Location	Project proposal	Reviewing agency	Final action	Date of final action
Beech-Nut Nutrition	Canajoharie, NY	Construction of coal-fired boiler	NYSDEC	PSD Non-applicability Determination	June 5, 1985.
Ogden Martin Systems of Babylon, Inc	West Babylon, NY	Construction of a resource recovery facility consisting of two 375 tons per day mass burners.	NYSDEC	PSD Applicability Determination	Aug. 12, 1985.
Ultrapower Inc	Gouverneur, NY	Construction of wood-fired co-generation system.	NYSDEC	PSD Non-applicability Determination	Aug. 21, 1985.
The Mink Company	Gates, NY	Installation of a new flexographic printing press.	NYSDEC	PSD Non-applicability Determination	Sept. 4, 1985.
Hoffman La Rouche Inc	Nutley, NJ	Installation of a cogeneration facility consisting of 3 natural gas-fired turbines and 3 natural gas-fired waste heat boilers.	NJDEP	PSD Permit Approval	Sept. 19, 1985.
Delco Products Division, GM Corp	Rochester, NY	Installation of a new steam generation facility	NYSDEC	PSD Non-applicability Determination	Oct. 9, 1985.
Martin Marietta Corporation	St. Croix, U.S. VI	Construction of 1 large diesel generator and operation of 2 large and 11 small diesel generators.	EPA Region II.	PSD Permit Approval	Oct. 16, 1985

This notice lists only the sources that have received final PSD determinations. Copies of these determinations and related materials may be available for public inspection at the following offices:

EPA ACTIONS

U.S. Environmental Protection Agency, Permits Administration Branch, 26 Federal Plaza, Room 432, New York, New York 10278.

NYSDEC ACTIONS

New York State Department of Environmental Conservation, Division of Air Resources, Source Review and Regional Support Section, 50 Wolf Road, Albany, New York 12233–0001.

NJDEP ACTIONS

New Jersey Department of Environmental Protection, Division of Environmental Quality, Bureau of Engineering and Technology, John Fitch Plaza, CN 027, Trenton, New Jersey 08625.

If available pursuant to the Consolidated Permit Regulations (40 CFR Part 124), judicial review of these determinations under section 307(b)(1) of the Clean Air Act (the Act) may be sought *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which these determinations are published in the **Federal Register.** Under section 307(b)(2) of the Act, these determinations shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: January 6, 1986.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 86–1224 Filed 1–17–86; 8:45 am]

BILLING CODE 6560–30–M

[OPTS–59209A; FRL–2957–1]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of two applications for testing marketing exemptions (TME's) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME–86–8 and TME–86–9. The test marketing conditions are described below.

EFFECTIVE DATE: January 8, 1986.

FOR FURTHER INFORMATION CONTACT: Candy Brassard, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Environmental Protection Agency, RM. E–609B, 401 M Street SW., Washington, DC 20460, (202–382–3394).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal or the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–86–8 and TME–86–9. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time periods and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes, uses, and number of customers must not exceed those specified in the applications. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–86–8 and TME–86–9. A bill of lading accompanying each shipment must state that the use of the substances are restricted to those approved in the TME's. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA.

1. The applicant must maintain records of the quantity of the TME substances produced.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substances.

T–86–8

Date of Receipt: December 2, 1985.

Notice of Receipt: December 16, 1985 (50 FR 51301).

Applicant: Confidential.

Chemical: (G) Substituted polyethylene oxide diol end-capped with isocyanate.

Use: (G) Chemical intermediate.

Production Volume: Confidential.

Number of Customers: Confidential.

Worker Exposure: Manufacture: dermal and inhalation, a total of 4 workers.

Testing Marketing Period: Three months.

Commencing on: January 8, 1986.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

T-86-9

Date of Receipt: December 2, 1985.

Notice of Receipt: December 16, 1985 (50 FR 51301).

Applicant: Confidential.

Chemical: (G) Substituted polyethylene oxide diol.

Use: (G) Chemical intermediate.

Production Volume: Confidential.

Number of Customers: Confidential.

Worker Exposure: Manufacture: dermal and inhalation, a total of 6 workers.

Testing Marketing Period: Three months.

Commencing on: January 8, 1986.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its findings that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: January 8, 1986.

Edwin F. Tinsworth,

Acting Director, Office of Toxic Substances.

[FR Doc. 86-1217 Filed 1-17-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Agency Forms Under OMB Review

January 14, 1986.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Martha Bethea—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822);

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-6880).

Proposal to approve under OMB delegated authority the extension with revision of the following report:

1. Report title: Report of Claims on Selected Foreign Countries by U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2029B.

OMB Docket number: 7100-0064.

Frequency: Semi-annually.

Reporters: U.S. branches and agencies of foreign banks.

Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 3105(b)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

U.S. branches and agencies of foreign banks report their claims on foreign countries semiannually. The Federal Reserve System provides the data to the Bank for International Settlements for the semi-annual survey of the maturity of bank lending.

Board of Governors of the Federal Reserve System, January 14, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-1176 Filed 1-17-86; 8:45 am]

BILLING CODE 6210-01-M

Egyptian Bancshares, Inc.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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 to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than February 10, 1986.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Egyptian Bancshares, Inc.*, Carrier Mills, Illinois; to acquire 100 percent of the voting shares of Saline County State Bank, Stonefort, Illinois.

Board of Governors of the Federal Reserve System, January 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-1173 Filed 1-17-86; 8:45 am]

BILLING CODE 6210-01-M

First Springfield National Corp. et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) of (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be 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 each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 7, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Springfield National Corp.*, Springfield, Tennessee; to acquire First Trust Company of Springfield, Springfield, Tennessee, and thereby engage in performing functions or activities that may be performed by a trust company (including activities of a fiduciary, agency, or custodial nature), in the manner authorized by federal or state law, so long as the institution is not a bank and does not make loans or investments or accept deposits, pursuant to § 225.25(b)(3) of Regulation Y. These activities would be conducted in the state of Tennessee.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon Bank Corporation*, Pittsburgh, Pennsylvania; to acquire Carleton Financial Computations, Inc., South Bend, Indiana, and thereby provide a variety of data processing activities to banks, financial institutions and mortgage banking companies, pursuant to § 225.25(b)(7) of Regulation Y. These activities would be conducted through Data Link, South Bend, Indiana, which is a subsidiary of Carleton Financial Computations, Inc.

Board of Governors of the Federal Reserve System, January 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-1169 Filed 1-17-86; 8:45 am]

BILLING CODE 6210-01-M

Liberty Bancorp, Inc.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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 to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than February 6, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Liberty Bancorp, Inc.*, Hammond, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Community State Bank, North Liberty, Indiana.

Board of Governors of the Federal Reserve System, January 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-1174 Filed 1-17-86; 8:45 am]

BILLING CODE 6210-01-M

Louisiana Bancshares, Inc.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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 to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than February 6, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Louisiana Bancshares, Inc.*, Baton Rouge, Louisiana; to acquire 100 percent of the voting shares of St. Tammany National Bank, Mandeville, Louisiana.

Board of Governors of the Federal Reserve System, January 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-1170 Filed 1-17-86; 8:45 am]

BILLING CODE 6210-01-M

MWA Bancorp.; 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 February 6, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *MWA Bancorporation*, Estherville, Iowa; to engage *de novo* through its subsidiary, General Commercial Services, Ltd., Estherville, Iowa, in originating, servicing and acquiring loans, pursuant to § 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, January 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-1171 Filed 1-17-86; 8:45 am]

BILLING CODE 6210-01-M

Norban Financial Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an appliction that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 26, 1986.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Norban Financial Group, Inc.*, Coeur d'Alene, Idaho; to acquire 99.98 percent of the voting shares of Seaport Citizens Bank, Lewiston, Idaho.

2. *Seaport Bancorp, Inc.*, Lewiston, Idaho; to acquire 16.65 percent of the voting shares of Norban Financial Group, Inc., Coeur d'Alene, Idaho.

Board of Governors of the Federal Reserve System, January 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-1172 Filed 1-17-86; 8:45 am]

BILLING CODE 6210-01-M

Western 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 consumption of the proposal can "reasonably be expected to produce benefits to the public, such as greater convencience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact 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 recieved at the Reserve Bank inidcated or the offices of the Board of Governors not later than January 30, 1986.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Western Bancshares, Inc.*, St Paul, Minnesota; to engage *de novo* directly in guaranteeing an obligation of a nonbank subsidiary to a third party, pursuant to § 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, January 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-1175 Filed 1-17-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Reichhold Chemicals, Inc., et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 85-1135—Reichold Chemicals, Inc.'s proposed acquisition of voting securities of FRP Company and assets related to Monsanto's paper chemical business, (Monsanto Company, UPE).	Dec. 20, 1985.
(2) 86-0366—Siemens Aktiengesellschaft's proposed acquisition of voting securities of The Pelton & Crane Company, (Bristol-Meyers Company, UPE).	Do.
(3) 86-0362—Zayre Corp.'s proposed acquisition of voting securities of HomeClub, Inc.	Dec. 23, 1985.
(4) 86-0363—Zayre Corp.'s proposed acquisition of voting securities of HomeClub, Inc.	Do.
(5) 86-0382—Dean Foods Company's proposed acquisition of voting securities of Ryan Milk Company, Inc.	Do.
(6) 86-0403—Saratoga Partners, L.P.'s proposed acquisition of voting securities of Times Mirror Microwave Communications Company, (The Times Mirror Company, UPE).	Do.
(7) 86-0404—Shawmut Corporation's proposed acquisition of all voting securities or all assets of North Central Financial Corporation, (Society Corportation, UPE).	Do.

—Continued

Transaction	Waiting period terminated effective
(8) 86-0432—McDonnell Douglas Corporation's proposed acquisition of voting securities of Sanus Corp. Health Systems.	Do.
(9) 86-0124—Libby-Owens Ford Company's proposed acquisition of assets of Consoweld Corp., (Consolidated papers, Inc., UPE).	Dec. 24, 1985.
(10) 86-0353—Malcolm M. Borg's proposed acquisition of assets of Middlesex County Publishing Company, (John W. Burk and Mildred Bender Burk, UPE's).	Dec. 26, 1985.
(11) 86-0380—Siemens Aktiengesellschaft's proposed acquisition of voting securities of MIN Potter & Brumfield Inc., (Minstar, Inc., UPE).	Do.
(12) 86-0418—Centex Corporation's proposed acquisition of assets of Monolith Portland Cement Company-Wyoming and Wyoming Construction Company, (Monolith Portland Cement Company, UPE).	Do.
(13) 86-0425—Denison Mines Limited's proposed acquisition of voting securities of Universal Concrete Products, Inc.	Do.
(14) 86-0435—Western Auto Supply Company's proposed acquisition of voting securities of White Stores, Inc., (Canadian Tire Corporation, Limited, UPE).	Do.
(15) 86-0442—U.S. West, Inc.'s proposed acquisition of assets of Johnson Publishing Company, Inc. and Lomar, Inc., (Douglas J. Erion, UPE).	Do.
(16) 86-0444—Varion Associates, Inc.'s proposed acquisition of assets of Zylin Corporation.	Do.
(17) 86-0463—M.D.C. Holdings, Inc.'s proposed acquisition of voting securities of Wood Brothers Homes, Inc.	Do.
(18) 86-0459—ASEA AB's proposed acquisition of voting securities of Sirius Reinsurance Corp., (Nordstjernan AB, UPE).	Dec. 27, 1985.
(19) 86-0466—Taylor Energy Company's (Patrick F. Taylor, UPE) proposed acquisition of assets of Shell Oil Company, (Royal Dutch Petroleum Company, UPE).	Do.
(20) 86-0467—Farmers Union Central Exchange, Incorporated's proposed acquisition of assets of Shell Oil Company, (Royal Dutch Petroleum Company, UPE).	Do.
(21) 86-0469—Meshulam Riklis' proposed acquisition of voting securities of TGY Holdings, Inc., (HMI Holdings, Inc., UPE).	Do.
(22) 86-0475—Telex Corporation's proposed acquisition of assets and voting securities of United Technologies Corporation and voting securities of Digital, (United Technologies Corporation, UPE).	Do.
(23) 86-0396—Hasbro Inc.'s proposed acquisition of assets of CBS, Inc.	Dec. 30, 1985.
(24) 86-0410—Manufacturer's National Corporation's proposed acquisition of voting securities of Carr International Inc., (Richard E. Lowrie, Jr. and Stephen D. Marr, UPE's).	Do.
(25) 86-0411—Manufacturer's National Corporation's proposed acquisition of voting securities of Carr International Inc., (Richard E. Lowrie, Jr. and Stephen D. Marr, UPE's).	Do.
(26) 86-0429—Comcast Cable Investors L.P.'s proposed acquisition of assets of Comcast Cablevision of Oakland, (Ralph J. Roberts, UPE).	Do.
(27) 86-0437—Quad/Graphics, Inc.'s proposed acquisition of assets of John Blair Marketing, Inc., (John Blair & Company, UPE).	Do.
(28) 86-0438—Realtron Corp's proposed acquisition of voting securities of Multi-List, Inc., (Colonial Penn Group, Inc., UPE).	Do.
(29) 86-0447—MFC, Inc.'s proposed acquisition of assets of Cox Cable Norwest, (Cox Enterprises, Inc., UPE).	Do
(30) 86-0449—Federal Enterprises, Inc.'s proposed acquisition of assets of The Evening News Association, (Gannett Company, Inc., UPE).	Do.
(31) 86-0450—KFIR Company, Inc.'s (Mark Herman, UPE) proposed acquisition of voting securities of Alliance Life Insurance Company, (Western States Life Insurance Company, UPE).	Do.
(32) 86-0453—Enserch Corporation's proposed acquisition of assets of Diamond Shamrock Corporation.	Do.
(33) 86-0354—Wesley W. Masters' proposed acquisition of voting securities of Phillips Pacific Chemical Co., American Fertilizer and Chemical Co., and Phillips Mid-West Fertilizer Co., (Phillips Petroleum Company, UPE).	Dec. 31, 1985
(34) 86-0388—Greeley Gas Company's proposed acquisition of assets of Inter-North, Inc.	Do.
(35) 86-0448—Collins Food International, Inc.'s proposed acquisition of voting securities of Naugles, Inc.	Do.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-1201 Filed 1-17-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Board of Tea Experts; Advisory Committee Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is annouced: Board of Tea Experts

Date, time, and place. February 24 and 25, 10 a.m., Rm. 700, 850 Third Ave., Brooklyn, NY.

Type of meeting and contact person. Open public hearing, February 24, 10 a.m. to 11 a.m.; open committee discussion, 11 a.m. to 4:30 p.m., February 25, 10 a.m. to 4:30 p.m.; Robert H. Dick, New York Import District, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212-965-5739.

General function of the committee. The committee advises on establishment of uniform standards of purity, quality, and fitness of consumption of all teas imported into the United States under 21 U.S.C. 42.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss and select tea standards.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Person's interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: January 13, 1986.

Adam J. Trujillo,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–1182 Filed 1–17–86; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: St. Louis Station Office, chaired by Raymond K. Hedblad, Chief.

The topic to be discussed is Food Safety Issues.

DATE: Tuesday, January 28, 7 to 9 p.m.

ADDRESS: Kirkwood Community College, Amana Room, Iowa Hall, 6301 Kirkwood Blvd, SW., Cedar Rapids, IA 52406.

FOR FURTHER INFORMATION CONTACT: Mary-Margaret Richardson, Consumer Affairs Officer, Food and Drug Administration, 807 Collins, Laclede's Landing, St. Louis, MO 63102, 314–425–5021.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 13, 1986.

Adam J. Trujillo,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–1181 Filed 1–17–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0002]

Permeable Contact Lenses, Inc.; Premarket Approval of SGP (Telefocon A) Lens ™

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Permeable Contact Lenses, Inc., New York, NY, for premarket approval, under the Medical Devise Amendments of 1976, of the SGP (telefocon A) Lens™. After reviewing the recommendations of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by February 20, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard E. Lippman, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On November 5, 1984, Permeable Contact Lenses, Inc. New York, NY 10165, submitted to CDRH an application for premarket approval of the spherical rigid gas permeable SGP (telefocon A) Lens™. The lens is indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic and may exhibit astigmatism of 1.62 diopters (D) or less which does not interfere with visual acuity. The lens (clear and blue-tinted) ranges in powers from plano to −10.00 D and is to be disinfected using chemical lens care system only. The blue-tinted lens contains the color additive D&C Green No. 6 in accordance with the color additive listing provisions of 21 CFR 74.3206.

On May 14, 1985, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On December 10, 1985, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectivness data on which CDRH based its approval is on file with the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Richard E. Lippman (HFZ–460), address above.

The labeling of the SGP (telefocon A) Lens™ states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than polymethylmethacrylate, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41–58), as amended. Accordingly, whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for use with an approved lens, the applicant shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the Act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or review of the application and of CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and

information showing that there is a genuine and substantial issue of material fact for resolution through administration review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the peition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 20, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h)) and under authority delegatged to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: January 13, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–1178 Filed 1–17–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85N–0452]

Public Health Service Implementation Plans for Attaining the Objectives for the Nation; Nutrition Goals; Announcement of Study; Rescheduled Closed Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announced in the **Federal Register** of December 17, 1985 (50 FR 51453), that the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB), under its contract with FDA (No. 223–83–2020), was undertaking a study of the scientific community's views on the progress that the Public Health Service has made in implementing its plans for attaining its nutrition goals for 1990 of promoting health and preventing disease. For complete information about this study, see 50 FR 51453. The notice also announced that a closed meeting of the ad hoc Review Panel on Nutrition Goals was scheduled for January 9, 1986. Because of conflicting schedules of the panel members, the closed meeting was cancelled (January 7, 1986; 51 FR 687). FDA is announcing now that the closed meeting of the ad hoc Review Panel on Nutrition Goals has been rescheduled.

DATE: The closed meeting of the ad hoc Review Panel on Nutrition Goals will be held on Thursday, February 6, 1986, and Friday, February 7, 1986, at 9 a.m.

ADDRESS: The closed meeting will be held at FASEB, 9650 Rockville Pike, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301–530–7030.

Dated: January 13, 1986.

Adam J. Trujillo,

Acting Assistant Commissioner for Regulatory Affairs.

[FR Doc. 86–1180 Filed 1–17–86; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

List of Designated Dental Health Manpower Shortage Areas (Dental HMSAs); List of Withdrawals From Dental HMSA Designation

Correction

In FR Doc. 86–168 beginning on page 816 in the issue of Wednesday, January 8, 1986, make the following corrections:

1. The heading "Population Group" should read "Service area name" in the following places:

a. page 819, first column, under "California, Service Area Listing";

b. page 824, first column, under "Michigan, Service Area Listing";

c. page 825, third column, under the second listing for Nevada;

d. page 826, first column, second line;

e. page 829, second column, under "Oklahoma, Service Area Listing".

2. Also on page 825, third column, under the second listing for Nevada, insert the heading "*Service area listing*".

BILLING CODE 1505–01–M

Public Health Service

Privacy Act of 1974; New System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a proposal to establish a new Privacy Act system of records 09–37–0019, "National Medical Expenditure Survey, HHS/OASH/NCHSR." This system will be used solely to support statistical and health services research. We are proposing one routine use for this system.

DATES: PHS invites interested parties to submit comments on the proposed new routine use on or before February 20, 1986. PHS has sent a Report of New System to the Congress and to the Office of Management and Budget (OMB) on January 10, 1986. The system of records will be effective 60 days from the date submitted to OMB unless PHS receives comments on the routine use which would result in a contrary determination. A Notice of Proposed Rulemaking to exempt the system from the access provisions of the Privacy Act under subsection (k)(4) has been submitted to the Secretary of the Department. This exemption will become effective after the Secretary's approval and after the exemption has been published separately in the **Federal Register** for public comment. The proposed exemption is included in the accompanying system notice solely for public information.

ADDRESS: Comments should be addressed to the National Center for Health Services Research and Health Care Technology Assessment Privacy Act Coordinator at Room 3–28 Park Building, 5600 Fishers Lane, Rockville, Maryland 20857. Comments received will be available for inspection from 9 a.m. to 3 p.m., Monday through Friday, in Room 3–28, Park Building, at 12420 Parklawn Drive, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Senior Research Manager, National Health Care Expenditures Study, Division of Intramural Research, Room 3–50 Park Building, 5600 Fishers Lane, Rockville, Maryland 20857 or call 301–443–4836. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The National Center for Health Services Research and Health Care Technology Assessment (NCHSR) proposes to establish a new system of records: 09–37–0019, "National Medical expenditure Survey, HHS/OASH/NCHSR."

The National Medical Expenditure Survey (NMES) succeeds a series of national medical expenditure surveys,

most notably the 1977 National Medical Care Expenditure Survey (NMCES) and the 1980 National Medical Care Utilization and Expenditures Survey (NMCUES). This proposed system of records will consist of records generated from the National Medical Expenditure Survey. NCHSR will use a contractor to survey individuals of the civilian, noninstitutionalized population, their medical providers, staffs of their health insurers and employers, as well as staffs and residents of nursing and personal care homes, psychiatric hospitals and facilities for the mentally retarded, and the next-of-kin of such residents. Such records will be obtained to solely support the congressionally mandated responsibility for health services research and health statistical activities of NCHSR. Participation in the survey will be voluntary or legally authorized.

The records in this system will be maintained in a secure manner compatible with their content and use. Contractors will be required to adhere to the provisions of the Privacy Act and the HHS Privacy Act Regulation. The System Manager, the Director of the Division of Intramural Research, and/or the Project Director will control access to the data. Only contractor personnel, the NCHSR project officer and NCHSR employees whose duties require the use of such information will have regular access to the identifiers of the records in this system. Identifiers will be stored in locked files or safes, in secured areas. Computer terminals will be located in secured areas. Names and other identifying particulars will be deleted when data from original records are encoded for analysis. Encoded data will be indexed by code numbers. Tables and computer files linking these code numbers with actual identifiers will be maintained separately in secured areas. Code numbers and identifiers will be linked only if there is a specific need. Data stored in computers will be accessed through the use of keywords known only to the authorized personnel. These keywords will be changed frequently.

The data collection activities of NCHSR are governed by 42 U.S.C. 242m(d), section 308(d) of the PHS Act. Under this provision, information collected which can be identified with an individual may not be used for any purpose other than the purpose for which it is collected, i.e., statistical and health policy research. No data will be used to affect the subjects individually; there will be no use of the data to make determination about individuals rights, benefits, or privileges. Further, no information may be released from health statistical data which might identify individuals or institutions unless the individual or institution or an authorized representative has given specific consent for such release. Therefore, NCHSR proposes only one routine use which will permit NCHSR to use contractors to collect and process the NMES data, since NCHSR lacks the necessary internal resources to conduct the survey and process the data. Contracted services will include data collection, collation, analysis, computer input, or other records processing. The contractors are subject to all provisions of the Privacy Act, as well as the confidentiality provisions of 42 U.S.C. 242m(d), and HHS contract officials and the NMES project officer will monitor contractor compliance. OASH is submitting Standard Form 115 for approval to the National Archives and Records Administration to obtain authority to schedule the disposal of the records as stated in the system notice.

The proposed system of records will not become effective until 60 days after the date it was reported to OMB. However, the following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system has become effective.

Dated: January 13, 1986.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09-37-0019

SYSTEM NAME:

National Medical Expenditure Survey, HHS/OASH/NCHSR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Center for Health Services Research and Health Care Technology Assessment, Room 3-44, Park Building, 12420 Parklawn Drive, Rockville, Maryland 20857.

At selected contractor locations. A current list of contractor sites is available by writing to the System Manager at the address below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals and members of households selected by probability sampling techniques to be representative of the civilian noninstitutionalized population of the United States; health care providers, staff responding on behalf of health insurers and the employers of members of sampled households; (2) residents and next-of-kin of such residents of nursing and personal care homes, psychiatric hospitals, and facilities for the mentally retarded selected by probability sampling techniques to be representative of residents of such homes, hospitals and facilities and the staff responding on behalf of such facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing information on: (1) The incidence of illness and accidental injuries, prevalence of diseases and impairments, the extent of disability, the use, expenditures and sources of payment for health care services, and other characteristics of individuals obtained in household interviews (demographic and socioeconomic characteristics such as age, marital status, education, occupation and family income) and the names, telephone numbers and addresses of the responding staffs of health care providers, health insurers, and employers; (2) the utilization of long-term care, nursing home care, care in personal care homes, care in psychiatric hospitals and care in facilities for the mentally retarded through data on residents (demographic and social characteristics, health status and charges and sources of payment for care); through data facility characteristics (general characteristics, certification, services offered and corresponding expenses), and through data on next-of-kin or representatives of residents (demographic and social characteristics, health status, and expenditures for health care of residents); and (3) Medicare claims records of members of sampled households and of sampled residents of nursing and personal care homes, psychiatric hospitals, and facilities for the mentally retarded.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 304, of the Public Health Service Act as amended (42 U.S.C. Section 242b) Research, Evaluations, and Demonstrations in Health Statistics, Health Services and Health Care Technology Assessment.

PURPOSE(S):

The data are used in aggregated form for statistical and health services research purposes respecting analysis and evaluation of health care costs, and the accessibility, acceptability, planning, organization, distribution, technology,

utilization, quality, and financing of health services and systems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department has contracted with private firms for the purpose of collecting, analyzing, aggregating, or otherwise refining records in this system. Relevant records are collected by and/or disclosed to such contractors. The contractors are required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

File folders and magnetic tapes.

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number.

SAFEGUARDS:

NCHSR and its contractors implement personnel, physical, and procedural safeguards as follows:

1. Authorized Users: Access is limited to persons authorized and needing to use the records, including project directors, contract officers, interviewers, analysts, statisticians, statistical clerks and key punch operators on the staffs of NCHSR and the contractors.

2. Physical Safeguards: The hard-copy records are stored in locked safes, locked files, and locked offices when not in use. Computer terminals used to process identifiable data are located in secured areas and are accessible only to authorized users. Automated back-up files are stored off-site.

3. Procedural safeguards: All employees of NCHSR and contractor personnel with access to NCHSR records are required, as a condition of employment, to sign an affidavit binding them to nondisclosure of individually identifiable information. Periodic training sessions are conducted to reinforce the statutorily-based confidentiality restrictions.

Names and other characteristics from the original records are not contained on the records encrypted for analysis. Encrypted data are indexed by code numbers. Tables and computer files linking these code numbers with actual identifiers are maintained separately. Code numbers and identifiers are linked only if there is a specific need as authorized by the System Manager. Data stored in computers both at NCHSR and the contractor sites are accessed through the use of passwords/keywords assigned by the System Manager only to authorized personnel of NCHSR or its contractors. These passwords/keywords are changed frequently. An automated audit trail will be maintained.

Contractors who maintain records in this system are instructed to make no further disclosure of the records. Privacy Act requirements and the restrictions of 42 U.S.C. 242m(d) are specifically included in contracts for survey, research and data processing activities related to this system. The DHHS project directors, contract officers and project officers oversee compliance with these requirements.

4. These safeguards are in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS hf. 45–13; Part 6, "ADP Systems Security," of the HHS ADP Systems Manual, and the National Bureau of Standards Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Hard-copy records will be burned or shredded following verification that such data were correctly keyed into a machine readable format. Names and other identifying particulars will be maintained for 15 years on computer tapes, when they will be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Research Manager, National Health Care Expenditures Study, Division of Intramural Research, National Center for Health Services Research and Health Care Technology Assessment, Mail Stop 3–50 Park Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager, giving your full name and address.

RECORD ACCESS PROCEDURES:

The system is exempt from the access requirements of the Privacy Act; however, a subject individual may be granted access to his/her records at the System Manager's discretion. Positive identification is required from anyone seeking access.

CONTESTING RECORD PROCEDURES

If access has been granted, contact the System Manager and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES

Respondents in the survey samples including: members of households, physicians, hospitals, health insurers, employers, staff of nursing and personal care homes, and staff of facilities for the mentally retarded and of psychiatric hospitals; the next-of-kin of residents of such homes, facilities, and hospitals; and Systems 09–70–0005, Medicare Bill File (Statistics), HHS/HCFA/BDMS.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

With respect to this system of records, exemption has been granted from the requirements contained in subsections 552a(c)(3), (d)(1) through (4) and (e)(4) (G) and (H), in accordance with the provisions of subsection 552a(k)(4) of the Privacy Act of 1974. This system has been exempted because it contains only records which are required by statute to be maintained and used solely as statistical records.

[FR Doc. 86–1165 Filed 1–17–86; 8:45 am]

BILLING CODE 4160–17–M

Privacy Act of 1974; New System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a new, "found" system of records, 09–30–0047, "Patient Records on Chronic Mentally Ill Merchant Seamen Treated at Nursing Homes in Lexington, Kentucky (1942 to the Present), HHS/ADAMHA/NIMH." These records previously were covered in Privacy Act system of records 09–30–0021, "Patient Medical Records on PHS Beneficiaries 1935–1974 and Civilly Committed Narcotic Addicts 1967–1978 Treated at the PHS Hospitals, Fort Worth, Texas, and Lexington, Kentucky, HHS/ADAMHA/NIDA." We are also proposing routine uses for this new system.

DATE: PHS invites interested parties to submit comments on the proposed routine uses on or before February 20, 1986. PHS has sent a Report of A New System to the Congress and to the Office of Management and Budget (OMB) on January 8, 1986. PHS has requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and Congress. If this waiver is granted, PHS will publish a notice to that effect in the Federal

Register. The routine uses will be effective 30 days after the date of publication unless PHS receives comments which would result in a contrary determination.

ADDRESS: Please submit comments to: Privacy Act Officer, Alcohol, Drug Abuse, and Mental Health Administration, Room 6–102, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443–4543.

Comments received will be available for inspection at this same address from 8:30 a.m., to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Project Officer for Kentucky Contract, State Planning and Human Resources Development Branch, Division of Education and Service Systems Liaison, National Institute of Mental Health, Room 11C–16, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443–3663.

This is not a toll free number.

SUPPLEMENTARY INFORMATION: In December 1984 former ADAMHA record system 09–30–0021, "Patient Medical Records on PHS Beneficiaries 1935–1974 and Civilly Committed Narcotic Addicts 1967–1978 Treated at PHS Hospitals, HHS/ADAMHA/NIDA," was consolidated with another system of administrative records for civilly committed drug abusers and was republished as 09–30–0020, "Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1978) Treated at PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/ADAMHA/NIDA." **Federal Register** Vol. 49, no. 244, p. 49181.) This system now contains only inactive records which are used solely to respond to requests from subject individuals (or their designated representative) to establish eligibility for certain Federal benefits or to provide information to subsequent health care providers. The National Institute of Mental Health is, therefore, proposing to establish a new, "found" system of records to cover the active records of the chronic mentally ill former seaman in order to (1) facilitate patient care and treatment, and (2) provide clearer information to the public regarding the status of these records.

The records were collected originally to provide patient care and monitor the progress of the individuals while being treated at either of two PHS hospitals in Fort Worth, Texas, and Lexington, Kentucky. The hospitals were closed in 1971 and 1973 respectively, and the patients have been transferred to nursing homes. Care is funded by NIMH contract. The system of records for these patients contains administrative records, such as admission, treatment, and release dates, name and address, and other demographic data; medical records, such as, but not limited to, psychological, medical, and social evaluations, as well as treatment information, any laboratory test, etc.

The records in this system are maintained in a secure manner compatible with their content and use. At the State, administrative records are stored in locked file cabinets in a room that is locked after business hours. Patient records of subject individuals at the nursing homes are commingled with the records of other patients at nursing stations under the supervision of the attendant on duty. The safeguards implemented are in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13.

The routine uses proposed for this system are compatible with the stated purpose of the system for the treatment and care of chronic mentally ill merchant seamen. Routine use number 1, in accordance with Office of Management and Budget memorandum of May 24, 1985, is proposed to allow disclosure to defend the Federal Government, the Department, or employees of the Department in the event of litigation.

Routine use number 2 is proposed to allow disclosure to an ADAMHA contractor and subcontractors for the purpose of providing care and treatment to these merchant seamen.

Routine use number 3, permitting disclosure to a congressional office, is proposed to allow subject individuals to obtain assistance from their representatives in Congress, should they so desire. Such disclosure would be made only pursuant to a request from the individual.

This system notice is written in the present, rather than the future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after it becomes effective.

Dated: January 10, 1986.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–30–0047

SYSTEM NAME:

Patient Records on Chronic Mentally Ill Merchant Seamen Treated at Nursing Homes in Lexington, Kentucky (1942 to the Present), HHS/ADAMHA/NIMH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Contractor:

Commonwealth of Kentucky, Department of Mental Health/Mental Retardation, Mental Health Branch, Cabinet for Human Resources, 275 E. Main Street, Frankfort, Kentucky 40621.

SUBCONTRACTORS:

Homestead Nursing Center, Inc., 1608 Versailles Road, Lexington, Kentucky 40504; and Harrison's Sanitarium and Rehabilitation Center, 1537 N. Limestone Street, Lexington, Kentucky 40505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Chronic mentally ill former merchant seamen originally treated at PHS Hospitals in Fort Worth, Texas, and Lexington, Kentucky, and now in nursing homes in Lexington, Kentucky (1942 to the present).

CATEGORIES OF RECORDS IN THE SYSTEM:

Administrative records, such as admission, and release dates; name, address, social security number, and other demographic data; medical records, such as, but not limited to, psychological, medical and social evaluations as well as treatment information, any laboratory test, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 9079 (1942) authorizes the care and treatment of these individuals.

PURPOSE(S):

The records are used to facilitate patient care, to monitor progress, and to ensure quality and continuity of care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The Department may disclose information from this system of records to the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components; is a party to litigation or has an interest in such litigation, and HHS determines that the use of such

records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the govenmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

2. Dislosure may be made to National Institute of Mental Health (NIMH) contractors, and subcontractors, including nursing home staff, for the purpose of carrying out and maintaining quality care. Contractors maintain, and are also required to ensure that the subcontractors maintain, Privacy Act safeguards with respect to the records.

3. Disclosure may also be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual or his legally authorized representative.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files stored in locked file cabinets in the State office. In the nursing homes records are hard copy maintained at nursing stations.

RETRIEVABILITY:

The records are retrieved by patient name.

SAFEGUARDS:

1. Authorized Users: Only the System Manager and designated staff, designated contractor staff and appropriate subcontractor staff at the nursing home.

2. Physical Safeguards: The State records are stored in locked file cabinets. These cabinets are in a room within a building that is locked at night after business hours. Patient records of subject individuals at the nursing homes are commingled with the records of other patients at nursing stations under the supervision of the attendant on duty.

3. Procedural Safeguards: Only the System Manager, contractor staff and appropriate nursing home staff have access to the files. Only those authorized personnel are allowed to gain access to material in the locked file cabinets.

4. Implementation Procedures: DHHS Chapter 45–13 and supplementary Chapter PHS.hf 45–13 in the General Administration Manual.

RETENTION AND DISPOSAL:

The administrative and medical records will be retained for 25 years after last treatment or after the death of a patient, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer for Kentucky Contract, State Planning and Human Resources Development Branch, Division of Education and Service Systems Liaison, National Institute of Mental Health, Room 11C–16, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the System Manager at the address above. An individual or his legally authorized representative may learn if a record exists about himself upon written request with notarized signature. The request should include full name or any alias used and birth date.

An individual or his legally authorized representative who requests notification of, or access to, a medical record shall, at the time the request is made, designate a family physician or other health professional (other than a family member) to whom the record will be released. The representative must verify relationship to the individual as well as his/her own identify.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requestors should also reasonably specify the record contents being sought. An individual or his legally authorized representative may also request an accounting of disclosures that have been made of the subject individual's records, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information to be contested, and state the corrective action sought with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Patients; legally authorized representatives; nursing home and hospital personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86–1026 Filed 1–17–86; 8:45 am]

BILLING CODE 4160–20–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–86–1582; FR–2198]

Mortgage and Loan Insurance Programs under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Seretary for Housing-Federal Housing Commissioner, (HUD).

ACTION: Notice of Change in Debenture Interest Rates.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Commissioner under the provisions of the National Housing Act (the "Act"). The interest rate for debentures issued under section 221(g)(4) of the Act during the six-month period beginning January 1, 1986, is 9¼ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the six-month period beginning January 1, 1986, is 10¼ percent.

FOR FURTHER INFORMATION CONTACT: James B. Mitchell, Financial Policy Division, Room 9132, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 426–4325 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (24 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6) and 220.830. Each of these regulatory provisions states that the applicable rates of interest will be published twice

each year as a notice in the **Federal Register.**

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the interest rate determined by the Secretary of the Treasury pursuant to a formula set out in the statute.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of section 224, that the statutory maximum interest rate for the period beginning January 1, 1986, is 10¼ percent and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 10¼ percent for the six-month period beginning January 1, 1986. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4)) with an insurance commitment or endorsement date (as applicable) within the first six months of 1986.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1977:

	On or after—	Prior to—
Effective rate (percent):		
6⅝	Jan. 1, 1977	July 1, 1977
7¼	July 1, 1977	Jan. 1, 1978.
7⅛	Jan. 1, 1978	July 1, 1978.
7¾	July 1, 1978	Jan. 1, 1979.
8	Jan. 1, 1979	July 1, 1979.
8¼	July 1, 1979	Jan. 1, 1980.
9½	Jan. 1, 1980	July 1, 1980.
9⅞	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅝	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11½	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11⅛	July 1, 1985	Jan. 1, 1986.
10¼	Jan. 1, 1986	

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the "going Federal rate" in effect at the time the debentures are issued. The term "going Federal rate", as used in that paragraph, is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a formula set out in the statute, for the six-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to section 221(g)(4) during the six-month period beginning January 1, 1986, is 9¼ percent.

HUD expects to publish its next notice of change in debenture interest rates in July 1986.

The subject matter of this notice falls within the categorical exclusion from HUD's environmental clearance procedures set forth in 24 CFR 50.21(a)(15). For that reason, no environmental finding has been prepared for this notice.

(Secs. 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 17151, 1715o; sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).

Dated: January 10, 1986.

Janet Hale,

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

[FR Doc. 86-1207 Filed 1-17-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Use Council; Meeting

As required by the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96-487, dated December 2, 1980, section 1201, Paragraph (h), the Alaska Land Use Council will meet at 9:00 a.m., Friday, February 28, 1986, in the Governor's conference room, third floor, State Capitol Building, Juneau, Alaska.

The tentative agenda will include Council consideration of:

—Alaska Peninsula National Wildlife Refuge Comprehensive Conservation Plan,
—Land Use Advisors Committee Council Work Program Recommendations for 1985-86,
—Gulkana River Memorandum of Agreement,
—Long Range Goals and Objectives 1985-90,
—State Cultural Assistance Directory,
—Stikine River Access Study Report,
—Southeast Alaska Visitor Center, and
—Other items as may be appropriately considered by the Council.

Any individual desiring to appear before the Council to address any of the above matters or matters of general concern to the Council should contact either Cochairman's office before the close of business Tuesday, February 11, 1986.

FOR FURTHER INFORMATION CONTACT:

Alaska Land Use Council, Office of the Federal Cochairman, P.O. Box 100120, Anchorage, AK 99510, (907) 272-3422, (fts) 271-5485.

Alaska Land Use Council, Office of the State Cochairman Designee, Pouch AM, Juneau, AK 99811, (907) 465-3562.

2600 Denali St., Suite 700, Anchorage, AK 99503, (907) 274-1581.

The public is invited to attend.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

January 14, 1986.

[FR Doc. 86-1200 Filed 1-17-86; 8:45 am]

BILLING CODE 4310-10-M

Fish and Wildlife Service

Denial of Application for Amendment To Permit for Incidental Take of Endangered Species

On July 11, 1985, a notice was published in the **Federal Register** (50 FR 28288) that an application for an amendment to PRT 2-9818, which was issued to the County of San Mateo, CA and the Cities of South San Francisco, Daly City and Brisbane on March 4, 1983, for the incidental taking of mission blue and San Bruno elfin butterflies and San Francisco garter snakes, had been received from the permittee under Section IX of the agreement to that permit.

The amendment application, known as "County Park", proposed to remove 19.2 acres from the Habitat Conservation Plan (HCP), 14 acres of which was disturbed by landfill operations prior to inclusion in the HCP.

Notice is hereby given that on December 30, 1985, as authorized by the provisions of the Endangered Species Act of 1973 (16 USC 1539), as amended, the U.S. Fish and Wildlife Service, in a letter to the permittee, denied the application for the above amendment to PRT 2-9818, subject to certain rights of appeal set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Federal Wildlife Permit Office in Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, (703) 235-1903.

Dated: January 13, 1986.

Larry LaRochelle,

Acting Chief, Branch of Permits Federal Wildlife Permit Office.

[FR Doc. 86-568 Filed 1-17-86; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Emergency Closure of Vehicle Routes Within Wilderness Study Area 356, Imperial County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure Notice for a Mining Access Route Within Little Picacho Peak Wilderness Study Area No. 356, Imperial County, California.

SUMMARY: This closure notice affects a recently improved dirt access route within the Little Picacho Peak WSA #356 under the administrative responsibility of the El Centro Resource Area, California Desert District. The affected route is located in section 27 of T. 14 S., R. 23 E., SBM and is hereby closed in order to control erosional and visual impacts due to vehicular access and to prevent impairment of wilderness suitability. This closure is consistent with section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) which requires the Secretary of the Interior to manage such lands so as not to impair their suitability for preservation as wilderness.

The route affected by this notice is being closed under the authority of 43 CFR 8364.1. This closure order was effective December 20, 1985 and shall remain in effect until the route improvements have been reclaimed to the point of being substantially unnoticeable, to the satisfaction of the BLM Authorized Officer. The closed route has been barricaded and posted with red posts bearing the legend "Closed Route". Vehicular access beyond the points of closure will be permitted only to public service, law enforcement officials, Bureau employees while acting on official duty and other specifically authorized persons. Maps showing the exact location of the route affected by this closure notice are available from the El Centro Resource Area, 333 South Waterman Avenue, El Centro, California 92243.

Any person who knowingly and willfully violates this closure order may be subject to a $1,000 fine or imprisonment for not longer than 12 months, or both, under authority of 43 CFR 8364.2.

Dated: January 14, 1986.

H.W. Riecken,

Acting District Manager.

[FR Doc. 86-1238 Filed 1-17-86; 8:45 am]

BILLING CODE 4310-40-M

Colorado; Filing of Plats of Survey

January 7, 1986.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., January 7, 1986.

The supplemental plat prepared to create lots 7 and 8 in section 5, T. 29 S., R. 69 W., Sixth Principal Meridian, Colorado, was accepted December 18, 1985.

The supplemental plat prepared to create lot 3 in section 12, T. 22 S., R. 72 W., Sixth Principal Meridian, Colorado, was accepted December 18, 1985.

These supplemental plats were prepared to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of a portion of the north boundary of the 1889 Southern Ute Indian Reservation (south boundary), and a portion of the subdivisional lines, T. 34 N., R. 16 W., New Mexico Principal Meridian, Colorado, Group No. 735, was accepted December 16, 1985.

The plat representing the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, the subdivision of section 28, and the survey of the subdivision of section 32, T. 35 N., R. 16 W., New Mexico Principal Meridian, Colorado, Group No. 735, was accepted December 16, 1985.

The plat representing the dependent resurvey of a portion of the old north boundary of the Southern Ute Indian Reservation, a portion of the west boundary of the Ute Ceded Lands, a portion of the subdivisional lines, and the survey of the subdivision of section 9, T. 34 N., R. 17 W., New Mexico Principal Meridian, Colorado, Group No. 735, was accepted December 16, 1985.

The plat representing the dependent resurvey of a portion of the 1902 west boundary line of the Ute Ceded Lands, a portion of the south, west, and north boundaries, and subdivisional lines; the survey of the subdivision of certain sections, and a metes-and-bounds survey in section 2, T. 35 N., R. 17 W., New Mexico Principal Meridian, Colorado, Group No. 735, was accepted December 16, 1985.

These surveys were executed to meet certain administrative needs of the Bureau of Indian Affairs.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., March 3, 1986.

The plat, in nine sheets, representing the dependent resurvey of certain mineral claims, identifying the public lands, in section 2, T. 3 S., R. 74 W., Sixth Principal Meridian, Colorado, Group No. 695, was accepted December 10, 1985.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2020 Arapoahoe Street, Denver, Colorado 80205.

Jack A. Eaves,

Acting Chief Cadastral Surveyor for Colorado.

[FR Doc. 86-1167 Filed 1-17-86; 8:45 am]

BILLING CODE 4310-84-M

Proposed Decision; Sids Cabin and South Needles, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This proposed decision would designate the Sids Cabin (UT-060-023A) and the South Needles (UT-060-169A) inventory units in the Moab District as Wilderness Study Areas (WSAs) under the authority of sections 202 and 302 of the Federal Land Policy and Management Act of 1976. Both areas consequently would be studied to determine their suitability for wilderness designation as part of the Utah Statewide Wildness Environmental Impact Statement (EIS).

All 440 acres of the Sids Cabin inventory unit were acquired in 1985 as the result of a land exchange with a private property owner. The parcel is entirely surrounded by the Sids Mountain Wilderness Study Area (UT-060-023). The parcel is located in portions of sections 34 and 35 T. 20 S., R. 10 E.; Salt Lake Meridian.

All 160 acres of the South Needles inventory unit are public land. It is located between the proposed Needles Wilderness Area (Canyonlands National Park) and a tract of Utah state land which, itself, surrounded on its remaining borders by the Bureau of Land Management's Butler Wash WSA (UT-060-169). The parcel is generally described as the NE ¼ of Section 2 T. 32 S., R. 19 E., Salt Lake Meridian.

Designation of these areas as Wilderness Study Areas would bring substantially unmodified natural areas surrounded by potential wilderness into the wilderness review process. Additional information about these areas will be included in the Utah Statewide Wilderness EIS. Wilderness inventory files for these areas have been

established and are available for public review at BLM offices in Salt Lake City, Price, Moab, and Monticello, Utah.

The proposed decision to designate the Sids Cabin and South Needles areas as WSAs and study them for possible wilderness designation as part of the Bureau of Land Management's statewide wilderness review will become fianl thiry (30) days from publication of this notice unless a protest is received within that time period at the following address: State Director, Bureau of Land Management, 324 South State Street, Salt Lake City, Utah 84111–2303.

FOR FURTHER INFORMATION CONTACT: Dr. Gregory F. Thayn, Wilderness EIS Team Leader, BLM Utah State Office, 324 South State, Suite, 301, Salt Lake City, Utah 84111–2303.

Dated: January 13, 1986.

Roland C. Robison,

State Director.

[FR Doc. 86–851 Filed 1–17–86; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Alaska Offshore; Public Hearings

Notice of Dates and Locations of Public Hearings Regarding Section 810, Alaska National Interest Lands Conservation Act, for Proposed Offshore Oil and Gas Lease Sale 89, St. George Basin.

In accordance with section 810(a)(2), Alaska National Interest Lands Conservation Act (ANILCA) [16 U.S.C. (3233)], notice is hereby given that public hearings will be held to obtain public comments and to assist the Secretary of the Interior in making the determinations identified in section 810(a)(3) of ANILCA for proposed Sale 89.

The hearings will be held on the following dates at the locations and times indicated below:

February 27, 1986

7:00 p.m.–9:00 p.m., School Gymnasium, St. George, Alaska

February 28, 1986

11:30 a.m.–2:00 p.m., City Hall, Bingo Room, St. Paul, Alaska

The Section 810 Summary Evaluation and Findings is contained in the final environmental impact statement (EIS) for proposed offshore oil and gas lease Sale 89, St. George Basin, issued April 12, 1985. Copies of the section 810 Summary Evaluation and Findings can be obtained from the Alaska Region, Leasing and Environment Office, Minerals Management Service, P.O. Box 10–1159, Anchorage, Alaska 99510, Telephone (907) 261–4080. Copies of the final EIS are available for review in public libraries throughout Alaska.

Interested individuals, representatives of organizations, and public officials are invited to testify at the hearings. Time limitations may make it necessary to limit the length of oral presentations to 10 minutes. Oral statements may be supplemented by a more complete written statement which may be submitted to a hearing official or by mail. Those unable to testify at the public hearings may make their views known by submitting written comments by mail. Written comments should be addressed to the Regional Director, Alaska Region, Minerals Management Service, P.O. Box 10–1159, Anchorage, Alaska 99510 and should be received by March 3, 1986.

Dated: January 13, 1986.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 86–1161 Filed 1–17–86; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS mineral exploration and production proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments (EAs) and Findings of No Significant Impact (FONSIs), prepared by the MMS for the following oil and gas exploration and production activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which FONSIs were prepared by the Gulf of Mexico OCS in the three month period preceding this Notice.

Activity/operator	Location	Date
Ashland Exploration, Inc., 5.73 miles of 12-inch natural gas pipeline; SEA No. P-8278.	Galveston Area, blocks 211, 225, and 239; offshore Texas.	Sept. 30, 1985.
Pennzoil Co., 0.84 mile of 6-inch natural gas pipeline; SEA No. P-8279.	Eugene Island Area, south addition, blocks 330 and 315; offshore Louisiana.	Sept. 20, 1985.
Tenneco Oil Exploration and Production, 3.52 miles of 6-inch natural gas and condensate pipeline; SEA No. P-8280.	West Cameron Area, blocks 91 and 118, Sabine Pass Block 13; offshore Louisiana.	Oct. 18, 1985.
Champlin Petroleum Co., 9.51 miles of 8-inch natural gas pipeline; SEA No. P-8282.	High Island Area, east addition, blocks 193, 194, and 185, West Cameron Area, West addition, blocks 356, 355, 340, 341, and 342; offshore Texas and Louisiana.	Nov. 5, 1985.
Sea Robin Pipeline Co., 1.89 miles of 8-inch natural gas pipeline; SEA No. P-8284.	East Cameron Area, blocks 185, 184, and 197; offshore Louisiana.	Nov. 15, 1985.
Koch Industries, Inc., 1.30 miles of 6-inch natural gas pipeline; SEA No. P-8290.	Eugene Island Area, blocks 79 and 80F; offshore Louisiana.	Dec. 10, 1985.
Tenneco Oil Exploration and Production, 1.83 miles of 4-inch oil pipeline; SEA No. P-8291.	Eugene Island Area, blocks 172 and 184; offshore Louisiana.	Dec. 3, 1985.
Transcontinental Gas Pipe Line Corp., 0.49 miles of 8-inch natural gas pipeline and 8-inch underwater hot tap; SEA No. P-8295.	Eugene Island Area, block 172; offshore Louisiana.	Dec. 13, 1985.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Leasing and Environment (LE), Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, Telephone (504) 838–0755.

SUPPLEMENTAL INFORMATION: The MMS prepares EAs and FONSIs for proposals which relates to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that

approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA. This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: January 8, 1986.

J. Rogers Pearcy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-1199 Filed 1-17-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; California, et al.; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 11, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 5, 1986.

Patrick Andrus,

Acting Chief of Registration, National Register.

CALIFORNIA

San Francisco, County

San Francisco, *YMCA Hotel*, 351 Turk St.

COLORADO

Boulder County

Louisville, *Denver Elevator—Grain Elevator (Louisville MRA)*, Tract 712 near CO 42
Louisville, *Ginacci House (Louisville MRA)*, 1116 LaFarge St.
Louisville, *Jacoe Store (Louisville MRA)*, 1001 Main St.
Louisville, *LaSalle House (Louisville MRA)*, 1124 Main St.
Louisville, *Lackner's Tavern (Louisville MRA)*, 1006 Pine St.
Louisville, *National Fuel Company Store (Louisville MRA)*, 801 Main St.
Louisville, *Petrelli—DelPizzo House (Louisville MRA)*, 1016 Main St.
Louisville, *Rhoades House (Louisville MRA)*, 1024 Grant St.
Louisville, *Robinson House (Louisville MRA)*, 301 Spruce St.
Louisville, *Stolmes Residence (Louisville MRA)*, 616 Front St.
Louisville, *Tego Brothers Drugstore—State National Bank of Louisville (Louisville MRA)*, 700 Main St.
Louisville, *Thomas House (Louisville MRA)*, 700 Lincoln St.

Fremont County

Canon City, *Canon City Downtown Historic District (Boundary Increase)*, 300–800 blks. Main St.,
Maupin Bldg; 404, 516, & 602 Macon Ave., 107 N. & 7th St.

Logan County

Sterling, *Sterling Union Pacific Railroad Depot*, 113 N. Front St.

CONNECTICUT

Middlesex County

Middlefield, *Lyman, David, II, House*, 5 Lyman Rd.
Middletown, *Russell Company Upper Mill*, 475 E. Main St.

Windham County

Sterling (also in Plainfield), *Sterling Hill Historic District*, Green Lane and CT 14a

KENTUCKY

Calloway County

Murray, *Calloway County Courthouse (Murray Kentucky MRA)*, Town Square
Murray, *First Baptist Church (Murray Kentucky MRA)*, 203 S. 4th St.
Murray, *First Christian Church (Murray Kentucky MRA)*, 111 N. 5th St.
Murray, *Main Street Historic District (Murray Kentucky MRA)*, 700 and 800 blks. of W. Main St.
Murray, *Murray Post Office (Murray Kentucky MRA)*, Maple and S. 4th St.
Murray, *National Hotel (Murray Kentucky MRA)*, N. 6th and Main Sts.

MISSOURI

Jackson County

Independence, *Lewis-Webb House*, 302 West Mill

NORTH CAROLINA

Lincoln County

Lincolnton, *Caldwell-Cobb-Love House*, 218 E. Congress St.

PENNSYLVANIA

Allegheny County

Elizabeth, *Hutchinson Farm*, Round Hill Rd. at PA 51
Elizabeth, *Van Kirk Farm*, Round Hill Rd. at Scenery Dr.

UTAH

Summit County

Park City, *Doyle, John, House (Mining Boom Era Houses)*, 339 Park

[FR Doc. 86-1299 Filed 1-17-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30748; Sevice Order No. 1474, 1500]

Des Moines Union Railway Co. and the Milwaukee Road Inc.—Temporary Exemption and Authorization to use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of temporary exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission grants temporary exemption from 49 U.S.C. 10901 to Des Moines Union Railway Company (DMU) and The Milwaukee Road Inc. (MILW) to operate rail lines owned by the CMC Real Estate Corporation (CMC) in Des Moines, IA, Chicago and Rockford, IL and Milwaukee, WI. CMC is successor to Chicago, Milwaukee St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee).

DATES: The temporary exemption is effective on January 17, 1986. Petitions to reopen must be filed by February 6, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30748 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Parties' representatives: CMC: Ellen Kirschenbaum, 547 W. Jackson Blvd., Chicago, IL 60680
DMU: W.E. Gibler, Des Moines Union Railway Company, 222 S.W. 11th Street, Des Moines, IA 50309
MILW: William E. Sippel, The Milwaukee Road Inc., 516 West Jackson Boulevard, Suite 808, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Specific descriptions of rail lines involved and additional information are contained in the Commission decision. To purchase a copy of the full decision wirte 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: January 10, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Taylor, Sterrett, Andre, Lamboley and

Strenio. Commissioners Taylor and Strenio did not participate.

James H. Bayne,

Secretary.

[FR Doc. 86-1193 Filed 1-17-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 84-23]

William H. Carranza, M.D.; Denial of Application

On May 18, 1984, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Adminsitration (DEA), directed on order to show cause to William H. Carranza (Respondent), 3001 Henry Hudson Parkway, Bronx, New York. The order to show cause sought to deny an application for registartion with DEA executed by Respondent on March 24, 1983. The statutory predicate under 21 U.S.C. 824(a)(2) was Respondent's conviction on August 2, 1982, in the State of Michigan Circuit Court for the County of Oakland of possession of a controlled substance, cocaine, a felony relating to controlled substances.

Respondent, through counsel, requested a hearing on the issues raised by the order to show cause and the matter was placed on the docket of Administrative Law Judge Francis L. Young. Subsequent to the request for a hearing, the Government moved to amend the order to show cause to include as an additional ground, Respondent's plea of *nolo contendere* on January 12, 1968, in the United States District Court for the District of Nevada, of conspiracy to commit a felony offense against the United States in violation of 18 U.S.C. 371. This was also a felony relating to controlled substances. Following prehearing procedures, a hearing was held before Judge Young in Washington, D.C. on January 24, 1985.

The Administrative Law Judge issued his opinion and recommended ruling on September 18, 1985. Respondent's original counsel did not file any exceptions thereto. The Administrator permitted new counsel for Respondent to file exceptions outside the time set for the filing of exceptions in 21 CFR 1316.66. Counsel filed exceptions on November 11, 1985. The Administrator has considered the entire record in this Matter, including the exceptions filed by Respondent, in reaching his decision.

Judge Young found that Respondent had twice been convicted of felonies relating to controlled substances. In December 1966, officers of the Las Vegas Metropolitan Police Department arrested Respondent in possession of heroin. Respondent had paid someone to bring the heroin into the United States from Mexico for him. Respondent had been abusing controlled substances since later 1964. He had sought help for this problem at a California psychiatric hospital in late 1965. In November 1965, officers of the Nevada Highway Patrol stopped Respondent's car after it was observed to hit a streetlight. Respondent and his then wife both admitted that they were under the influence of Nembuttal.

Respondent returned to the New York area shortly thereafter and again sought help for his drug abuse problem, apparently unsuccessfully. In late 1971, he was cited by New York licensing authorities for failing to maintain records of administration of Seconal (Secobarbital) and for unlawfully ordering 17 vials of that drug from retail pharmacies. In January 1972, he acknowledged that he was without a "BNDD number." In November 1972, he was hospitalized in New York after becoming "high" on Talwin.

After the death of a physician with whom he was working, Repondent moved to Michigan. In 1980 or 1981, he received drug treatment and counselling in the Detroit area. He was at that time supervising physician of two clinics and was again abusing drugs, including cocaine.

The Administrative Law Judge found that on March 20, 1981, police officers went to Respondent's home to arrest him on a warrant for felonious assault. The warrant resulted from an argument between Respondent and his girlfriend. The argument concluded when Respondent drove off in an automobile with the door open, dragging the young woman some considerable distance. Bloomfield Township officers found drug paraphernailia, cocaine, methaqualone and injectable Talwin in Respondent's home. While the officers were there, an individual from whom Repondent had been obtaining cocaine, arrived. He was carrying cocaine for Respondent, who had given the man $550 to purchase it.

This was not the first time Respondent had come to the attention of the Bloomfield Township Police. There was a great deal of vehicular traffic in and out of Respondent's street during the spring and summer of 1981. Several persons in possession of narcotics and paraphernalia were arrested while trying to find Respondent's house.

Respondent returned to New York where he entered for the second time, the Smithers Center of St. Luke-Roosevelt Hospital. After completing the Smithers program, Respondent entered a center in Minnesota for further inpatient therapy. After his return from Minnesota, Respondent has apparently been attending regular meetings of Alcoholics Anonymous and the Caduceus Society, a group of health professionals recovering from substance abuse.

Judge Young found that the New York licensing authorities entered into a consent order with Respondent wherein he was placed on five years supervised probation and required to practice only in an institutional setting.

The Administrative Law Judge further found that on cross-examination, Respondent stated that he prescribed Schedule IV and V controlled substances in the course of his employment at the clinic operated by Local 32E of the Building Services Union in the Bronx, New York. The Administrative Law Judge, at the request of the Government, kept the record open for evidence regarding these prescriptions. The Administrative Law Judge found that on January 25, 1985, a DEA Diversion Investigator went to the clinic. It developed that the clinic is not itself registered with DEA. The Investigator found 24 controlled substance prescriptions at nearby pharmacies written by Respondent using a DEA registration number which was last issued to him at an address in Birmingham, Michigan, which had expired in 1982. On April 17, 1985, Respondent was indicted by a grand jury sitting in the Southern District of New York of violating 21 U.S.C. 843(a)(2), which makes it a crime for any person to knowingly or intentionally use in the course of dispensing a controlled substance a DEA number which has expired. The Administrator adopts the findings of fact of the Administrative Law Judge.

The Administrative Law Judge recommended that the application for registration executed by Respondent be denied. Judge Young observed that, given Respondent's extensive history of drug abuse, it cannot be concluded that Respondent's drug abuse has now been cured and that he is thoroughly rehabilitated. The Administrative Law Judge also noted that Respondent submitted an affidavit after the discovery of the prescriptions in which he stated that he was prescribing under the aegis of the clinic's director. At the hearing, Respondent stated that he was prescribing under the aegis of the clinic itself. The Administrative Law Judge wrote, "(T)his entire incident reveals a lack of that sense of responsibility, and awareness of the importance of a DEA

registration, which should characterize every practitioner who has such a registration."

The Administrator adopts the recommendation of the Administrative Law Judge. Nothing in the exceptions filed by Respondent militate to the contrary. The Administrator has considered the testimony of Respondent's therapist and finds, as did the Administrative Law Judge, that while Respondent's recovery situation appears propitious, there have been too many times in Respondent's past when well-conceived treatment programs have proved ineffective. The exceptions state that Respondent never sold drugs and apparently never treated patients while under the influence of drugs. These recitations do not mitigate the facts in the record. Simply stated, Respondent cannot be trusted. The exceptions state that the Administrator should consider that Respondent is now being "honest" in that he testified truthfully that he prescribed controlled substances without DEA authorization. The Administrator will not comment on a criminal case now pending in the courts, but he believes the observations of the Administrative Law Judge sufficiently describe Respondent's honesty.

The exceptions request that the Administrator merely deny Respondent's application for six months and allow him to reapply without prejudice. The Administrator rejects that recommendation as not being consistent with his obligation to protect the public health and safety. Six months could not conceivably change a record of irresponsible and criminal behavior which extends over a period of about twenty years.

Having considered the record in this case, including the exceptions filed by Respondent, the Administrator hereby denies the application for DEA registration executed by Willian H. Carranza, M.D., on March 24, 1983, for reason that Respondent was twice convicted of felonies relating to controlled substances. This denial is effective February 20, 1986.

Dated: January 14, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86-1228 Filed 1-17-86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 85-6]

William M. Knarr, D.O.; Revocation of Registration

On December 28, 1984, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to William M. Knarr, D.O. (Respondent), 1003 Central Avenue, Kansas City, Kansas 64101, an Order to Show Cause proposing to revoke his DEA Certificates of Registration AK9326554 and AK9829837 and deny any pending applications for renewal of those registrations as a practitioner under 21 U.S.C. 823(f). The proposed action was based upon Respondent's controlled substance related felony conviction in the District Court of Tulsa County, Oklahoma in 1970, upon his subsequent material falsification of at least nine DEA applications for registration, and upon his conviction on June 18, 1984 in the United States District Court, District of Kansas, of knowingly and intentionally furnishing false or fraudulent material information in, or omitting material information from, an application for registration under the Controlled Substances Act.

The Respondent, through counsel, requested a hearing on the issues raised in the Order to Show Cause. The matter was placed on the docket of Administrative Law Judge Francis L. Young.

A hearing in this matter was held in Kansas City, Missouri on July 9, 1985 with Administrative Law Judge Francis L. Young presiding. On October 24, 1985, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. The Respondent filed exceptions to the Judge's opinion on November 15, 1985. In addition, Respondent requested that the record be reopened so that Respondent might take the stand and give testimony. This request was denied by the Administrative Law Judge on November 26, 1985. Government counsel filed a response to Respondent's exceptions. On December 11, 1985, the Administrative Law Judge transmitted the record of these proceedings, including Respondent's exceptions and the Government's response, to the Administrator. The Administrator has considered this record in its entirety and pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon the findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that the Respondent was arrested by the Tulsa Police Department and charged with selling marijuana and LSD in July, 1970, when Respondent was 23 years of age and a dental student. At the time of his arrest Respondent attempted to bribe the arresting officers. Respondent subsequently pled guilty to the unlawful sale of marijuana, the unlawful sale of LSD, and the unlawful possession of hashish in the District Court of Oklahoma, Tulsa County. These were felony offenses. During the period 1970 to 1980, Respondent was not involved in any known criminal activity and became licensed to practice osteopathic medicine.

In 1981, DEA initiated an investigation in Kansas City, Missouri, regarding individuals writing prescriptions without medical need. Although Respondent was investigated with a number of other physicians, he was not subsequently indicted nor were any charges brought against him for illegal prescribing of controlled substances. As a result of this investigation, however, it was determined that Respondent had been previously convicted of a drug related felony. DEA Diversion Investigators found that Respondent was registered with the Drug Enforcement Administration as a practitioner at two locations, one in Kansas City, Missouri and one in Kansas City, Kansas. Neither of the two initial applications for these registrations, nor any of the seven subsequent renewal applications, all signed by Respondent, acknowledged the 1970 felony convictions relating to controlled substances. Each application form contains a specific question inquiring whether the applicant has been convicted of a drug related felony. On each of the nine applications, Respondent answered the question falsely. Respondent was questioned by DEA investigators in December, 1983, and admitted to the 1970 felony conviction. When asked why he made false statements on the applications, he gave investigators three inconsistent explanations. On June 18, 1984, Respondent pled guilty in United States District Court for the District of Kansas to one count of unlawfully, knowingly, and intentionally furnishing false information in an application for registration under the Controlled Substances Act in violation of 21 U.S.C. 843(a)(4)(A).

Several doctors, patients, co-workers and friends of Respondent testified at the hearing and submitted affidavits which demonstrate that they find him to be and to have established a reputation as being a reliable, competent, caring physician with conservative drug prescribing practices.

The Administrative Law Judge observed that Respondent's drug related felony conviction occurred fifteen years ago, when Respondent was in his early twenties. However, Respondent then proceeded to falsify several applications for DEA registration. The falsifications and Respondent's original conviction came to DEA's attention only by

accident and in connection with another investigation. The Drug Enforcement Administration processes thousands of practitioner registrations each year. There is no feasible method for DEA to make an investigation into the accuracy of each application submitted. It must rely on the truthfulness of every applicant. When an application is knowingly falsified, a serious offense has been committed. In addition, DEA is then unable to meaningfully pass on the fitness of the applicant to be registered. The Administrative Law Judge concluded that Respondent's conduct in conjunction with the fact that he failed to testify at the hearing on his own behalf is sufficient to recommend that the Respondent not remain registered with the Drug Enforcement Administration. The Administrator notes at this point that in administrative proceedings, unlike criminal matters, it is permissible for an adverse inference to be drawn when an individual fails to testify on his own behalf. *Baxter* v. *Palmigiano*, 425 U.S. 308 (1976), *Hoover* v. *Knight*, 678 F.2d, 578 (1982).

It was only after receiving the opinion and recommended decision of the Administrative Law Judge, in which an adverse inference regarding Respondent's failure to testify was drawn by the Administrative Law Judge, that the Respondent requested that the hearing be reopened and he be permitted to give testimony. The Administrative Law Judge, after considering Respondent's request and the Government's objection, denied Respondent's request finding that Respondent had had ample opportunity to testify at the July 9, 1985 hearing in Kansas City. The Administrator concurs with the Administrative Law Judge's ruling on this issue. Respondent is only required to be provided with an opportunity to testify at a hearing.

The Administrator of the Drug Enforcement Administration adopts the recommended ruling, findings of fact and conclusions of law of the Administrative Law Judge in their entirety. The Administrator concludes, as did the Administrative Law Judge, that Respondent's integrity with regard to DEA is seriously suspect.

Having concluded that there is a lawful basis for the revocation of Respondent's registrations and having further concluded that under the facts and circumstances presented in this case the registrations at issue should be revoked, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificates of Registration AK9326554 and AK9829837, previously issued to William M. Knarr, D.O., be revoked effective February 20, 1986. Any outstanding applications for renewal of these registrations are hereby denied.

Dated: January 14, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86-1229 Filed 1-17-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; AT&T Network Systems, et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 6, 1986–January 10, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-16,325; AT&T Network Systems, Columbus, OH

TA-W-16,290; AMP, Inc., Roanoke, VA

In the following case the investigation revealed that criterion (1) has not been met for the reason specified.

TA-W-16,201; Siemens-Allis, Inc., Milwaukee, WI

Separations from the subject firm resulted from a transfer of production to another domestic facility.

Affirmative Determinations

TA-W-16,254; Simco Leather Corp., Johnstown, NY

A certification was issued covering all workers of the firm separated on or after October 1, 1984

TA-W-16,173; EG&G Rotron, Woodstock, NY

A certification was issued covering all workers of the firm separated on or after July 2, 1984.

TA-W-16,331; Cumberland Blouse, Inc., Cumberland, MD

A certification was issued covering all workers of the firm separated on or after August 9, 1984 and before June 17, 1985.

TA-W-16,308; Maple Tree, Inc., Maplesville, AL

A certification was issued covering all workers of the firm separated on or after July 30, 1984.

TA-W-16,639; Paramount Coat Co., Inc., Cambridge, MA

A certification was issued covering all workers of the firm separated on or after November 8, 1984.

TA-W-16,319; Picker International Highland Heights, OH

A certification was issued covering all workers of the Miner Road Plant of Picker International, Highland Heights, OH separated on or after August 7, 1984.

I hereby certify that the aforementioned determinations were issued during the period January 6, 1986–January 10, 1986. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC during normal business hours or will be mailed to persons who write to the above address.

Dated: January 14, 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-1209 Filed 1-17-86; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Allied Chemical Co., et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has

instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 31, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 31, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC this 13th day of January 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Allied Chemical Co. (workers)	Baltimore, MD	12-12-85	12-10-85	TA-W-17,053	Chrome Chemicals.
Burgmaster-Houdaille, Inc. (USWA)	Los Angeles, CA	12-16-85	12-13-85	TA-W-17,054	CNC vertical and horizontal machining center.
Douglas County Lumber Co. (IWA)	Winchester, OR	12-19-85	12-5-85	TA-W-17,055	Dimention lumber and veneers.
Eastern Association Coal Corp. (workers)	Keystone #1, WV	12-16-85	12-11-85	TA-W-17,056	Metallurgical coal.
Eaton Corporation (IAMAW)	Kenosha, WI	12-16-85	12-13-85	TA-W-17,057	Electric drives.
Evans Hampden Shoe Inc. (workers)	Hampden, ME	12-17-85	12-11-85	TA-W-17,058	Men's slippers.
FMC Corporation (workers)	Brownwood, TX	12-28-85	12-16-85	TA-W-17,059	Gate valve and other related component for oil drilling.
Hercules Incorporated (UPTU)	Covington, VA	12-19-85	12-16-85	TA-W-17,060	Polypropylene film for overwrap on cigarettes.
Mercury Products Division (IAM)	Canton, OH	12-19-85	12-15-85	TA-W-17,061	Centrifugal industrial clutches.
Mobil Oil Corporation (workers)	Crownpoint, NM	12-17-85	12-13-85	TA-W-17,062	Leach mining uranium ore.
PT Components, Inc. (workers)	Clinton, TN	12-17-85	12-12-85	TA-W-17,063	Cylindrical roller bearings.
W.P. Coal Company (UMWA)	Omar, WV	2-19-85	12-16-85	TA-W-17,064	Metallurgical coal.
Abex Corp., Amsco Div. (USWA)	New Castle, DE	12-13-85	11-19-86	TA-W-17,065	Foundry steel castings.
Az Tech Specialty Steel (USWA)	Watervliet, NY	12-19-85	12-10-85	TA-W-17,066	Stainless steel bars and tool steel bars, shapes wires and rods.
Barnes & Tucker Coal Co. (UMWA)	Barnesboro, PA	12-12-85	12-9-85	TA-W-17,067	Metallurgical coal.
Daisy Sportswear (ILGWU)	New York, NY	12-13-85	12-10-85	TA-W-17,068	Ladies' pants, skirts.
Deltro, Inc. (ILGWU)	New York, NY	12-13-85	12-10-85	TA-W-17,069	Ladies Pants, skirts, blouses, camisoles.
Ex-Cell-O Manufacturing Systems Co. (company)	Rockford, IL	12-23-85	12-19-85	TA-W-17,070	Farm implements, special machine tools.
Greda Fashions (workers)	Patchogue, NY	12-9-85	11-30-85	TA-W-17,071	Dresses' and ladies pants.
Heckett (USWA)	Butler, PA	12-13-85	12-2-85	TA-W-17,072	Scrap processor.
Northland (IBEW)	Watertown, NY	12-13-85	12-10-85	TA-W-17,073	Electric motors.
Tony Lama Co., Inc (workers)	El Paso, TX	12-11-85	12-6-85	TA-W-17,074	Western boots, mens, women, children.
Weyerhauser Co. Exeter Mill (IWA)	Longview, WA	12-13-85	12-10-85	TA-W-17,075	Lumber via sawmill, railroad ties.
Witco Corp., Pioneer Div. (USWA)	Point Comfort, TX	12-17-85	12-11-85	TA-W-17,076	Electrode pitch by product creosote.
Ozark Mahoning Co. (Machinist	Tulsa, OK	12-12-85	12-9-85	TA-W-17,077	Fluorspar.
Pawtucket Dress Corp. (workers)	Pawtucket, RI	12-9-85	12-8-85	TA-W-17,078	Womens dresses.
Red Ash Sales Co., Inc. (UMWA)	Iaeger, WV	12-9-85	12-5-85	TA-W-17,079	Mine metallurgical coal.
Sweetheart Sportswear Corp (ILGWU)	New York, NY	12-13-85	12-10-85	TA-W-17,080	Womens blouses.

[FR Doc. 86-1210 Filed 1-17-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16,019]

Seamless Hospital Products Co., Inc., Fayette, AL, Negative Determination Regarding Application for Reconsideration

By an application dated Novemer 26, 1985, the United Rubber Workers requested adminstrative rconsideration of the Department of Labor's Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers at the Seamless Hospital Products Company, Inc., Fayette, Alabama. The notice of determination was in the **Federal Register** on November 5, 1985 (50 FR 45949).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that workers engaged in the production of plastic tubings, plastic kits and prepping solutions should be covered since had it not been for the transfer of the primary product, surgical kits, to Mexico, the other production would not have been moved to another company plant in Florida.

Findings in the Department's investigation show that workers producing plastic tubes, plastic kits and prep solutions were not found to be adversely affected by increased imports of those products. This transfer of production to another domestic location would not form a basis for certification. Worker group certifications are based on increased imports of the article produced and these imports must contribute importantly to declines in employment and production or sales. This is not the case with workers producing plastic tubing, plastic kits and prep solutions.

There is no basis for deleting the termination date of February 1, 1985 since all production on surgical kits was transferred to Mexico by that date and all workers who were separated from employment while working on the trade impacted product (surgical kits) are already covered. Further, the recall of workers at Fayette whose production was transferred to Florida and their subsequent layoffs would not form a basis for changing the termination date.

Conclusion

After review of the application and the investigative file. I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied. Signed at Washington, DC this 13th day of January 1986.

James D. Van Erden,

Acting Deputy Director, Office of Program Management, UIS.

[FR Doc. 86-1211 Filed 1-17-86; 8:45 am]

BILLING CODE 4510-30-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 (insert date 30 days after publication).

ADDRESSES: Sent 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 Ms. Judy McIntosh, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3208, Washington, DC 20503 (202-395-6880).

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 agency 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: Process of Application, Evaluation, Award, and Report of NEH Travel to Collections Fellowships.
Form Number: OMB 3136-0032
Frequency of Collection: Collections occur twice yearly, according to individual program application deadlines.
Respondents: Academic scholars, teachers and independent scholars
Use: Application, evaluation, and award process for individuals in the Travel to Collections program.
Estimated Number of respondents: 1,000.
Estimated Hours for Respondents to Provide Information: 6,000.

Susan Metts,

Acting Director of Administration.

[FR Doc. 86-1195 Filed 1-17-86; 8:45 am]

BILLING CODE 7536-01-M

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).

DATE: Comments on this information collection must be submitted on or before (insert date 30 days after publication).

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 Ms. Judy McIntosh, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3208, Washington, DC 20503 (202-395-6880).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania 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 agency 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: Revisions

Title: Negotiation of Indirect Cost Rate Information Needed
Form Number: 3136-0055
Frequency of Collection: 1 per year from each respondent
Respondents: Not for Profit Institutions
Use: Evaluation of Indirect Cost Rate
Estimated Number of Respondents: 75
Estimated Hours for Respondents to Provide Information: 15.

Susan Metts,

Acting Director of Administration.

[FR Doc. 86-1196 Filed 1-17-86; 8:45 am]

BILLING CODE 7536-01-M

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub.L. 92-463) as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on Friday, January 31, 1986, from 9:00 a.m.-5:30 p.m.; on Saturday, February 1, 1986, from 9:00 a.m.- 6:00 p.m.; and on Sunday, February 2, 1986, from 9:00 a.m. to 1:00 p.m. in Room M-09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on Friday, January 31, from 9:00 a.m. to 5:30 p.m. and on Saturday, February 1, 9:00 a.m. to 4:00 p.m. Topics for discussion will include: Program Review/Guidelines for Opera/Musical Theater, Music Ensembles, Inter-Arts and the Endowment Fellows Programs; Advancement Program Evaluation, Long Term Enhancement, and Endowment Five-Year Planning.

The remaining sessions of this meeting on Saturday, February 1, from 4:00 p.m.-5:30 p.m. and on Sunday, February 2, from 9:00 a.m. to 1:00 p.m. are for the purpose of Council review, discussion, evaluation and recommendations on application for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman

published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

January 10, 1986.

John H. Clark,

Director, Council and Panel Operations National Endowment for the Arts.

[FR Doc. 86–1166 Filed 1–17–86; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Dairyland Power Cooperative; Consideration of Issuance of Amendment to Provisional Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

[Docket No. 50–409]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR–45 issued to Dairyland Power Cooperative, for operation of the La Crosse Boiling Water Reactor (LACBWR), located in Vernon County, Wisconsin.

The amendment would revise the technical specifications and bases to accommodate an increase in the maximum average exposure of any fuel assembly not on the periphery of the core form 16,800 MWD/MTU to 18,000 MWD/MTU in accordance with the licensee's application for amendment dated December 12, 1985.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In the December 12, 1985 submittal the licensee states that the proposed change has been reviewed by the LACBWR Committees as prescribed in LACBWR technical specifications and it has been determined not to constitute an unreviewed safety question pursuant to 10 CFR 50.59. This conclusion has been reached because:

The proposed small increase in allowed fuel exposure in fuel assemblies not on the periphery of the core will not involve a significant increase in the probability or consequences of an accident previously evaluated. The greater fuel exposure will not cause a precipitous deterioration of the fuel clad. Any deterioration that might occur is expected to develop slowly and would be apparent at an early stage from increases in the reactor coolant and off-gas radioactivity. The current Technical Specification limits for these activities provide assurance that LACBWR fuel assemblies will not exhibit unacceptable degradation during future operation. All other fuel related Technical Specifications such as MAPLHGR (Spec. 4.2.4.2.1), MCPR (Spec. 4.2.4.2.3) and MLHGR (Spec. 4.2.4.2.4) will be conservatively met during operation with the higher fuel exposure.

The increase in exposure limit for fuel assemblies not on the periphery of the core can not by itself create the possibility of a new or different kind of accident from any accident previously evaluated. No systems or method of operation are being changed by this revision. It also will not involve a significant reduction in a margin of safety since the Technical Specification limits for off-gas and reactor coolant activities and for fuel power densities have not been changed and these specifications control the margin of safety for consequences of anticipated accidents.

The staff has reviewed the submittal and agrees with the licensee's conclusion with respect to 10 CFR 50.92. Therefore, the staff proposes to determine that this action involves no 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.

Written comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW, Washington, DC.

By February 20, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. 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 party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Att: 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 John A. Zwolinski, Director, BWR Project Directorate #1, Division of BWR Licensing: 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 Roy P. Lessy, Jr.; O.S. Heistand; Morgan, Lewis & Bockius, 1800 M Street, NW, 7th Floor North Receptionist, Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Dated at Bethesda, Maryland, this 14th day of January 1986.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, BWR Project Directorate No. 1, Division of BWR Licensing.

[FR Doc. 86–1268 Filed 1–17–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–250 and 50–251]

Florida Power and Light Co., (Turkey Point Plant, Unit Nos. 3 and 4); Exemption

I

Florida Power and Light Company (the licensee) is the holder of Facility Operating license Nos. DPR–31 and DPR–41 which authorizes the operation of the Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) at steady-state power level not in excess of 2200 megawatts thermal. The facilities are pressurized water reactors (PWRs) located at the licensee's site in Dade County, Florida.

II

10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F of Appendix E requires each licensee to conduct emergency preparedness exercises at each site at least annually.

The licensee's letter of September 6, 1985, requested that an exemption be granted to the requirements of 10 CFR 50, Appendix E, Section IV.F, as applied to the annual exercise requirement, because the proposed scheduled exercise date would exceed the existing annual date as defined by IE Information Notice No. 85–55 dated July 15, 1985. The last exercise at the Turkey Point Plant was on November 7, 1984. The licensee requests that an exemption be granted to allow shifting the annual exercise into the early part of calendar year 1986, with annual exercises held during subsequent calendar years. The requested date for the upcoming exercise is January 22–23, 1986.

The licensee further states that the proposed exercise date has been agreed upon by appropriate State and local government emergency preparedness officials. Additionally, the licensee stated that Emergency Management Directors for Dade and Monroe Counties have determined that the Turkey Point exercise date will completely avoid the hurricane season, thereby, allowing full attention as required by the demands of this season.

III.

A review of exercise schedules for past years show that the Turkey Point exercise dates have consistently fallen within the prescribed limits with the exception of the calendar year 1984 exercise which required an exemption request.

Full-scale exercises at Turkey Point with State and local government participation have been conducted annually during the previous three years including the most recent full-scale exercise on November 7, 1984. Each of the previous exercises demonstrated that the licensee could effectively implement the emergency plan and implementing procedures. In addition, the corporate emergency repsonse capability was extensively exercised during the Federal Field Emergency Exercise at St. Lucie in March 1984. The NRC and FEMA concluded that during the most recent exercise (November 1984), implementation on onsite and offsite emergency plans was adequate to protect the health and safety of the public. The requested date does not conflict with other scheduled exercises within NRC Region II and, thus, the

schedule does not work any hardship on the Regional staff. In addition, exercises held during the early part of each calendar year will avoid conflict with the hurricane season.

IV.

Based on the above, the staff concludes that scheduling the Turkey Point Plant emergency preparedness exercise for January 22–23, 1986, will not adversely affect the overall state of emergency preparedness at the Turkey Point site. In addition, the permanent shift of the annual exercises to the early part of each calendar year on a continuing bases will benefit all parties concerned with hurricane planning and possible conflicts with the hurricane season. Therefore, the requested exemption from the schedular requirements of 10 CFR Part 50, Appendix E, Section IV.F, for the November 1985 exercise to be held in January 1986, and establishing the early part of each calendar year for the annual exercises on a countinuing basis is reasonable and should be granted.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensee's September 6, 1985, letter is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the requested exemption which authorizes the licensee to conduct the annual Turkey Point Plant emergency exercise and related drills in January 1986, with annual exercises held during subsequent calendar years.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (51 FR 792).

For further details with repsect to this action, see the licensee's request dated September 6, 1985, which is available for public inspection at the Commission public Document Room, 1717 H Street, NW., Washington, DC and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland, this 9th day of January 1986.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Acting Director, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 86–1269 Filed 1–17–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–289(CH), ASLBP No. 85–514–02–OT]

General Public Utilities Nuclear Corp., Three Mile Island Nuclear Station, Unit No. 1; Further Notice of Prehearing Conference

January 14, 1986.

Pursuant to the Order of December 6, 1985, notice is hereby given that the initial prehearing conference scheduled for February 19, 1986, will commence that day at 9:30 a.m., local time, in the Commonwealth Court, Courtroom No. 2, 5th Floor, South Office Building, Commonwealth Avenue, Harrisburg, Pennsylvania. The prehearing conference will continue on the following day, if necessary.

It is so Ordered.

Dated at Bethesda, Maryland, this 14th day of January, 1986.

Morton B. Margulies,

Administrative Law Judge.

[FR Doc. 86–1266 Filed 1–17–86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Davis-Besse Nuclear Station Unit 1 (Restart); Meeting

The ACRS Subcommittee on Davis-Besse Nuclear Station Unit 1 (RESTART) will hold a meeting on February 6, 1986, Room 1046, 1717 H Street, NW, Washington, DC.

To the extent practical, the meeting will be open to public attendance, however, portions will be closed to discuss material related to plant safeguards and security.

The agenda for the subject meeting shall be as follows:

Thursday, February 6, 1986–8:30 A.M. until the conclusion of business.

The Subcommittee will review restart for Davis-Besse.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Toledo Edison Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634–1414) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: January 14, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–1262 Filed 1–17–86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published December 16, 1985 (50 FR 51313). Those meetings which are definitely scheduled have had, or will have, an individulal notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the February 1986 ACRS full Committee

meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3265, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

Emergency Core Cooling Systems, January 23 and 24, 1986, Palo Alto, CA. The Subcommittee will continue the review of the joint NRC/B&WOG/EPRI/B&W joint IST Program. A visit is planned to the EPRI-sponsored facilities supporting this Program at the Stanford Research Institute and Science Applications, Inc.

Core Performance, January 29, 1986 (A.M.), Washington, DC. The Subcommittee will review the potential for recriticality of TMI–2 during defueling operations.

Class 9 (Severe) Accidents, January 29, 1986 (P.M.), Washington, DC. The Subcommittee will review the Staff's methodology and general content to be reported in NUREG–1150.

Advanced Reactors, January 30, 1986, Washington, DC. The Subcommittee will review the HTGR design that was submitted to NRR by DOE, and the selection of design basis events.

Davis-Besse (RESTART), February 6, 1986, Washington, DC. The Subcommittee will review restart for Davis-Besse.

TVA Reorganization, February 11, 1986, Washington, DC. The Subcommittee will start the review of the TVA reorganization and related nuclear plant activities.

Safety Research Program, February 12, 1986—CANCELLED.

Reactor Operations, February 12, 1986 (P.M.), Washington, DC. The Subcommittee will review recent operating events, and be briefed on the Technical Specification improvement program.

Westinghouse Water Reactors, February 12, 1986 (A.M.), Washington, DC. The Subcommittee will review the November 21, 1985 loss of AC power and feedwater water hammer event at San Onofre Unit 1.

Class 9 (Severe) Accidents, February 19, 1986, Washington, DC. The Subcommittee will review the NRR implementation plan for the Severe Accident Policy.

B&W Water Reactors, February 25, 1986, Washington, DC. The Subcommittee will consider the implications of operating experience on the adequacy of B&W plant designs, and consider the severe overcooling event at Rancho Seco on October 2, 1985.

Emergency Core Cooling Systems, February 26, 1986, Washington, DC. The Subcommittee will review Duke Power Company's request to delete use of the ECCS UHI system.

Metal Components, February 27 and 28, 1986, Washington, DC. The Subcommittee will review, but not necessarily be limited to, the following items: (1) NUREG–0313, Revision 2, entitled, "Technical Report on Material Selection and Processing Guidelines for BWR Coolant Pressure Boundary Piping," and (2) Regulatory Guide XXX entitled, "Guide for License Preparation and NRC Staff Review of Plant Specific Analysis Required by PTS Rule," (if aviailable). The Subcommittee will also hear a status report of GDC–4 (leak-before-break broad scope rule, which is applicable to all LWR high energy piping systems).

Reliability Assurance (Valves), March 11, 1986, Washington, DC. The Subcommittee will discuss results of EPRI NP–4254, "Improvements in Motor Operated Valves," dated November 1985; other types of valves may also be discussed.

Standard Plant Design, March 12, 1986, Washington, DC. The Subcommittee will continue discussion of standard plants. Particularly, FAA certifcation, GE power worthiness, status of legislation, industry perceptions, DOE views, and an update on a policy statement.

Spent Fuel Storage Facility Design, March 12, 1986, Washington, DC. The Subcommittee will review a proposed revision to 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High Level Radioactive Waste."

Decay Heat Removal Systems, March 18, 1986, Washington, DC. The Subcommittee will continue its review of NRR resolution position for USI A–45, "Shutdown Decay Heat Removal Requirements."

Scram Systems Reliability, May 6, 1986, Washington, DC. The Subcommittee will discuss scram breaker reliability for B&W and CE plants and continue its review of the ATWS Rule implementation effort.

Human Factors, Date to be determined (January/February), Washington, DC. The Subcomittee will explore methods for deciding what actions should be automated in nuclear power plant operation.

South Texas Units 1 and 2, Date to be determined (February/March), Bay City, TX. The Subcommitte will review Houston Lighting and Power Company's application for an operating license.

Fort St. Vrain, Date to be determined (February/March), near Longmont, CO. The Subcommittee will tour the facility, explore technical problems addressed during the recent extended outage, and discuss management changes made as a result of the licensee's independent assessment of management controls.

Metal Components, Date to be determined (March, tentative), Pittsburgh, PA or Charlotte, NC. The Subcommittee will review the status of NDE of cast stainless steel.

Emergency Core Cooling Systems, Date to be determined (March/April), Washington, DC. The Subcommittee will continue its review of the NRC's proposal to revise 10 CFR 50.46 and Appendix K as well as resolution of the hydrodynamic loads issue for BWR containments.

Waste Management, Date to be determined (April), Washington, DC. The Subcommittee will review various topics in the High-Level Radioactive Waste Program mutually agreed to by the ACRS and the NMSS Division of Waste Management Staff. Topics tentatively identified for the April meeting are; a Modeling Strategy Document, and Quality Assurance (Staff Reviews and GTPs).

Reliability and Probabilistic Assessment, Data and location to be determined. The Subcommittee will review the probabilistic risk assessment for Millstone 3.

ACRS Full Committee Meeting

February 13–15, 1986: Items are *tentatively* scheduled.

*A. *Davis-Besse Nuclear Generating Station*—review of proposed restart following loss of feedwater incident.

*B. *NRC Outage Inspection Program*—briefing by representatives of NRC Staff regarding implementation of an Outage Inspection Program at nuclear facilities.

*C. *Seismic Qualification of Equipment*—review of proposed basis for seismic qualification of equipment in operating nuclear plants.

*D. *NRC Safety Research Program*—preparation of ACRS report to the U.S. Congress regarding the proposed NRC Safety Research Program for FY–1987.

*E. *Prevention of Sabotage at Nuclear Facilities*—review proposed revisions of NRC regulations regarding prevention of plant sabotage by insiders

*F. *Use of the "Check Operator" Concept in Evaluation of Operator Performance*—briefing by representative of the NRC Staff, the nuclear industry, and the Federal Aviation Administration.

*G. *Reactor Operations*—the members will her and discuss reports of its subcommittee, representatives of the NRC regulatory staff and the nuclear industry as appropriate regarding recent

operating events and accidents which have occurred at nuclear plants.

*H *Three Mile Island Unit 2*—review of arrangements to preclude criticality of the TMI–2 nuclear core during the defueling of this facility.

*I. *ACRS Subcommittee Activities*—the members will hear the reports of its subcommittee, representatives of the NRC Staff, and the nuclear industry as appropriate regarding ongoing subcommittee assignments, including activities related to 10 CFR 20, Standards for Protection Against Radiation, establishment of de minimis levels for specified radiation exposures, emergency core cooling systems, ACRS practices and procedures, implementation of GDC–19, Fire Protection with respect to the main control room and back-up control stations, qualification of safety related equipment, etc.

*J. *Containment Sump Performance*—the members will discuss proposed NRC Staff resolution of Committee recommenations in its report of September 16, 1985 regarding Proposed Resolution of USI A–43, Containment Emergency Sump Performance.

*K. *TVA Reorganization*—review proposed changes in TVA's nuclear organizational structure to improve the design, construction, and operations of its nuclear plants. Proposed restart of the Sequoyah Nuclear Plant and plans for additional TVA plants will be considered.

*L. *Reactor Pressure Vessel Pressurized Thermal Shock*—discuss proposed ACRS recommendations/comments regarding the transients evaluated in connection with this matter.

*M. *Seismic Design Margins*—discuss proposed ACRS recommendations/comments regarding the scope, etc. of the NRC program on seismic design margins.

*N. *Conduct of Members*—discuss proposed ACRS comments/recommendations regarding implementation of the conflict of interest statutes and regulations with respect to ACRS activities.

*O. *State of Nuclear Power Plant Safety*—consider proposed ACRS recommendations/comments regarding the state of nuclear power plant safety.

*P. *DOE Program for Management and Disposal of Radioactive Wastes*—briefing by representatives of DOE.

*Q. *San Onofre Nuclear Plant Unit 1*—review plans to restart this facility following a loss of all AC power.

*Q. *Future Reactors (tentative)*—discuss proposed ACRS recommendations/comments regarding safety considerations for future reactors.

*R. *Meeting with NRC Commissioners (tentative)*—report regarding implementatijon of the recommendations of the Panel on ACRS Effectiveness.

March 13–15, 1986—Agenda to be announced.

April 10–12, 1986—Agenda to be announced.

Dated: January 15, 1986.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 86–1263 Filed 1–17–86; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Reactor Operations; Meeting

The ACRS Subcommittee on Reactor Operations will hold a meeting on February 12, 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, February 12, 1986—1:30 P.M. until the conclusion of business.

The Subcommittee will review recent operating events.

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 potify 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 Subcommittee 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 present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634–1414) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: January 14, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–1264 Filed 1–17–86; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Westinghouse Water Reactors; Meeting

The ACRS Subcommittee on Westinghuse Water Reactors will hold a meeting on February 12, 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, February 12, 1986—8:30 A.M. until the conclusion of business.

The Subcommittee will review the November 21, 1985 loss of AC power and feedwater water hammer event at San Onofre Unit 1.

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 fo 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, Dr. Richard Savio (telephone 202/634–3267)

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: January 14, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-1265 Filed 1-17-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Worldmasters Corp.; Order of Trading Suspension

January 15, 1986.

It appears to the Securities and Exchange Commission that there is a lack of current adequate and accurate public information concerning Worldmasters Corporation's business operations and the identity and prior securities violations of certain corporate officers and directors.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that over-the-counter trading in the securities of Worldmasters Corporation is suspended, for the period from 10:00 a.m. E.s.t. on January 15, 1986 through midnight (EST) on January 24, 1986.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-1257 Filed 1-17-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2217]
[Amendment #2]

West Virginia; Declaration of Disaster Area

The above-numbered Declaration (50 FR 48146) as amended (50 FR 50028) is hereby further amended in accordance with the Notice of Amendment to the President's declaration, dated November 7, 1985, to extend the termination date for filing applications for physical damage to the close of business on January 20, 1986. All other information remains the same; i.e., the termination date for filing applications for economic injury until the close of business on August 7, 1986.

Dated: January 6, 1986.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-1177 Filed 1-17-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held February 24, 1986, at 5:00 p.m. at the Hyatt Regency Hotel—Rio Grande East Room, 123 Losoya Street, San Antonio, Texas 78205. The agenda for the meeting is as follows:

—Overview of the MBRC Programs
—DOT's Women Business Enterprise Initiative
—Hispanic Business Enterprise Initiative Outreach Activities
—Role of Women Trade Associations in Transportation Related Issues and Opportunities.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty D. Chandler, Minority Business Resource Center, 400 7th Street, SW, Washington, DC 20590, telephone (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on January 14, 1986.

Amparo B. Bouchey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 86-1240 Filed 1-17-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Proposed Advisory Circular; Reduced and Derated Takeoff Thrust (Power) Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed Advisory Circular 25-XX and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) which provides guidance for takeoff certification and operations using reduced and derated thrust (power) on turbine powered transport category airplanes.

DATE: Comments must be received on or before April 21, 1986.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Transport Standards Staff, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Pat Siegrist, Transport Standards Staff, at the above address, telephone (206) 431-2126.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the proposed AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT.** Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters must identify AC 25-XX and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

Discussion

Takeoff operations conducted at thrust (power) settings less than the maximum takeoff thrust available may provide substantial benefits in terms of engine maintenance and operating costs. These takeoff operations generally fall into two categories: those with a specific derated thrust (power) level and those using the "reduced thrust (power) concept," which provides a lower thrust (power) level that may vary for different takeoff operations. Both methods can be approved for use provided that certain limitations are observed. This advisory circular consolidates guidance concerning takeoff certification and operations using these methods for transport category airplanes and serves as a ready reference for those involved

with airplane certification and operation.

Issued in Seattle, Washington, on January 3, 1986.

Leroy A. Keith, Manager,

Aircraft Certification Division, Northwest Mountain Region.

[FR Doc. 86-1154 Filed 1-17-86; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket S-783]

Farrell Lines Inc.; Application To Provide a TR 15-A Service

Farrell Lines Incorporated (Farrell), by application dated December 13, 1985, has requested an amendment to Appendix A of Operating-Differential Subsidy Agreement, Contract MA/MSB-352, to provide a TR 15-A (U.S. Atlantic/South and East Africa) service.

United States Lines (S.A.) Inc. (USL(S.A.)) the current holder of operating rights on TR 15-A, has recently indicated that it intends to terminate direct service from the U.S. Atlantic to South and East Africa. Instead, it intends to substitute a relay service to Rotterdam and then to South and East Africa.

Farrell points out that the South African trade has been important to the United States both from a commercial viewpoint as well as a national security viewpoint. It indicates that in 1984, 340,000 tons of exports originated on the east coast, of which 47 percent moved on U.S. bottoms. Imports totaled 241,000 tons and 41 percent were carried on U.S.-flag. Farrell goes on to point out that South Africa also provides the primary source of minerals vital to national security, namely, chromium, manganese and platinum.

Farrell served in the trade route for over 50 years until 1981 when market conditions forced its sale. Because of its experience in the trade, Farrell maintains it has a great deal of knowledge of the service requirements and a relationship with transportation elements in the region. Based on the above, Farrell has requested that it be permitted to serve Trade Route 15-A (U.S. Atlantic/South Africa) service in conjunction with its existing TR 14-1 service (U.S. Atlantic/West Africa).

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington D.C. 20590. Comments must be received no later than 5:00 p.m. on February 4, 1986. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Subsidy Board will consider any comments submitted and take such actions with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies)

By Order of the Maritime Subsidy Board.

Dated: January 15, 1986.

Georgia P. Stamas,

Secretary.

[FR Doc. 86-1237 Filed 1-17-86; 8:45 am]

BILLING CODE 4910-81-M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement for Proposed Transit Improvements in the Omni and Brickell Areas of Miami, FL

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice to Prepare an Environmental Impact Statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the Metro-Dade Transportation Administration are undertaking the preparation of an Environmental Impact Statement (EIS) for proposed transit improvements that would connect major developments in Miami, Florida's Omni and Brickell areas with the central business district as directed by Section 335 of the FY 1986 DOT Appropriations Bill. This EIS is being prepared in conformance with 40 CFR Part 1500, Council on Environmental Quality, Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969, as amended; and 49 CFR Part 622, Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Krahl, UMTA Region IV, 1720 Peachtree Road, NW., Suite 400, Atlanta, Georgia 30309; telephone (404) 881-7875.

Mr. Kiyoshi Mano, Metro-Dade Transportation Administration, 44 West Flager Street, Miami, Florida 33130; telephone (305) 579-4505.

SUPPLEMENTARY INFORMATION:

Scoping Meeting

A public scoping meeting was held on March 12, 1984 at the James L. Knight Center, Hyatt Regency—Miami, 400 S.E. 2nd Avenue in Miami. Members of the public and interested Federal, State, and local agencies were invited to comment on the proposed scope of work, alternatives to be assessed, impacts to be analyzed, and evaluation criteria to be used to arrive at a decision. A further scoping meeting is not planned. However, the Metropolitan-Dade Transportation Administration (Metro-Dade) will provide opportunities for agency and public involvement thorughout the study process.

Metro-Dade and UMTA invite written comments for a period of 30 days after the publication of this notice. Comments should focus on the appropriateness of the proposed alternatives, rather than individual preferences for a particular alternative as most desirable for implementation. Comments are also invited regarding the impacts to be studied and the proposed evaluation criteria. Other impacts or criteria judged relevant to local decision-making should be identified. In addition, UMTA and Metro-Dade invite comments on the need for an additional public scoping meeting.

Written comments should be sent to: Ms. Charlotte M. Adams, Acting Regional Administrator, Urban Mass Transportation Administration, 1720 Peachtree Road NW., Suite 400, Atlanta, Georgia 30309; or Mr. Joseph M. Fletcher, Executive Director, Metro-Dade Transportation Administration, 44 W. Flager Street, Miami, Florida 33130.

Corridor Description

The Miami Central Business District (CBD) is a rapidly growing area of mixed use development, characterized primarily by office and retail space. This area forms the central core of a larger linear business district, extending approximately 1.4 miles north and one mile south of the CBD. The transportation needs of this larger business district, and possible transit improvements, will be examined in this EIS. The northern corridor contains the Omni area and is bounded by Miami Avenue, N.E. 16th Street, Biscayne Bay, and N.E. 5th Street. The southern corridor, encompassing the Brickell area, is bounded by S.W. 1st Street, Biscayne Bay, S.W. 15th Road, and S.W. 2nd Avenue.

Alternatives

In 1984, Metro-Dade initiated service on METRORAIL, a 20.5-mile heavy rail facility extending northwest and southwest from the Miami CBD. In addition, Metro-Dade is presently constucting the METROMOVER system—a 1.9-mile automated circulation/distribution system interfacing with the METRORAIL transit system—within the Miami CBD. The METROMOVER system consists of an evaluated double loop guideway with ten on-line stations. Since neither METRORAIL nor the METROMOVER directly serve the Omni and Brickell areas, improved linkages between these areas and the region's rail facilities are being considered.

Alternatives proposed for study by Metro-Dade Transportation Administration in each corridor are:

1. A no-build option, under which existing bus services would continue to operate, and
2. a people mover alternative involving an extension of the METROMOVER loop system. Appropriate alignment options will be explored.

In addition to the no-build and people mover alternative, UMTA will study a low cost transportation system management (TSM) alternative consisting of a bus circulator system. UMTA will study this alternative in order to address the cost-effectiveness of the project as required by the FY 1986 DOT Appropriations Act and related Congressional guidance.

In the Omni corridor, the study will also examine whether the possibility of a future northeast METRORAIL line should affect the kinds of local circulation improvements to be made at this time.

Probable Effects

Impacts proposed for analysis include changes in the natural environment (air quality, noise, water quality, aesthetics), changes in the social environment (land use, development, neighborhoods), impacts on parklands and historic sites, changes in transit service and patronage, associated changes in highway congestion, capital costs, operating costs, and financial implications. impacts will be identified both for the construction period and for the long term operation of the alternatives.

The proposed evaluation criteria include transportation, environmental, social, economic, and financial measures as required by current Federal (NEPA) and State environmental laws and current CEQ and UMTA guidelines. Mitigating measures will be explored for any adverse impacts that are identified.

Issued on: January 14, 1986.

Charlotte M. Adams,

Acting Regional Administrator.

[FR Doc. 86-1261 Filed 1-17-86; 8:45 am]

BILLING CODE 4910-57-M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains extensions and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Nancy C. McCoy, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Jim Brown, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

DATED: January 14, 1986.

By direction of the Administrator:

Susan Livingstone,

Associate Deputy Administrator for Management.

Extensions

1. Department of Veterans Benefits.
2. Application for Dependency and Indemnity Compensation by Parents.
3. VA Form 21-535.
4. On occasion.
5. Individuals or households.
6. 20,880 responses.
7. 26,100 hours.
8. Not applicable.

* * *

1. Department of Veterans Benefits.
2. Income Statement for Parent Claiming Dependency and Indemnity Compensation.
3. VA Form 21-419c.
4. On occasion.
5. Individuals or households.
6. 10,500 responses.
7. 5,250 hours.
8. Not applicable.

[FR Doc. 86-1203 Filed 1-17-86; 8:45 am]

BILLING CODE 8320-01-M

Veterans' Advisory Committee on Environmental Hazards; Meeting

The Veterans Administration gives notice under Pub. L. 92-463, section 10(a)(2), that a meeting of the Veterans' Advisory Committee on Environmental Hazards will be held at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420 on March 3 and 4, 1986. The purposes of the Committee are to review the scientific and medical literature relating to the possible health effects resulting from exposure to dioxin and ionizing radiation and to assist in the development of Agency policy with respect to veterans' claims for compensation based upon exposure.

The meeting will convene at 9:00 a.m. both days in the Omar Bradley Conference Room. This meeting will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Ms. Patricia Kane, Veterans Administration Central Office (phone 202/389-2115) prior to February 26, 1986.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. Frederic L. Conway, Special Assistant to the General Counsel, Room 1034, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Dated: January 8, 1986.

By direction of the Administrator:

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86-1202 Filed 1-17-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 13
Tuesday, January 21, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Commodity Credit Corporation	1
Consumer Product Safety Commission	2
Federal Home Loan Mortgage Corporation	3
Federal Mine Safety and Health Review Commission	4
Overseas Private Investment Corporation	5
Parole Commission	6, 7

1

COMMODITY CREDIT CORPORATION

TIME AND DATE: 3:00 p.m., January 24, 1986.

PLACE: Room 104A-Administration Building, U.S. Department of Agriculture, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda to be announced.

CONTACT PERSON FOR MORE INFORMATION: Richard A. Ashworth, Secretary, Commodity Credit Corporation, Room 3086 South Building, U.S. Department of Agriculture, Post Office Box 2415, Washington, DC 20013; telephone (202) 447-8165.

Dated: January 15, 1986.

Richard A. Ashworth,

Secretary, Commodity Credit Corporation.

[FR Doc. 86-1292 Filed 1-16-86; 11:45 am]

BILLING CODE 3410-05-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Tuesday, January 21, 1986.

LOCATION: Third Floor Hearing Room, 1111-18th Street, NW., Washington, DC.

STATUS:

MATTERS TO BE CONSIDERED:

Open to the Public

1. *NEISS Pilot Project on Causality*

The staff will brief the Commission on the results of the first phase and details of phase II of a study to test the feasibility of collecting data relating to causes of product related accidents in the emergency room.

Closed to the Public

2. *Enforcement Matter OS #5986*

The staff will brief the Commission on issues related to Enforcement Matter OS #5986.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Dated: January 15, 1986.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 86-1315 Filed 1-16-86; 12:41 pm]

BILLING CODE 6355-01-M

3

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: Tuesday, January 21, 1986, 2:00 p.m.

PLACE: 1776 G Street, NW., Washington, DC, Conference Room 8C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Alan B. Hausman, 1776 G Street, NW., P.O. Box 37248 Washington, DC 20013 (202) 789-5097.

MATTERS TO BE CONSIDERED:

Closed: Minutes of December 9, 1985, Board of Directors' Meeting
Closed: President's Report
Closed: Financial Report

Date sent to Federal Register: January 15, 1986.

Maud Mater,

Secretary.

[FR Doc. 86-1260 Filed 1-16-86; 12:44 pm]

BILLING CODE 6720-02-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 15, 1986.

TIME AND DATE: 10:00 a.m., Wednesday, January 22, 1986.

PLACE: Room 600, 1730 K Street, NW, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Lonnie Jones v. D&R Contractors, Docket No. KENT 83-257-D(A). (Issues include whether the administrative law judge properly rejoined in the proceeding, a previously dismissed respondent.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Thus, the Commission may, subject to the limitations of 29 CFR 2706.150(a)(3) and 2706.160(e), ensure access for any handicapped person who gives reasonable advance notice.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86-1280 Filed 1-16-86; 11:04 am]

BILLING CODE 6735-01-M

5

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors

TIME AND DATE: 9:30 a.m. (closed portion). 10:30 a.m. (open portion), Tuesday, January 28, 1986.

PLACE: Offices of the Corporation, fourth floor Board Room, 1615 M Street, NW., Washington, DC.

STATUS: The first part of the meeting from 9:30 a.m. to 10:30 a.m. will be closed to the public. The open portion of the meeting will start at 10:30 a.m.

MATTERS TO BE CONSIDERED: (Closed to the public 9:30 a.m. to 10:30 a.m.):

1. OPIC Legislative Renewal (Dec. 23, 1985).
2. Office of Management and Budget Proposals.
3. Review of OPIC Internal Criteria and Procedures Complying with Statutory Performance Requirements Provisions.
4. Claims Report.
5. Information Reports: General.
6. China Projects: Status Report.

FURTHER MATTERS TO BE CONSIDERED: (Open to the public 10:30 a.m.)

1. Approval of the Minutes of the Previous Meeting.
2. Approval of Scheduled Board Meetings.
3. Personnel Actions.
4. Increase of Direct Investment Fund for FY 1986 in Accordance with Sec. 235(b) of the Foreign Assistance Act.
5. Financial Statements for FY 1985.
6. Information Reports.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting

may be obtained from the Secretary of the Corporation at (202) 457–7015.

Elizabeth A. Burton,

Corporate Secretary

Dated: January 16, 1986.

[FR Doc. 86–1273 Filed 1–16–86; 10:02 am]

BILLING CODE 3210–01–M

6

PAROLE COMMISSION

PUBLIC ANNOUNCEMENT: Pursuant to the Government in the Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b].

PLACE: 5550 Friendship Boulevard, One North Park Building, Room 420–F, Chevy Chase, Maryland 20815.

DATE AND TIME:

Tuesday, January 28, 1986—9:00 a.m. to 5:30 p.m.
Wednesday, January 29, 1986—9:00 a.m. to 5:30 p.m.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of open business meeting of October 29 and 30, 1985.
2. Reports from the Chairman, Vice Chairman, Commissioners, Legal, Research, Case Operations, and the Administrative Section.
3. Report on the Reparative Work Project.
4. Form F–2 and Warrant Application.
5. Proposed report to Federal Aviation Administration of pilots convicted of importing narcotics.
6. Pilot project to test proposed revision of F–3 Report.
7. Proposed revision of Rule at 28 CFR 2.19(b)(3) to limit amount of material submitted at hearing.
8. Discussion of interchange of Commissioners' assignments between regions and the National Appeals Board.
9. Proposed new basis for authorization of parolees to act as informants, and subsequent reporting.
10. Consideration of severity level for "insider trading" offenses.
11. Definition of law enforcement official.
12. Discussion of subpoenaing of adverse witnesses.
13. Discussion of parole conditions.
14. Discussion of withdrawal of warrants and closing cases.

Consent Agenda

The following items are placed on the Commission's Consent Agenda. A request to discuss a particular item must be received by January 23, 1986. Items for which no such request is received shall be deemed adopted by consent and will not be discussed at the meeting.

15. Supporting material for original jurisidiction appeals.
16. Computation of special parole terms.
17. Adoption as final an interim rule changing certain provisions of 28 CFR 2.20 and 2.36.
18. Adoption of proposed procedural change at 2.44–03(d).

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman, Director of Research, United States Parole Commission, (301) 492–5980.

Dated: January 15, 1986.

Joseph A. Barry,

General Counsel Parole Commission.

FR Doc. 86–1323 Filed 1–16–86; 1:04 pm]

BILLING CODE 4410–01–M

7

PAROLE COMMISSION

PUBLIC ANNOUNCEMENT: Pursuant To The Government In The Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b].

DATE AND TIME: Monday, January 27, 1986—9:30 a.m. to 2:30 p.m.

PLACE: 5550 Friendship Boulevard, One North Park Building, Room 420–F, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 14 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

Dated: January 15, 1986.

Joseph A. Barry,

United States Parole Commission

[FR Doc. 86–1324 Filed 1–16–86; 1:04 pm]

BILLING CODE 4410–01–M

Federal Register

Tuesday
January 21, 1986

Part II

Department of Agriculture

Rural Electrification Administration

7 CFR Part 1789

Revision and Codification of REA Policies Concerning Audits of REA Borrowers; Final Rule

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1789

Revision and Codification of REA Policies Concerning Audits of REA Borrowers

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends 7 CFR Chapter XVII, REA Regulations by adding a new part, Part 1789 REA Policy on Audits of Electric and Telephone Borrowers. In addition to codifying audit policies and procedures, REA's audit policy has been updated to reflect pertinent requirements contained in Statements on Audit Standards published by the American Institute of Certified Public Accountants (AICPA) and in Financial Accounting Standards Board's Statements since 1972. Within the last three years, REA has increased its reliance on the audit work performed by independent certified public accountants (CPAs) and upon information contained in CPAs' working papers. In keeping with this effort to rely more on independent CPAs, this rule is being adopted to provide CPAs with more detail on audit procedures and documentation required by REA. The proposed rule included a requirement that all CPAs auditing REA borrowers after December 31, 1985, belong to or agree to join an approved peer review program. REA has revised the final rule to make participation in an approved peer review program as of December 31, 1985, voluntary rather than mandatory. However, participation in an approved peer review program will be mandatory for CPA firms auditing financial statements prepared by an REA borrower that are dated after December 31, 1987. The final rule will affect all present and future REA electric and telephone borrowers. Upon publication of this final rule, REA Bulletins 185–1:465–1, Audit of REA Borrowers Accounting Records, and 185–2:465–2, Audit Working Papers, will be rescinded.

EFFECTIVE DATE: December 20, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Davis, Director, Borrower Accounting and Services Division, Rural Electrified Adminstration, Room 1226, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382–9450. The Final Impact Analysis describing the options considered in developing and implementing the proposal is available on request from the above address.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended [7 U.S.C. 901 et seq.] REA hereby amends 7 CFR Chapter XVII by adding a new part, Part 1789—REA Policy on Audits of Electric and Telephone Borrowers. This proposed action has been issued in conformance with Executive Order 12291, Federal Regulation. It will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to complete with Foreign-based enterprises in domestic or export markets.

REA has concluded that promulgation of this rule will not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This regulation contains no information or recordkeeping requirements which require approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et seq.).

This action does not fall within the scope of the Regulatory Flexibility Act. The programs listed in the Catalog of Federal Domestic Assistance that are impacted are 10.850—Rural Electrification Loans and Loan Guarantees and 10.851—Rural Telephone Loan and Loan Guarantees. For the reasons set forth in the Final Rule related notice (48 FR 54317, December 1, 1983) to 7 CFR Part 3015, Subpart V, this rulemaking activity is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

I. Introduction

1. On January 23, 1985, REA published a Notice of Proposed Rulemaking in this proceeding where it was proposed to amend 7 CFR Chapter XVII, REA Requirements, by adding a new part, Part 1789, REA Policy on Audits of Electric and Telephone Borrowers.

2. Specifically, REA proposed among other things to codify and update auditing and reporting requirements for CPAs that audit REA borrowers. REA Bulletins 185–1:465–1 and 185–2:465–2 were issued in 1972 setting out specific auditing and reporting requirements for CPAs auditing REA borrowers. Bulletin 185–1:465–1 was amended in 1978 to include additional reporting requirements on electronic data processing activities and related party transactions, however, no attempt was made to update the Bulletin to include current generally accepted accounting principles (GAAP) and generally accepted audit standards (GAAS). Bulletin 185–2:465–2 has never been updated. Therefore, it was necessary to update REA's stated audit policy to include applicable changes in GAAP and GAAS. The scope of the audit has not been expanded since CPAs, as part of professional standards, are required to meet all applicable GAAP and GAAS in effect at the audit date. However, we feel it is advisable to summarize and highlight those accounting principles and audit standards that are particularly relevant to REA audit requirements, or to audits of electric and telephone utilities. Certain reporting requirements are also of particular concern to REA as a lender or guarantor of government funds.

3. A requirement that CPAs auditing REA borrowers belong to or agree to join an approved peer review program was included in the proposed rule because REA felt that regulation of the accounting profession was appropriately done by the private sector. Currently, evaluation of CPAs' working papers are performed by REA employees on an as needed basis. It was felt that these reviews could be performed through independent peer review groups subject to REA approval.

4. Currently the predominant organization administering peer reviews is the AICPA. In the mid-1970s, the AICPA organized the Division for CPA Firms. One of the functions of this Division was to establish a framework for conducting peer reviews and to monitor the execution of on-site reviews of CPA firms' working papers. Under the auspices of the Division, peer reviews are carried out by CPAs working in the private sector. Each member of the Division is required to have a peer review once every three years. A review team may be appointed by the Division's peer review committee, may be formed by an association of CPAs or by a state CPA society authorized to administer peer reviews.

II. Summary of Comments

5. In our Notice of Proposed Rulemaking (NPR) we invited interested parties to file comments on or before

March 25, 1985. However, we are addressing comments received after that date in order to consider all responses received in preparing this Final Rule.

6. Comments were received from REA electric and telephone borrower management personnel and members of the board of directors, certified public accountants, the Cooperative Utilities Finance Corporation (CUFC), National Telephone Cooperative Association (NTCA), National Rural Utilities Cooperative Finance Corporation (CFC), United States Telephone Association (USTA), AICPA, National Accounting Firms Associated, the General Accounting Office (GAO), and the Department of Agriculture's Office of Inspector General (OIG).

7. The majority of the parties commented on the proposed peer review requirement. These comments generally fell into three groups as follows: (1) The first group supported the peer review requirement feeling that reviews of working papers benefit both the practitioner as well as REA; (2) the second group supported participation in a peer review program, however, this group wanted to establish a separate peer review group comprised of only CPAs auditing REA borrowers; (3) the third group did not support the peer review requirements. The most frequently cited reason given for not supporting the peer review requirement was increased costs to the CPA performing the audit that would have to be passed on to clients.

8. Responses were mixed on the need to provide detailed audit procedures. Two respondents suggested providing guidance only in certain areas such as plant accounting. The AICPA felt that requiring the audit to be conducted in accordance with GAAS is adequate to permit CPAs to use their professional judgment in conducting the audit. Respondents supporting detailed guidance felt that it was useful because of the complexity of utility audits.

9. Four respondents recommended extending the 3-month limit on submitting the required audit report, and management letter to the borrower for submission to REA. A four month deadline was most often suggested. A number of respondents were concerned that REA was requiring that the CPA present the audit report to the borrower's board of directors based upon the wording of § 1789.25(b) which states that the CPA *should* report the audit findings orally to the board of directors at the completion of the audit.

10. One respondent recommended that REA require a "rotation of auditors" whereby a CPA would be approved to audit a particular borrower for a period of time not exceeding three years. At the end of the specified time period, the borrower would be required to select a new CPA.

11. The AICPA questioned the need for a management letter citing costs of gathering and presenting the information contained in the letter. They stated that such information may be excessive and unwarranted in comparison to the benefits to REA and recommended that REA perform a cost benefit analysis of the requested information with a view towards eliminating or modifying those elements determined to be of minimal use or value to REA.

12. Several respondents suggested changes in the sample audit reports provided in Appendixes A & B of Part 1789 as proposed. The CPA firm of McGladrey, Hendrickson & Pullen felt the standard audit report was not applicable to electric borrowers and that the report should be based on a regulatory basis of accounting other than GAAP. Respondents from the firms of Eide, Helmeke & Co. and William Higgason suggested a line item on the Statement of Income and Retained Earnings for telephone borrowers to reflect income from access charges. Additionally, the respondent from the Northwest Iowa Power Cooperative pointed out that the Statement of Revenue and Patronage Capital for electric borrowers in Iowa is not applicable because of the need to prepare separate statements of revenue and expense, and patronage capital and other equities.

13. CFC recommended that REA include a requirement that the CPA be required to report indications of irregularities noted during the annual audit directly to REA, supplemental lenders, and the president of the borrower's board of directors. This requirement is now part of REA Bulletin 185–1:465–1 but was not included as a requirement in the proposed rule. CFC also recommended that supplemental lender audit requirements be included in Part 1789.

14. GAO pointed out that the Single Audit Act of 1984 (Pub. L. 98–502) now includes *loans* under the types of federal assistance that comes under the requirement for single audit, and as such, the Act may have ramifications on REA audit requirements.

III. Discussion

15. A major objection to the proposed peer review requirement was that the only organized group performing peer reviews was the Division for CPA Firms of the AICPA. Respondents pointed out that they would be required to join the AICPA in order to have a peer review performed through the Division. Membership in the AICPA is voluntary for all CPAs.

16. Cost considerations was a major point raised by CPAs objecting to the peer review requirement. Many respondents felt that the peer review requirement would have an adverse impact on smaller firms. These respondents indicated that the cost of having a peer review would add to the firm's overhead and would subsequently have to be passed on to the clients in the form of higher audit fees. Although the cost of the peer review is tied to the number of audits performed by the CPA, it was felt that smaller firms would have a proportionately higher cost that would be reflected in fees. Respondents saw this as benefiting large firms in bidding on annual audits.

17. The other significant objection to the peer review requirement was that having a peer review would not assure REA that audits of its borrowers were satisfactorily performed. These respondents pointed out that only a sample of audit engagements are examined during a peer review conducted by the AICPA's Division for CPA Firms and that the REA audit working papers may not be among those chosen for review. Respondents also pointed out that reviewers may not have extensive utility experience.

18. Respondents favoring the peer review requirement had had peer reviews, usually through the Private Companies Practice Section of the Division for CPA Firms and had found them beneficial and the costs reasonable. These respondents felt that the standards for passing a peer review should be uniform for all practitioners.

19. Several comments were received suggesting that REA "grandfather" in CPAs auditing borrowers as of a certain date; as such, CPAs currently auditing REA borrowers would not be required to have a peer review but CPAs selected to audit borrowers after that date would be required to have a peer review.

20. Alternatives to a peer review were also suggested. One respondent recommended that REA require practitioners to carry a minimum amount of professional liability insurance. Another respondent recommended that REA only approve new CPAs having prior utility experience and that all CPAs be required to have a minimum amount of continuing professional education relating to the utility industry. Finally, several respondents suggested that REA require participation in a peer review program only if a CPA is found to have

substandard work during a REA quality review.

IV. Conclusion

21. Within the last three years, REA has increased its reliance on the audit work performed by independent CPAs and upon information contained in CPA working papers. As such, it is important that REA be assured that the audit work performed by CPAs meets GAAP and GAAS and specific REA audit requirements. Receipt of an evaluation of the CPA's working papers by an approved peer review program would provide such assurance.

22. In order to give CPA firms time to join an approved peer review program, REA has postponed the requirement that CPAs selected to perform the annual audit belong to an approved peer review program. REA will require that CPAs auditing financial statements dated after December 31, 1987, belong to an approved peer review program.

23. REA currently requires that CPAs submit the required audit report and management letter to borrowers within three months of the audit date. Although several respondents suggested extending this time limit, we feel it is essential that the information obtained from the annual audit be promptly forwarded to the borrower and REA. Experience indicates that the majority of CPAs currently auditing REA borrowers are able to submit the audit report to the borrower within three months of the audit date. REA grants extensions if the CPA runs into unusual problems during the course of the audit. As such we do not feel it is necessary to change the submission requirements.

24. In preparing the proposed rule we considered the need to include detailed audit procedures in Part 1789. Although all CPAs are bound to adhere to GAAS, these standards are not specifically written for utility audits. Because of the complexity of utility audits, we decided to include detailed procedures. However, the CPA is allowed to modify these procedures based upon his professional judgment so long as he explains the reason for change in the working papers.

25. Information contained in the management letter is used in monitoring loan security of REA borrowers and in determining compliance with REA policies and procedures. We do not share the AICPA's view that the information is of minimal use or contributes substantially to the cost of the audit. We ask the CPA to prepare the management letter based upon information obtained in performing the annual audit; the CPA is not required to extend audit procedures beyond what is required in GAAS.

26. Although the proposed rule did not require CPAs to report on insurance certification, CPAs currently provide a comment in the management letter on insurance certification based upon the reporting requirements of Bulletin 185–1:465–1. As such, we are restoring the requirement that CPAs comment on insurance certification. This reporting requirement will be based upon the insurance certification described herein, rather than upon the discontinued REA Form 55. In accordance with Article II of the mortgage, ". . . The mortgagor will, upon request of the majority noteholders, submit to the noteholder or noteholders designated in such request a schedule of its insurance in effect on the date specified in such request." This schedule or certification shall notify REA that the borrower is complying with the insurance requirements of the mortgage. The CPA's comment will verify the accuracy of this insurance certification.

27. The sample audit reports are included as guides only. We have made several changes suggested by respondents such as adding access charges to the telephone statement; however, it is not possible to prepare a sample report that is applicable to every audit. As such, it will continue to be necessary for each audit to be tailored to the client's financial position and activity.

28. Before publication of the proposed rule, we discussed the reporting requirement regarding irregularities with the AICPA. They pointed out that Statement on Auditing Standards No. 17, *Illegal Acts by Clients*, does not require direct reporting of irregularities. Additionally, the GAO's *Standards for Audits of Governmental Organizations, Programs, Activities and Functions* does not require direct reporting of irregularities. For this reason, the direct reporting requirement in REA Bulletin 185–1:465–1 was not included in the proposed rule. However, upon reconsideration, REA decided to retain this requirement.

29. We have carefully considered CFC's recommendation that supplemental lender audit requirements be included in Part 1789. While we note that CFC's and REA's audit requirements are identical and there would be no problem in making reference to this fact, there are numerous supplemental lenders that may have different audit requirements. We believe that it would be misleading to CPAs to include the audit requirements of one supplemental lender and not all others. As such, we feel it is preferable that each supplemental lender be responsible for communicating its audit requirements to the borrower.

30. The Single Audit Act mandates that generally accepted government audit standards published by the GAO in *Standards for Audit of Governmental Organizations, Program, Activities and Functions* be used in performing applicable audits. These standards are broader in scope than those issued by the AICPA. In the area of financial statement audit, these standards have one significant difference from the AICPA's standards in regard to reporting requirements. The standards issued by GAO require, in addition to an opinion on financial statements, a report on internal controls and a report on compliance with laws and regulations.

Because the Single Audit Act now applies to *loans* made to state and local entities, REA audit requirements are being revised. Any borrower qualifying as a unit of state or local government as defined in the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.* and 7 CFR Part 3015, Audit of State and Local Governments) may submit an audit meeting the requirements of the Single Audit Act. Such audit shall be sufficient to satisfy that borrower's obligations under Part 1789 to the extent provided in the Single Audit Act. We are requring that borrowers notify REA of their exempt status.

List of Subjects in 7 CFR Part 1789

Loan programs—energy, Loan programs—communications, Telecommunications, Telephone.

In view of the above, REA hereby adds a new part, Part 1789—REA Policy on Audits of Electric and Telephone Borrowers, to 7 CFR Chapter XVII to read as follows:

Part 1789 is added to read as follows:

PART 1789—REA POLICY ON AUDITS OF ELECTRIC AND TELEPHONE BORROWERS

Subpart A—General Provisions

Sec.

1789.1 General.
1789.2 REA audit requirements.
1789.3 Borrowers' responsibilities.
1789.4 Qualifications of CPA.
1789.5 Audit standards.
1789.6 Audit date.
1789.7 Disclosure of irregularities.
1789.8 Access to audit working papers.
1789.9 Quality review of working papers.
1789.10 Due process and sanctions.
1789.11 Audit requirements of supplemental lenders.
1789.12–1789.14 [Reserved]

Subpart B—Selection of CPA and REA Approval

1789.15 Board of Directors responsible for selection.
1789.16 Audit agreement.
1789.17 Notification of selection.
1789.18 REA approval of CPA.
1789.19–1789.24 [Reserved]

Subpart C—Submission and Review of Audit Report

1789.25 CPA's submission of the audit report.
1789.26 Borrower's review and submission of audit report.
1789.27–1789.29 [Reserved]

Subpart D—Audit Reporting Requirements

1789.30 General.
1789.31 Financial statements and accompanying notes.
1789.32 Management letter.
1789.33–1789.34 [Reserved]

Subpart E—Audit Procedures and Documentation

1789.35 Audit procedures.
1789.36 Planning and supervision.
1789.37 First annual audit.
1789.38 Audit documentation.

Appendix A—Sample Audit Report for Electric Distribution Cooperative
Appendix B—Sample Audit Report for Class A or B Commercial Telephone Companies
Appendix C—Sample Management Letter (Electric or Telephone)

Authority: 7 U.S.C. 901 et seq.; 7 U.S.C. 1921 et seq.

Subpart A—General Provisions

§ 1789.1 General.

This part sets out policy of REA on the selection and retention of independent certified public accountants (CPAs) to perform annual audits, auditing and reporting requirements for CPAs selected to perform audits of REA borrowers, and documentation standards for work done in connection with audit reports prepared for REA borrowers.

Note.—In Part 1789, the terms CPA and CPA firm are used interchangeably.

§ 1789.2 REA audit requirements.

(a) *Annual audit.* Each borrower shall have its financial statements audited annually by a CPA selected by the borrower and approved by REA as set out in § 1789.18. An annual audit, short-form audit report and accompanying management letter prepared in accordance with Subpart D meet the requirements of the REA mortgage.

(b) *Definition of Audit.* Audit, as used in this part, refers to an examination of financial statements by an independent CPA for the purpose of expressing an opinion on the fairness with which those statements present financial position, results of operations and changes in financial position in conformity with generally accepted accounting principles. A report prepared in connection with a review or compilation of financial statements as defined in Statement of Standards for Accounting and Review Services No. 1, *Compilation and Review of Financial Statements,* does not satisfy the requirements of the REA mortgage. Additionally, reports as described in Statement on Audit Standards No. 14, *Special Reports,* and Statement on Audit Standards No. 35, *Special Reports—Applying Agreed-upon Procedures to Specified Elements, Accounts, or Items of a Financial Statement,* do not satisfy the REA mortgage requirements.

(c) Until all loans made or guaranteed by REA or RTB have been repaid, the borrower shall have an annual audit.

(d) Any borrower qualifying as a unit of state or local government or Indian tribe as such terms are defined in the Single Audit Act of 1984 (31 U.S.C. 7501 *et. seq.* and 7 CFR Part 3015, Audit of State and Local Governments, OMB Circular A–128) may submit an audit meeting the requirements of the Single Audit Act. A borrower purporting to submit an audit under these requirements shall notify the Director, Borrower Accounting and Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Such audit shall be sufficient to satisfy that borrower's obligations under this Part 1789 to the extent provided in the Single Audit Act.

§ 1789.3 Borrowers' responsibilities.

REA borrowers are responsible for:

(a) The selection of a qualified CPA as set out in § 1789.4,

(b) The selected CPA complying with Part 1789, and

(c) The submission of the required audit report and management letter as set out in § 1789.26.

§ 1789.4 Qualifications of CPA.

(a) *Certification.* The accountant auditing the financial statements of an REA borrower shall be a CPA of some state, territory or the District of Columbia. The CPA does not have to be licensed by the state in which the borrower is located; however, the CPA is required to abide by the rules and regulations of professional conduct promulgated by the accountancy board of the state in which the borrower is located.

(b) *Independence.* The CPA firm shall be considered to be independent if it meets the standards for independence contained in the American Institute of Certified Public Accounts (AICPA) *Code of Professional Ethics* in effect at the time the CPA's independence is under review and if the CPA:

(1) Does not have and has not had any direct financial interest or any material indirect financial interest with the borrower during the period covered by the audit, and

(2) Is not and was not during the period under audit, connected with the borrower as a promoter, underwriter, trustee, director, officer or employee.

(c) *Peer Review Program.* The CPA shall belong to and participate in an approved peer review program as set out in § 1789.9, for audits of financial statements of borrowers dated after December 31, 1987.

§ 1789.5 Audit standards.

(a) The CPA shall perform the annual audit in accordance with generally accepted auditing standards issued by the American Institute of Certified Public Accountants. The CPA shall adhere to all generally accepted auditing standards in effect at the audit date unless directed otherwise by REA in this part.

(b) The CPA shall perform an examination of the financial statements including such tests of the accounting records and such other auditing procedures that are sufficient to enable the CPA to express an opinion on the financial statements. The borrower shall not limit the audit to an extent that the CPA is unable to meet REA's audit requirements or provide an unqualified opinion that the financial statements are presented fairly in conformity with generally accepted accounting principles. The requirements of this Part are not satisfied if the CPA has to qualify the opinion in the audit report due to limitations placed on the examination by the borrower. If the CPA determines during the audit that an unqualified opinion cannot be issued due to scope limitations imposed by the borrower, the CPA shall immediately contact the Director, Borrower Accounting and Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, DC 20250. The Director shall endeavor to resolve the matter with the borrower.

§ 1789.6 Audit date.

The annual audit shall be performed as of the end of the same calendar month each year unless prior approval to change the date is obtained from REA. A borrower may request a change in audit date by writing to the appropriate REA area office.

§1789.7 Disclosure of irregularities.

(a) The CPA shall be alert to situations or transactions that could indicate an irregularity. As used in this part, irregularity means any defalcation, fraud, false report or false claim made with seeming knowledge affecting a borrower or the interest of the Government.

(b) The CPA shall extend normal audit steps and procedures if there is an indication that an irregularity may have occurred. The extended audit steps are to be directed to obtaining sufficient evidence to determine whether in fact an irregularity has occurred, and, if so, the possible effect on the borrower's financial statements.

(c) The CPA shall report all irregularities, whether material or not, to: (1) The president of the borrower's board of directors, (2) supplemental lenders, if applicable, and (3) the Director, Borrower Accounting and Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, DC 20250.

§ 1789.8 Access to audit working papers.

A CPA performing an audit under the provisions of this part shall make the audit working papers available to REA upon request.

§ 1789.9 Quality review of working papers.

(a) A CPA firm's audit working papers shall be periodically reviewed as provided in this section to determine compliance with generally accepted audit standards and REA audit requirements as described in this part. Participation in an approved peer review program may satisfy this requirement; however, REA reserves the right to review any CPA firm's working papers even though such CPA firm belongs to an approved peer review program.

(b) *REA review program.* If REA elects, the Technical Accounting and Auditing Staff, Borrower Accounting and Services Division, shall peform a review of the CPA's working papers. REA shall inform the CPA by letter of the results of the review, detail specific recommendations for improvements, and indicate that a follow-up visit will be made, if necessary, to determine compliance with REA requirements. The CPA shall respond in writing within 60 days to all comments in the evaluation letter.

(c) *Acceptable peer review programs.* The following peer review programs satisfy the requirement of § 1789.9:

(1) The mandatory peer review program conducted by the AICPA's Division for CPA Firms. The CPA firm selecting this program shall belong to either the Private Companies Practice Section or the SEC Practice Section.

(2) Independent peer review progams approved by REA. These programs shall be approved if they require their members to abide by the following:

(i) Ensure that the firm can legally engage in the practice of certified public accounting.

(ii) Adhere to quality control standards established by the AICPA Quality Control Standards Committee that are in effect at the time of REA's evaluation.

(iii) Submit to peer reviews of the firm's accounting and audit practice every three years or at such additional times as designated by its own executive committee. The reviews are to be conducted in accordance with review standards established by the Private Companies Practice Section of the AICPA Division for CPA Firms (PCPS), *Peer Review Manual.*

(iv) Ensure that all professionals in the firm, including CPAs and non-CPAs, take part in qualifying continuing professional education as follows:

(A) Participate in at least one hundred twenty hours every three years, but not less than twenty hours every year, or

(B) Comply with mandatory continuing professional education requirements for state licensing or for state society membership, provided such state or society requirements require, during the reporting period, an average of forty hours per year of continuing professional education, and provided each professional in the firm participate in at least twenty hours every year.

(C) A qualified continuing professional education course shall be one which meets the standards of the PCPS.

(3) *Notification.* The CPA shall notify the Director, Borrower Accounting and Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, DC 20250, of participation in a peer review program. REA will notify the CPA within 60 days if the peer review program selected is unacceptable and the reasons therefor.

(4) *Submission of reports.* The CPA shall submit a copy of any peer review report and accompanying letter of comment, if any, within 60 days of date of receipt by the CPA. If the peer review report indicates a follow-up review will be made, the CPA shall submit subsequent reports. Peer review reports shall be submitted to REA at least once every three years, or more frequently, if required by the peer review program.

§ 1789.10 Due process and sanctions.

(a) If REA finds serious deficiencies in a review of the CPA's working papers by REA or during a peer review, REA may notify the CPA in writing that one or more of the following actions shall be taken:

(1) Advise CPA that REA borrower clients are being notified that unless REA audit requirements are met, approval to audit REA borrowers will be withdrawn;

(2) Determine that REA will not accept audit opinions or reports from the CPA firm for any borrowers except those it is already representing; or

(3) Determine that REA will not accept audit reports or opinions from the CPA for any borrowers.

(b) The CPA shall be given 15 days to respond to REA's letter before notification is provided the REA borrower on action taken.

(c) At the request of the CPA, REA may decide to afford additional opportunity for presentation or consideration of relevant information; including, without limitations, a meeting between REA and the CPA in such forum as REA may determine. The Director, BASD, shall determine which of the above actions shall be taken considering all relevant information developed during the review. Formal rules of procedure and evidence shall not apply to the actions of the Director, BASD. In making this decision, REA shall consider, among other things, the best interests of REA, its borrowers, and supplemental lenders, if applicable.

(d) Within 10 days from date of receipt of additional information, the CPA shall be advised of any change in action planned. If no change is planned, the CPA shall be advised that the action shall be taken as originally set out.

(e) *Appeal from an adverse decision.* (1) A CPA may request a review of an adverse decision by the Director, BASD, by submitting a letter requesting such review to the Administrator, REA, U.S. Department of Agriculture, Washington, DC 20250.

(2) Such request for a review shall be submitted within 10 days of the date of receipt of REA's response, specifying the reasons for such request.

(3) The Administrator, REA, may decline to review the decision of the Director, BASD, in which case the decision shall stand. If a review is granted, the determination by the Administrator, or the Administrator's designee, shall be based on the review report and such additional information as the Administrator may request. Formal rules of procedures and evidence shall not apply to the actions of the Administrator.

(4) Written notice of the Administrator's determination, stating

the basis for the decision, shall be provided the CPA.

§ 1789.11 Audit requirements of supplemental lenders.

Many borrowers have received loans from other lenders which are secured under the same security document as the loans made or guaranteed by REA or Rural Telephone Bank (RTB). These lenders are referred to as "supplemental lenders." Audit reports shall be furnished by the borrower to the supplemental lenders.

§§ 1789.12–1789.14 [Reserved]

Subpart B–Selection of CPA and REA Approval

§ 1789.15 Board of Directors responsible for selection.

(a) *Selection.* The borrower's board of directors or an audit committee composed entirely of board members is responsible for selecting a qualified CPA. In selecting a CPA, the borrower shall consider the qualifications of CPAs available to do the work, with particular regard to experience in performing audits of utilities and the ability to complete the audit and submit the report to the borrower within three months of the "as of" audit date.

(b) *Board Approval.* The board's approval of a CPA to perform the annual audit shall be recorded by a board resolution stating that:

(1) The CPA meets REA qualifications to perform an audit, and

(2) The CPA will provide an audit agreement.

§ 1789.16 Audit agreement.

(a) An annual audit agreement shall be prepared and signed by the CPA and the borrower. This agreement shall include assurance that the following conditions will be met:

(1) The audit report shall be signed by a certified public accountant or firm of certified public accountants in good professional standing with a state board of accountancy.

(2) The CPA is independent as defined in § 1789.4(b).

(3) The CPA shall comply with the Professional Standards (generally accepted auditing standards) and the *Code of Professional Ethics* of the AICPA, as though the CPA were a member.

(4) The CPA shall perform the audit and shall prepare the audit report and management letter in accordance with the requirements in Subpart D, hereof.

(5) The audit report and management letter with copies for transmittal to REA, and supplemental lenders, if applicable, shall be submitted to the board of directors within three months of the "as of" audit date.

(6) Documentation and evidence of audit work performed shall be prepared in accordance with the professional standards of the AICPA and REA requirements.

(7) Audit working papers shall be made available to REA as requested.

(8) A statement that the CPA belongs to an approved peer review program if the financial statements being audited will be dated after December 31, 1987.

(9) A statement that the CPA shall follow the requirements of reporting irregularities as outlined in § 1789.7.

(b) The audit agreement may cover additional conditions or items not listed in (a).

(c) A copy of the annual audit agreement shall be available at the borrower's office for inspection by REA personnel. Additionally, a copy of the current audit agreement shall be in the CPA's working papers or permanent file.

§ 1789.17 Notification of selection.

(a) When the selection has been made, the borrower shall advise REA and supplemental lenders, if applicable, by letter of its selection.

(b) Notification to REA and supplemental lenders, if applicable, that the same CPA has been selected for succeeding audits of the borrower's financial statements is not required; however, the procedure must be followed for each *new* CPA selected, even though such CPA may previously have been approved to audit records of other REA borrowers. Changes in the name of a CPA firm are considered to be a change in a CPA.

§ 1789.18 REA approval of CPA.

The borrower shall make sure that notice of the selection reaches REA at least 15 days before the "as of" audit date. REA shall notify the borrower before the "as of" date if the CPA is not satisfactory to REA.

§§ 1789.19–1789.24 [Reserved]

Subpart C—Submission and Review of Audit Report

§ 1789.25 CPA's submission of the audit report.

(a) *Time Limit.* As soon as possible after completion of the audit but within three months of the "as of" audit date, the CPA shall deliver the audit report and the management letter to the president of the board of directors. As a minimum, copies should be provided for each member of the board of directors, the manager, two copies for REA, and one copy for each supplemental lender.

(b) *Presentation to Board.* In addition to providing sufficient copies of the report and management letter for each member of the board, the CPA should report the audit findings orally to the board of directors at the completion of the audit.

§ 1789.26 Borrower's review and submission of audit report.

(a) The board of directors should note and record receipt of the audit report and any action taken in response to the report in the minutes of the board meeting at which the report is presented.

(b) The borrower shall forward two copies of the audit report and management letter to REA within four months of the "as of" audit date. One copy of the same information is to be forwarded to supplemental lenders, where applicable.

(c) The borrower shall furnish REA and supplemental lenders, where applicable, with copies of each special report, summary of recommendations or similar communications, if any, received from the CPA as a result of the audit.

§§ 1789.27–1789.29 [Reserved]

Subpart D—Audit Reporting Requirements

§ 1789.30 General.

The CPA shall:

(a) Report on a short-form audit report of the type illustrated in Appendixes A and B of this subpart.

(b) Provide a management letter to the borrower as illustrated in Appendix C.

(c) Deliver the audit report and management letter (with copies required in § 1789.25) to the borrower as soon as possible after completion of the audit but not more than three months after the "as of" audit date.

§ 1789.31 Financial statements and accompanying notes.

(a) *Electric borrowers.* The CPA shall report on a comparative balance sheet, statement of revenue and patronage capital (or retained earnings, if appropriate) and statement of changes in financial position. The report shall cover all statements presented. A suggested format for this report is shown in Appendix A.

(b) *Telephone borrowers.* The CPA shall report on a comparative balance sheet, statement of income and retained earnings (or patronage capital, if appropriate) and statement of changes in financial position. The report shall cover all statements presented. A suggested format for this report is shown in Appendix B.

(c) The CPA shall report on the adequacy of disclosures in the notes to the financial statements. Suggested notes to the financial statements include:

(1) Significant accounting policies.

(2) Depreciable assets (property, plant and equipment) and depreciation rates.

(3) Assets subject to lien.

(4) Investments (including temporary cash investments).

(5) Subsidiaries and affiliated companies.

(6) Segment information (including nonregulated activities).

(7) Leases.

(8) Long-term debt.

(9) Equity and capital accounts (including restrictions on return of capital).

(10) Pension and retirement plans (including deferred compensation arrangements).

(11) Income tax or tax exempt status.

(12) Commitments or contingent liabilities.

(13) Litigation.

(14) Related party transactions.

(15) Subsequent events.

(16) Unusual accruals and allowances, such as extraordinary retirements.

(17) Prior period adjustments.

(18) Where applicable, additional disclosures specified in generally accepted accounting principles and audit standards necessary to allow readers to use, understand and interpret the financial statements.

§ 1789.32 Management letter.

In accordance with REA reporting requirements the CPA shall prepare a management letter specified in this subpart. A suggested format for this letter is shown in Appendix C. Comments shall be based upon information obtained by the CPA in applying audit procedures set out in Subpart E. The CPA shall specifically report on the following items:

(a) Provide a statement that the examination procedures specified in Part 1789 have been performed.

(b) Provide a statement as to whether any special report, summary of recommendations or similar communications, was furnished to the borrower management during the course of the audit or during interim audit work.

(c) *Internal control.* (1) Give an evaluation of the effectiveness and reliability of the system of internal accounting controls and outline any recommendations for improvement. Comments provided shall: (i) Identify the borrower's significant internal accounting controls, (ii) indicate the extent to which tests of compliance were used in evaluating identified controls, and (iii) state the CPA's conclusions and identify material weaknesses in the borrower's internal accounting controls noted during the review.

(2) If electronic data processing systems are in use, a statement as to the effectiveness and reliability of internal accounting controls associated with those systems is also required. The study and evaluation should be in accordance with Statement on Auditing Standards No. 48, *The Effects of Computer Processing on the Examination of Financial Statements.* If electronic data processing systems are not in use, so state.

(d) *Accounting and records.* Comment on the adequacy and effectiveness of the borrower's accounting procedures, discuss the general condition of the records, and outline any recommendations for improvement. Include comments on the adequacy and fairness of the methods used in accumulating and recording labor, material and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts. Where appropriate, comments shall be included on matters such as:

(1) Whether subsidiary plant records agree with the controlling general ledger plant accounts.

(2) Whether construction clearing accounts are cleared promptly of costs of completed construction to the proper classified plant accounts and whether depreciation was accrued on such completed construction from the dates completed plant was placed in service.

(3) Whether retirements of plant are currently and systematically recorded and properly priced.

(4) Whether all costs associated with retirements of plant are properly accounted for in the accumulated provision for depreciation accounts and comment on any unusual charges or credits to such accounts.

(5) When REA approval was not obtained for a sale requiring such approval, and when receipts from sales of plant, material, or scrap were not handled in conformance with REA requirements.

(e) *Materials control.* Comment on the adequacy of the control over material and supplies. When appropriate, comment on discrepancies between physical inventory, perpetual inventory records, and general ledger balance. The disclosure should identify the dollar amount of gross overages and gross shortages, as well as the net amount of the discrepancy; also disclose the disposition of any differences. Include recommendations for disposition of deferred amounts remaining on the books at the close of the audit for which a satisfactory method of disposition has not been determined.

(f) *Compliance with REA Mortgage.* State whether the following provision of the REA Mortgage has been complied with:

(1) Electric: Article II, Section 16, covering the declaration and payment of dividends, payment of patronage refunds, retirement of any patronage capital or any other cash distribution, including abatement of charges, as defined in this section.

(2) Telephone: Article II, Section 15, covering restrictions on the payment of dividends, salaries and other compensation.

(g) *Reports to REA.* State whether the information in the December 31 financial reports (Form 7 or Form 12—Electric or Form 479—Telephone) submitted to REA is in agreement with the borrower's records. Comment on any exceptions noted. If an amended report has been filed as of December 31, the comments shall relate to the amended report.

(h) *Service contracts.* If management and/or operations contracts are in effect between the borrower and affiliates or others, state whether payments have been made in accordance with the terms of the contract. Also state whether the contract has been approved by REA. If there are no contracts, a statement to this effect shall be included in the management letter.

(i) *Deposits.* State whether funds in banks and savings and loan associations are in institutions insured by an agency of the Federal government. Also state whether temporary investment of loan funds is in accordance with REA Bulletin 26–1:327–1 or Bulletin 103–9:405–4, as appropriate.

(j) *Income tax status.* State the income tax filing status of the borrower.

(1) C corporation filing form 1120,

(2) S corporation filing form 1120S, or

(3) Sec. 501 (c)(12) corporation filing form 990.

(k) *Related party transactions.* A statement to the effect that all related party transactions have been disclosed in the notes to the financial statements in accordance with Financial Accounting Standards Board Opinion No. 57, *Related Party Disclosures,* is required. If the examination did not disclose any related party transactions considered to be material, individually or in the aggregate, so state.

(l) *Acquisitions or Sales of Property.* (1) Acquisitions: Comment on significant acquisitions of land.

(2) Sales: Provide information on sales of plant if REA approval was not obtained when required.

(m) *Depreciation rates.* (1) Comment when the depreciation rates used in computing monthly accruals have not been accepted by REA or the regulatory body having jurisdiction over the borrower's depreciation rates.

(2) Provide information in the management letter when proper accounting has not been carried out for original costs of plant removed and related salvage, and when the net result of these retirements is not properly reflected in the provision for depreciation accounts. Any unusual charges or credits should be fully disclosed.

(n) *Insurance Certifications.* Comment on the validity of the insurance certification filed by the borrower each year in accordance with the provisions of the REA loan documents as implemented by REA bulletins and regulations.

§§ 1789.33–1789.34 [Reserved]

Subpart E—Audit Procedures and Documentation

§ 1789.35 Audit procedures.

This subpart details audit procedures to be performed by the CPA during the examination of the REA borrower's financial statements. However, these procedures are not all inclusive. In accordance with generally accepted auditing standards, the CPA shall exercise judgment in determining additional or alternative auditing procedures necessary to afford a reasonable basis for an opinion.

§ 1789.36 Planning and supervision.

In accordance with Statement on Auditing Standards No. 22, *Planning and Supervision:*

(a) The CPA shall have or obtain a level of knowledge of the utility business that will enable the CPA to plan and perform the audit in accordance with generally accepted auditing standards.

(b) In planning the audit the CPA shall consider the nature, extent and timing of work to be performed and shall prepare a written audit program. This program should set forth in reasonable detail, the audit procedures that the CPA believes are necessary to accomplish the objectives of the audit.

(c) The CPA shall review work performed by assisting auditors to determine whether it was adequately performed and that the results are consistent with the conclusions presented in the audit report and management letter.

§ 1789.37 First annual audit.

In accordance with generally accepted auditing standards, the CPA shall obtain sufficient competent evidential matter to afford a reasonable basis for expressing an opinion on *comparative* financial statements the CPA has been engaged to examine as well as on the consistency of the application of accounting principles in that year as compared with the preceding year. Statement on Auditing Standards No. 7, *Communications Between Predecessor and Successor Auditors,* provides guidance to CPAs when a change in auditors takes place. REA requires that the first year's working papers detail how the successor auditor complied with SAS No. 7.

§ 1789.38 Audit documentation.

(a) *Internal control.* (1) The CPA shall study and evaluate the borrowers' internal accounting control procedures as part of the examination of financial statements whether or not the CPA intends to rely on the borrower's internal accounting controls. This study and evaluation shall be documented by an internal control questionnaire and/or narratives. Conclusions drawn as a result of this study and evaluation shall be noted in the working papers.

(2) The CPA is responsible for determining those areas in which internal accounting control procedures are to be relied on. Where the CPA does not intend to rely on specific internal accounting control procedures during the audit, a statement of this fact, and the reasons therefor, shall be included in the audit working papers. *However,* where the CPA intends to rely on specific internal accounting control procedures during the audit the following additional documentation is required:

(i) The CPA shall document the client's procedures. The documentation shall indicate:

(A) The internal accounting control procedures being followed;

(B) The flow of information from the initiation of the transaction through the posting of accounting records;

(C) Key accounting documents processed;

(D) The segregation of duties; and

(E) Authorization limits and approvals required for transactions processed.

The narrative may be supported with copies of forms and related flow charts.

(ii) The CPA shall provide working papers documenting the tests made to verify that the client's stated procedures were in fact being followed (i.e. tests of compliance) and documentation indicating those aspects of internal accounting control on which the auditor intends to rely for limiting tests of account balances.

(3) Where applicable, compliance with Statement on Auditing Standards No. 48, *The Effects of Computer Processing on the Examination of Financial Statements,* shall be shown.

(b) *Review of minutes and legal documents.* (1) The working papers prepared by the CPA shall contain extracts from the minutes of the Board of Directors and the annual membership or stockholders' meeting. Copies or outlines resulting from a review of documents such as the articles of incorporation, bylaws, commission orders, mortgages, pension and retirement plans, labor agreements and important contracts are to be a part of the working paper files.

(2) Compliance with transactions authorized in the minutes and with the legal documents noted above shall be tested by the CPA and documented in the working papers.

(c) *Working trial balance.* Amounts on the working trial balance must be readily traceable to audit working papers and to the summarized financial statements included in the audit report.

(d) *Utility plant and depreciation reserves*—(1) *General.* Because of the large proportion of the plant value to total assets, audit of these accounts shall include an examination of additions, replacements, retirements, and changes. Specifically, documentation prepared by the CPA shall show that:

(i) Direct labor and material transactions were examined in determining that the client's accounting records reflect a complete accumulation of costs.

(ii) Indirect costs and overhead charges were examined to determine if they conform to Uniform System of Accounts requirements.

(iii) Costs of completed construction and retirements are cleared promptly from work in progress accounts to classified plant in service and related depreciation reserves.

(iv) Direct purchases of special equipment and general plant were examined.

(v) Tests were performed to determine the degree of accuracy and control of pricing retirements, including tests of salvage and removal costs.

(vi) The borrower's work order procedures were documented and tested.

(vii) Depreciation rates were tested for adequate support, compared to REA guidelines and determined to be in compliance with approved rates.

(2) *Construction work in progress.* (i) The working papers shall include a summary of open work orders reconciled to the general ledger. The CPA shall note on the summary unusual or nontypical projects.

(ii) For each annual audit the CPA shall test a representative number of work orders. It is recommended that, on a test basis, the CPA select at least one month's activity and verify all charges to the work orders by reviewing supporting records. These tests shall cover:

(A) *Equipment purchases*—Review equipment purchases charged to work orders, including payments and receiving reports.

(B) *Contract payments*—Review contracts showing scope of work, nature of contract, contract amount and schedule of payments. Review supporting documents to determine that all services contracted for were in fact rendered.

(C) *Labor*—Select several employees who allocated their time to the work orders selected for testing. Review time cards and pay rates for these employees.

(D) *Material & Supplies*—Review the nature of material and supplies issued to the project and trace amounts and quantities to supporting documents. Review the reasonableness of clearing rates for assignment of stores expense to the work order.

(E) *Overheads*—Review the accuracy of the computation of overheads applied to the work order.

(F) *Other Charges*—Review other costs charged to the work order for support and propriety.

(iii) If construction was not performed by force account, the CPA shall select a representative number of completed contracts for review. Tests performed shall include:

(A) Schedule payments to contractor and trace to verification of payment and supporting invoice.

(B) Trace contract costs to final close-out documents and to general ledger and continuing property records.

(C) Verify costs of owner furnished materials, if applicable.

(iv) The CPA shall review the borrower's procedures for unitization and classification of work order and contract costs. These tests shall cover:

(A) Tabulation of record units for construction from work order staking sheets to tabulation of record units, to unitization sheets and to continuing property records.

(B) Procedures for unitizing and distributing costs of completed construction to plant accounts.

(C) Verification that standards costs are being used and test the basis for determining standard costs.

(D) Determination that costs of completed construction are cleared promptly from work in progress accounts.

(3) *Continuing property records.* The CPA shall determine whether subsidiary plant records agree with the general ledger control accounts, note differences in the working papers and comment on discrepancies in the management letter.

(4) *Retirement work in progress.* The CPA's working paper shall show that tests were made to determine that retirements of plant are currently and systematically recorded, priced on the basis of continuing property records, and that the costs of removal have been properly accounted for. If continuing property records have been established, the CPA is required to explain the method used in computing costs of units of plant retired and state whether costs appear reasonable. The CPA is also required to test accounting for net loss due to retirement and trace clearing entries to the depreciation reserve, the plant accounts and continuing property records.

(5) *Provision for depreciation reserve.* The CPA's working papers shall include an analysis of transactions for the period and additional working papers showing:

(i) A test of the depreciation accruals for the period, including the depreciation base.

(ii) The basis of the depreciation rates. Indicate any change in rates and the reason therefore and, as appropriate, approval by REA or the regulatory body having jurisdiction.

(iii) A test of salvage and removal costs.

(iv) A test for unrecorded retirements.

(6) *Other reserves.* The CPA's working papers shall include an account analysis and tests of transactions for all other material plant reserves, such as the reserve for the amortization of plant acquisition adjustments.

(7) *Narrative.* The CPA shall prepare and include in the working papers a comprehensive narrative on the scope of work done, observations made, and conclusions reached. Specific matters that are to be covered in this narrative include:

(i) The nature of construction and other additions.

(ii) The control over, and the accuracy of pricing retirements.

(iii) The accuracy of distributing costs to classified utility plant accounts.

(iv) An evaluation of the method of:

(A) Capitalizing the direct loadings on labor and material costs;

(B) Distributing transportation costs and other expense clearing accounts; and

(C) Capitalizing overhead costs.

(v) The tests of depreciation.

(vi) Review of agreements such as those relating to acquisitions, property sales, and leases which affect the plant accounts.

(vii) Notations, if applicable, of REA approval in connection with property sales and the propriety of the disposition of the proceeds.

(e) *Cash.* The CPA shall prepare working papers showing that the following audit procedures have been performed:

(1) Tests were performed to ascertain that all significant sources of cash receipts and disbursements are under effective accounting control.

(2) Receipt and disbursement activity was tested for a selected period based upon controls identified.

(3) Cash on hand and working funds were properly counted or confirmed.

(f) *Investments.* The CPA shall prepare working papers showing that the following audit procedures have been performed:

(1) Ownership of investments was verified by inspection or confirmation, as appropriate, and that the securities were properly safeguarded.

(2) Significant transactions (purchases and sales) were examined for proper authorization, approval and supporting documentation and were accurately recorded in the accounting records.

(3) Tests were made of the related income, gain/loss and discount/premium accounts.

(g) *Receivables and Accumulated Provision for Uncollectible Notes and Accounts.* The CPA shall perform and document the audit procedures listed below:

(1) Reconcile the totals of the individual general ledger account balances with the supporting subsidiary detail.

(2) Confirm selected receivables and note in the working papers (i) the basis of selecting positive and negative confirmation requests and the extent of coverage in each case, and (ii) the results of the confirmation procedures and extent of follow-up on exceptions and nonresponses.

(3) Check thoroughly into any unreconciled differences resulting from requests for confirmation or between subsidiary records and control accounts.

(4) Test cash receipts and recording of revenues in connection with the collection of receivables from original source documents through the general ledger entry. Include reconcilement of

revenues and cash collections to ending receivable balances. (See § 1789.38(o)(3)).

(5) In testing the reserve for uncollectible notes and accounts provide (i) a summary analysis of the transactions in the reserve accounts for the audit period; (ii) an evaluation of the adequacy of the accumulated provision for uncollectible notes and accounts; and (iii) evidence that write-offs were properly authorized.

(h) *Material and supplies.* In connection with the inventory of material and supplies the CPA shall perform and document the audit procedures listed below:

(1) Review and comment on the adequacy of the client's inventory procedures. Test check the unit prices, computations and footings on the inventory tabulations. If not present when the inventory was taken, physically count a representative number of items and test check them to the physical inventory records.

(2) Review transactions occurring between inventory count dates and the "as of" audit date.

(3) Ascertain that the perpetual inventory records and the ledger accounts were brought into agreement with the physical inventory and comment on any material discrepancies between the physical inventory records and the general ledger balances.

(4) Test the client's procedures for handling material and supplies. Tests shall cover:

(i) Clerical accuracy of extensions on stock record cards.

(ii) Substantiation of the cost used in pricing.

(iii) Purchases and receipts for a selected period.

(iv) Issuances.

(v) Salvage entries and adjustments.

(5) Review inventory for obsolete items and note conclusions in working papers.

(i) *Other assets*—(1) *Prepayments*—(i) *Insurance.* The CPA's working papers shall contain an analysis of transactions, together with evidence that:

(A) A representative number of transactions were reviewed for support.

(B) The method of amortization was tested.

(C) The insurance certification, as reported to REA, is in agreement with the insurance policies in force.

(2) *Deferred charges*—(i) *Extraordinary retirement losses.* The CPA's working papers shall show the basis and history of this account, including any required approval by a regulatory commission with jurisdiction in the matter or REA in the absence of a commission.

(ii) *Clearing accounts.* The CPA's working papers shall contain an analysis of clearing accounts and evidence that transactions were reviewed for proper allocation between expense and capital accounts.

(3) *Other current assets.* The CPA shall prepare working papers showing the results of a review of the nature and composition of each major account included in this category.

(j) *Capital and equity accounts*—(1) *Capital stock.* For privately owned companies, the workpapers shall include analyses of the stock transactions during the period and provide documentation showing that:

(i) Subsidiary records were tested and reconciled to the general ledger control account.

(ii) Authorization and issuances or redemptions of capital stock were properly approved by the board of directors, stockholders, and regulatory commissions.

(iii) Transactions were made in accordance with the appropriate provisions of the articles of incorporation, the bylaws, and provisions of the REA loan documents.

(iv) Transactions were recorded in accordance with the uniform system of accounts.

(2) *Memberships.* For cooperative-type organizations, the working papers shall incude an analysis of the membership transactions during the period, supported by evidence that:

(i) Subsidiary records were tested and reconciled to the general ledger control account.

(ii) Transactions were in accordance with provisions of the articles of incorporation, bylaws, and REA loan documents.

(3) *Patronage capital, retained earnings, margins and other equities.* The working papers shall include an analysis of these and any related reserve accounts, together with evidence that the transactions were vouched. These schedules shall contain evidence that:

(i) The transactions were made in conformity with the provisions of the articles of incorporation, bylaws, REA loan documents, uniform system of accounts, or orders of the regulatory commissions.

(ii) Payments were tested by tracing to underlying support.

(iii) A determination whether, under the terms of the mortgage, restrictions of retained earnings or margins are required and, if so, whether they have been properly recorded.

(k) *Long-term debt.* The CPA shall perform the audit work noted below and provide documentation to evidence this work:

(1) Reconcile long-term debt resulting from REA loans, including accumulated deferred interest, if any, to the most recent statement received from REA. REA automatically mails confirmation schedules of long-term obligation (REA Forms 690 or 691 or RTB Form 12) directly to the CPA selected by the borrower to perform the annual audit. A written request for the confirmation is not necessary. REA does not confirm current interest or accumulated interest accruing subsequent to the date of the latest "Statement of Loan Account and Transactions for Three-Month Period Ending—" (REA Forms 696 or 697 or RTB Form 13).

(2) Confirm other long-term debt directly with the lender.

(3) Examine new mortgages issued or notes canceled during the audit period.

(4) Test accrued interest computations.

(l) *Current and accrued liabilities.* The audit working papers prepared by the CPA shall contain evidence that:

(1) Subsidiary records for each current or accrued liability account were reconciled to the appropriate general ledger control account and include evidence, on a test basis, that the details were traced to disbursement vouchers, invoices and other supporting documentation. The auditor shall also consider direct confirmation with creditors.

(2) Withholdings were analyzed on a test basis and the extent of the verification.

(3) Significant accruals (interest, taxes, etc.) for the period as a whole were analyzed, including the balance of the accrual was tested and important disbursements vouched.

(4) Cash disbursements subsequent to the audit date were reviewed to determine whether the items paid represented liabilities at the audit date.

(5) A search was made for unrecorded liabilities and the results of this search.

(m) *Deferred credits and reserves.* The CPA shall document the nature and basis of deferred credits, miscellaneous credits, and miscellaneous reserves, together with the extent of the tests made in this area in the audit working papers.

(n) *Representations.* (1) The CPA shall document work performed in reviewing for contingencies. Acceptable evidence includes notes of discussions with management, their general counsel and an examination of the board minutes.

(2) A representation letter (SAS No. 19, *Client Representations*) shall be obtained from the borrower's management, and a representation letter as to contingent liabilities and litigation (SAS No. 12, *Inquiry of a Client's lawyer Concerning Litigations, Claims and Assessments*) shall be obtained from the borrower's attorney.

(o) *Revenues.* (1) The CPA's working papers shall contain an analysis of year-to-year changes in the revenue accounts, together with evidence of a review of significant variations in the current results as compared to the corresponding period in the previous year.

(2) The CPA's working papers shall contain evidence of a selected test of operating revenues from source document through each step of the development of the revenue entry to the final postings in the general ledger. In this connection there shall be evidence that the application of the approved rates, the mathematical accuracy of the billings, and the accounting classification were tested.

(3) Reconcile total revenue recorded during audit period to cash and receivables also recorded during the audit period.

(4) The CPA shall determine whether all interest income is being properly accrued and accounted for and document tests performed.

(5) Document the amount of unbilled revenue at the audit date.

(p) *Expenses.* (1) It is expected that the working papers in this area will emphasize the review and test of internal control and related accounting procedures, particularly the review made to insure that expenses have been properly segregated as to operating and nonoperating expenses.

(2) The CPA's working papers shall contain a comparative analysis of expense accounts supported by evidence that:

(i) All unusual fluctuations were satisfactorily explained.

(ii) Analyses were made of selected accounts to assure proper classification and support for the charges.

(3) Procedures for paying and distributing the costs of payroll for a selected period shall be tested by the CPA. Documentation of payrolls selected for detail testing shall be prepared by the CPA to show:

(i) The extent of mathematical tests and review of supporting documents for pay rates and withholdings.

(ii) A review of the borrower's procedures in distributing payroll costs to capital and expense accounts.

(q) *Related party transactions.* The CPA shall document compliance with SAS No. 45, *Omnibus Statement on Auditing Standards—1983* (Related Parties). Supporting workpapers shall detail procedures applied and conclusions reached.

(r) *Subsequent events.* In accordance with SAS No. 1, Section 560, *Subsequent Events*, CPAs are responsible for collecting evidential matter pertaining to events between the audit date and the report date (normally the last day of field work). Documentation shall detail (1) procedures used to identify subsequent events and (2) the effect of subsequent events on financial statements.

Appendix A—Sample Audit Report for Electric Distribution Cooperative

Appendix A is an example of a short-form audit report, financial statements and accompanying notes for an electric distribution cooperative.

The sample audit report is intended as a guide only and, while it is recommended that the format be followed, each audit report should be prepared to adequately cover the circumstances. To the extent possible, it should be used as a guide in preparing audit reports for other types of electric borrowers. For power supply borrowers and for distribution borrowers with production or transmission plant, the same general format should be followed. However, the Statement of Revenue and Patronage Capital must be enlarged to show separate totals for operation expenses and maintenance expenses for each class of production plant and for transmission plant.

Certified Public Accountants,
1600 Main Street, City, State 24105
March 2, 19X5.

The Board of Directors, Center County Electric Cooperative

We have examined the balance sheets of the Center County Electric Cooperative as of December 31, 19X4 and 19X3, and the related statements of revenue and patronage capital, and of changes in financial position for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of the Center County Electric Cooperative as of December 31, 19X4 and 19X3, and the results of its operations and the changes in its financial position for the years then ended, in conformity with generally accepted accounting principles applies on a consistent basis.

CENTER COUNTY ELECTRIC COOPERATIVE BALANCE SHEETS—DECEMBER 31, 19X4 and 19X3

[Assets (Notes 1 and 2)]

	19X4	19X3
Electric plant: (Note 3):		
In service—At cost	$9,524,646	$9,365,264
Construction work in progress	407,943	317,166
Subtotal	9,932,589	9,682,430
Less: Accumulated provisions for depreciation and amortization	3,117,629	2,917,295
Subtotal	6,814,960	6,765,135
Other assets and investments:		
Nonutility property	20,227	20,227
Investments in associated organizations (Note 4)	391,258	292,798
Subtotal	411,485	313,025
Current assets:		
Cash—General funds	37,350	51,544
Cash—Construction funds	10,034	20,193
Accounts receivable (less accumulated provision for uncollectible accounts of $2,207 in 19X4 and $1,933 in 19X3)	36,527	35,255
Materials and supplies (at average cost)	83,652	80,882
Other current and accrued assets	8,613	8,692
Subtotal	176,176	196,566
Deferred charges (Note 5)	5,666	1,762
Total	$7,408,287	$7,276,488

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE BALANCE SHEETS—DECEMBER 31, 19X4 and 19X3

[Equities and Liabilities (Note 1)]

	19X4	19X3
Equities:		
Memberships	$60,145	$59,440
Patronage Capital (Note 6)	1,761,798	1,526,833
Other Equities (Note 7)	53,647	35,900
Subtotal	1,875,590	1,622,173
Long-term debt:		
REA mortgage notes less current maturities (Note 8)	5,249,115	5,396,385
Current liabilities:		
Current maturities of long-term debt	145,000	140,000
Accounts payable—Purchased power	48,916	52,117
Accounts payable—Other	21,859	6,556
Consumer deposits	32,660	33,085
Accrued taxes	10,958	9,146
Accrued pension costs (Note 9)	5,000	4,750
Other current and accrued liabilities	7,285	1,711
Subtotal	271,678	247,365
Deferred credits (Note 10)	11,904	10,565
Contingent liabilities (Note 11)		
Total	$7,408,287	$7,276,488

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE, STATEMENTS OF REVENUE AND PATRONAGE CAPITAL FOR THE YEARS ENDED DECEMBER 31

	19X4	19X3
Operating revenues	$1,719,467	$1,605,690
Operating expenses:		
Cost of power	587,729	625,411
Distribution—Operation	111,058	121,682
Distribution—Maintenance	158,622	182,740
Consumer accounts	76,675	72,927
Sales	38,378	40,755
Administrative and general	94,682	87,058
Depreciation and amortization	288,389	279,776
Taxes	34,920	34,438
Total	1,390,453	1,444,787
Operating margins before fixed charges	329,014	160,903
Fixed charges:		
Interest on long-term debt	113,713	115,082
Operating margins after fixed charges	215,301	45,821
G&T and other capital credits	14,460	17,500
Net operating margins	229,761	63,321
Nonoperating margins:		
Interest income	24,289	18,802
Other nonoperating income	1,200	1,200
Total	25,489	20,002
Net margins for period	255,250	83,323
Patronage capital—Beginning of year	1,526,833	1,469,125
Subtotal	1,782,083	1,552,448
Retirement of capital credits	20,285	25,615
Patronage capital—End of year	1,761,798	1,526,833

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE STATEMENTS OF CHANGES IN FINANCIAL POSITION FOR THE YEARS ENDED DECEMBER 31

	19X4	19X3
FUNDS WERE PROVIDED BY		
Net margins before provision for depreciation and amortization of (19X4 $290,562; 19X3 $281,033)	$545,812	$364,356
G & T and other capital credits (non-cash)	(14,460)	(17,500)
Membership fees	705	600
Advances from REA	174,976	278,500
Retired capital credits-gain	1,200	
Material returned to stock from retirements	10,014	8,473
Increase in deferred credits	1,339	576
Decrease in working capital	39,703	2,798
Total	759,289	637,803
FUNDS WERE USED FOR		
Extension and replacement of plant	289,787	242,584
Payments on long-term debt to REA including portion maturing within one year	322,387	289,667
Increase in investments (net)—Excluding capital credits assigned	96,932	57,868
Increase in deferred charges	3,904	2,640
Plant removal costs	25,994	19,429
Retirement of patronage capital	20,285	25,615
Total	759,289	637,803
CHANGE IN COMPONENTS OF WORKING CAPITAL		
Increase (decrease) in current assets:		
Cash—General funds	(14,194)	(8,133)
Cash—Construction funds	(10,159)	6,799

CENTER COUNTY ELECTRIC COOPERATIVE STATEMENTS OF CHANGES IN FINANCIAL POSITION FOR THE YEARS ENDED DECEMBER 31—Continued

	19X4	19X3
Accounts receivable	1,272	(2,143)
Material and supplies	2,770	1,872
Other current and accrued assets	(79)	112
Total	(20,390)	(1,493)
(Increase) decrease in current liabilities:		
Accounts payable	(12,102)	1,967
Consumer deposits	425	(83)
Accrued taxes	(1,812)	794
Accrued pension costs	(250)	(300)
Other current liabilities	(5,574)	(3,703)
Total	(19,313)	(1,305)
Net decrease in working capital	(39,703)	(2,798)

Note.—The accompanying notes are an integral part of these statements.

Center County Electric Cooperative Notes to Financial Statements, December 31, 19X4 and December 31, 19X3

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

Present a description of the reporting entity's significant accounting policies in accordance with Accounting Principles Board Opinion No. 22, *Disclosure of Accounting Policies.*

Disclosure of accounting policies should identify and describe the accounting principles followed by the borrower and the methods of applying these principles that materially affect the determination of financial position, changes in financial position and results of operations.

Disclosures of accounting policies do not have to be duplicated in this section if presented elsewhere as an integral part of the financial statements.

2. ASSETS PLEDGED:

Substantially all assets are pledged as security for long-term debt to REA.

3. ELECTRIC PLANT AND DEPRECIATION PROCEDURES:

Listed below are the major classes of the electric plant as of December 31, 19X4, and 19X3:

	19X4	19X3
Intangible plant	$2,194	$2,194
Distribution plant	9,011,036	8,873,957
General plant	511,416	489,113
Electric plant in service	9,524,646	9,365,264
Construction work in progress	407,943	317,166
Total	9,932,589	9,682,430

Provision has been made for depreciation of distribution plant at a straight-line composite rate of 2.86 percent per annum.

General Plant depreciation rates have been applied on a straight-line basis and are as follows:

	Percent
Structures and improvement	2.5
Office furniture	6.0
Transportation equipment	14.0
Power operated equipment	12.0
Other general plant	4.0
Communications equipment	6.0

4. INVESTMENTS IN ASSOCIATED ORGANIZATIONS:

Investments in associated organizations consisted of the following at December 31, 19X4 and 19X3:

	19X4	19X3
Capital term certificates of the National Rural Utilities Cooperative Finance Corporation (NRUCFC)	$385,193	$288,261
Patronage Capital Credits Invested by NRUCFC	5,065	3,537
Other	1,000	1,000
Total	391,258	292,798

5. DEFERRED CHARGES:

Following is a summary of amounts recorded as deferred charges as of December 31, 19X4 and 19X3:

	19X4	19X3
Preliminary surveys 19X5–X6 work plan	$3,486	0
Deferred interest	2,180	$1,762
Total	5,666	1,762

6. PATRONAGE CAPITAL:

At December 31, 19X4 and 19X3, patronage capital consisted of:

	19X4	19X3
Assignable	$255,250	$83,323
Assigned to date	1,952,448	1,869,125
Total	2,207,698	1,952,448
Less: Retirements to date	445,900	425,615
Total	1,761,798	1,526,833

Under the provisions of the Mortgage Agreement, until the equities and margins equal or exceed forty percent of the total assets of the cooperative, the return to patrons of capital contributed by them is limited generally to twenty-five percent of the patronage capital or margins received by the cooperative in the prior calendar year. The equities and margins of the cooperative represent 25.3% of the total assets at balance sheet date. Capital credit retirements in the amount of $20,285 were paid in 19X4.

7. OTHER EQUITIES:

At December 31, 19X4 and 19X3, other equities consisted of:

	19X4	19X3
Retired capital credits—Gain	$36,190	$34,990
Donated capital	17,457	910

	19X4	19X3
Total	53,647	35,900

8. MORTGAGE NOTES—REA:

Long-term debt is represented by mortgage notes payable to the United States of America. Following is a summary of outstanding long-term debt as of December 31, 19X4 and 19X3:

	19X4	19X3
2 percent notes due Mar. 31, 1994	$1,057,155	$1,098,700
2 percent notes due Dec. 31, 1996	2,485,927	2,502,370
5 percent notes due Dec. 31, 1996	1,851,033	1,935,315
Less: Current maturities	(145,000)	(140,000)
Total	5,249,115	5,396,385

Unadvanced loan funds of $285,600 are available to the cooperative on loan commitments from REA.

Principal and interest installments on the above notes are due quarterly in equal amounts of $99,600. As of December 31, 19X4, annual maturities of long-term debt outstanding for the next five years are as follows:

19X5	$145,000
19X6	150,000
19X7	151,500
19X8	154,000
19X9	155,000

Advance payments of $252,300 may be applied to the installments.

9. PENSION PLAN:

Substantially all of the employees of the Cooperative are covered by the ABC Retirement and Security Program. The total pension expense for 19X4 was $22,400 and 19X3 was $20,400, including $8,680 and $8,630 respectively of past service costs being amortized over 10 years. These past service costs will be fully amortized in 19X9. The amount of accrued pension expense for the year is funded by the Cooperative in quarterly annual contributions to the pension plan.

A comparison of accumulated plan benefits and plan net assets as of December 31, 19X4 and 19X3 is presented below:

[In thousands of dollars]

	19X4	19X3
Actual present value of accumulated plan benefits:		
Vested	$2,563	$2,289
Nonvested	1,398	1,055
Total	3,961	3,344
Estimated net assets available for benefits	5,731	5,317

The assumed rate of return used in determining the actual present value of accumulated plan benefit was 7½ of in 19X4 and 19X3.

10. DEFERRED CREDITS:

Following is a summary of the amounts recorded as deferred credits as of December 31, 19X4 and 19X3:

	19X4	19X3
Customer energy prepayments	$6,694	$3,065
Inventory adjustment	5,210	7,500
Total	11,904	10,565

11. LITIGATION:

The cooperative is defendant in an action in which the plaintiff claims damages totaling $200,000 for personal injuries sustained. The action has been dismissed by the District Court, but is on appeal before the State Supreme Court. Counsel is of the opinion that no liability will be incurred by the cooperative as a result of this action.

12. COMMITMENTS:

Under its wholesale power agreement, the cooperative is committed to purchase its electric power and energy requirements from Central Power Cooperative, Inc. until December 31, 1990. The rates paid for such purchases are subject to review annually.

Appendix B—Sample Audit for Class A or B Commercial Telephone Companies

This sample audit report is intended as a guide. Audits will vary in each case, and while it is recommended that the format be followed, each audit report should be prepared to adequately cover the circumstances.

This short-form audit report has been prepared to illustrate the type of audit report and financial statements considered appropriate for commercial telephone companies financed by REA. Terminology relating to cooperative telephone companies is illustrated in Appendix A.

Certified Public Accountants,
1600 Main Street,
City, State 24105.

March 2, 19X5.

Accountants' Report

The Board of Directors, Center Telephone Company:

We have examined the balance sheets of the Center Telephone Company as of December 31, 19X4 and 19X3, and the related statements of income and retained earnings, and changes in financial position for the years then ended. Our examinations were made in accordance with generally accepted auditing standards, and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of the Center Telephone Company as of December 31, 19X4 and 19X3, and the results of its operations and the changes in financial position for the years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

CENTER TELEPHONE COMPANY—BALANCE SHEETS—DECEMBER 31, 19X4 AND 19X3

[Assets (Notes 1 and 2)]

	19X4	19X3
Property, plant and equipment: (Note 3):		
In service	$7,401,300	$6,650,553
Under construction	67,626	199,092
Acquisition adjustment (Note 4)	176,380	176,380
Subtotal	7,645,306	7,026,025
Less: Accumulated provision for depreciation	1,760,587	1,504,255
	5,884,719	5,521,770
Miscellaneous physical property: (Note 5):		
Net CATV plant	413,511	407,086
Net deregulated customer		
Premises equipment	103,618	0
Subtotal	6,401,848	5,928,856
Current assets:		
Cash—Construction funds	21,000	18,000
Cash—General funds	128,300	140,083
Notes receivable	2,500	3,000
Due from customers and agents (less reserve of $11,597 in 19X4 and $1,490 in 19X3)	139,642	122,623
Materials and supplies (at average cost)	103,713	73,964
Other current assets	1,357	10,131
Subtotal	396,512	367,801
Prepaid expenses and deferred charges:		
Prepayments (Note 6)	49,185	62,201
Extraordinary retirements (Note 7)	40,000	45,000
Subtotal	89,185	107,201
Total	6,887,545	6,403,858

The accompanying notes are an integral part of these statements.

CENTER TELEPHONE CO.—BALANCE SHEETS—DECEMBER. 31, 19X4 AND 19X3

[Equities and liabilities]

	19X4	19X3
Capital stock and retained earnings:		
Capital stock—common:		
$10 par value—300,000 shares authorized, 102,600 shares outstanding 19X4 and 19X3	$1,026,000	$1,026,000
Retained earnings (note 8)	582,146	405,626
Total	1,608,146	1,431,626
Long-term debt: REA mortgage notes (note 8)	4,592,658	4,128,106
Current liabilities:		
Current portion of long-term debt (note 8)	146,646	145,998
Notes payable	61,600	70,400
Accounts payable	123,689	290,484
Customers deposits	11,878	4,940
Advance billings and payments	2,137	2,243
Accrued taxes	242,076	224,566
Accrued pension costs (note 9)	2,500	2,000
Other current liabilities	6,000	7,079
Total	596,526	747,710
Deferred credits:		
Deferred investment tax credit (note 11)	53,078	61,377

CENTER TELEPHONE CO.—BALANCE SHEETS—DECEMBER. 31, 19X4 AND 19X3—Continued

[Equities and liabilities]

	19X4	19X3
Income taxes (note 10)	37,137	35,039
Total	90,215	96,416
Grand total	6,887,545	6,403,858

The accompanying notes are an integral part of these statements.

CENTER TELEPHONE CO.—STATEMENTS OF INCOME AND RETAINED EARNINGS FOR THE YEARS ENDED DECEMBER 31

	19X4	19X3
Operating Revenues:		
Local Service	$836,822	$882,205
Access Charges	125,042	0
Toll Service	897,300	755,073
Miscellaneous	144,435	147,100
Less: Uncollectible Revenues	(24,000)	(24,500)
Total	1,979,599	1,759,878
Operating Expenses:		
Maintenance	339,839	284,226
Traffic	257,853	206,427
Commercial	78,965	70,149
General Office Salaries and Expenses	153,899	142,750
Other Operating Expenses	98,027	60,291
Depreciation (Note 3)	332,044	309,564
Amortization	17,638	13,144
Investment Credits—Net	6,201	1,640
Provision for Deferred Income Tax (Note 10)	31,566	29,468
Federal and State Income Taxes—Operating (Notes 10 & 11)	159,845	170,687
Other Operating Taxes	225,013	204,230
Total	1,700,890	1,492,576
Operating Income:	278,709	267,302
Other Income and Expenses:		
Income from Miscellaneous Physical Property—Net (Note 5)	19,902	10,593
Income Available for Fixed Charges	298,611	277,895
Fixed Charges:		
Interest on Long-Term Debt	88,432	85,854
Interest Charged to Construction—Credit	(2,251)	(1,516)
Total	86,181	84,338
Net Income for Period	212,430	193,557
Retained Earnings—January 1, 19X3 and 19X2	405,626	235,153
Dividends Declared	(35,910)	(23,084)
Retained Earnings—December 31, 19X4 and 19X3	582,146	405,626
Earnings Per Share of Common Stock—Average	2.07	1.89

The accompanying notes are an integral part of these statements.

CENTER TELEPHONE CO.—STATEMENTS OF CHANGES IN FINANCIAL POSITION FOR THE YEARS ENDED DECEMBER 31

	19X4	19X3
Funds Were Provided by:		
Net Income Before Depreciation (19X4—$367,044 and 19X3—$326,342)	$579,474	$519,899
Advances from REA	505,849	31,340
Decrease (Increase) in Investments	99,575	(78,965)
Materials Returned to Stock	50,000	54,007
Total	$1,234,898	$526,281
Funds Were Used for:		
Telephone Plant Additions and Replacements	759,100	585,097
Miscellaneous Physical Property Additions and Replacements	105,159	-0-
Payments and Reclassification of Long-Term Debt Due Within One Year	146,649	145,998
Plant Removal Costs	20,000	18,437
Increase (Decrease) in Deferred Charges	(18,016)	36,464
Decrease (Increase) in Deferred Credits	6,201	(1,640)
Dividends on Common Stock	35,910	23,084
Increase (Decrease) in Working Capital	179,895	(281,159)
Total	1,234,898	526,281
Analysis of Increase (Decrease) in Working Capital:		
Increase (Decrease) in Current Asset:		
Cash—Construction Funds	3,000	(18,408)
Cash—General Funds	(11,783)	4,686
Notes Receivable	(500)	(781)
Due from Customers and Agents	17,019	26,589
Materials and Supplies	29,749	(13,707)
Other Current Assets	(8,774)	46,477
Total	28,711	44,856
Increase (Decrease) in Current Liabilities:		
Current Portion of Long-Term Debt	648	104
Notes Payable	(8,800)	(4,036)
Accounts Payable	(166,795)	278,727
Customer Deposits	6,938	(2,325)
Advance Billings and Payments	(106)	(228)
Accrued Taxes	17,510	37,742
Accrued Pension Costs	500	1,077
Other Current Liabilities	(1,079)	14,954
Total	(151,184)	326,015
Increase (Decrease) in Working Capital	179,895	(281,159)

The accompanying notes are an integral part of these statements.

Center Telephone Company

Notes to Financial Statements; December 31, 19X4 and December 31, 19X3

1. Summary of Significant Accounting Policies:

Include a brief description of the reporting entity's significant accounting policies in accordance with Accounting Principles Board Opinion No. 22,

Disclosure of Accounting Policies

Disclosure of accounting policies should identify and describe the accounting principles followed by the borrower and the methods of applying those principles that materially affect the determination of financial position, changes in financial position and results of operations.

Disclosures of accounting policies do not have to be duplicated in this section if presented elsewhere as an integral part of the financial statements.

2. Assets Pledged:

Substantially all assets are pledged as security for the long-term debt to REA.

3. Investment in Telephone Plant:

Telephone plant in service and under construction is stated at cost. Listed below are the major classes of the telephone plant as of December 31, 19X4 and 19X3:

	19X4	19X3
Organization	$4,507	$4,507
Land	56,070	56,070
Buildings	560,200	495,760
Central Office Equipment	2,570,364	2,133,581
Toll and Subscriber Carriers	500,798	390,920
Station Apparatus	230,196	197,350
Station Connections	200,948	153,878
Poles, Cables and Wire	2,408,895	2,082,760
Furniture and Office Equipment	57,045	45,188
Telephone Plant in Service—Unclassified	611,950	900,252
Telephone Plant in Service	$7,401,300	$6,650,553

The company provides for depreciation on a straight-line basis at annual rates which will amortize the depreciable property over its estimated useful life. Such provision as a percentage of the average balance of telephone plant in service was 7.2 percent in 19X4 and 7.1 percent in 19X3. Individual plant depreciation rates are as follows:

	Percent
Buildings	4
Central Office Equipment	4
Toll and Subscriber Carriers	10
Station Apparatus	13.3
Station Connections	5
Outside Plant—Aerial and Buried Cable	4-5
Outside Plant—Pole Lines and Aerial Wire	25
Office Furniture	10
Vehicles	25
Work Equipment	16

4. Telephone Plant Acquisition Adjustment:

This adjustment represents the difference between the amount paid for the telephone plant plus associated expenses and the original cost of the plant less the associated depreciation. The company is amortizing the adjustment over a 19½ year period in accordance with the Public Utility Commission. Annual amortization amounts to $9,000.

5. Miscellaneous Physical Property:

	19X4	19X3
CATV Plant in Service	$430,440	$420,940
CATV Plant Under Construction	9,051	6,500
Total CATV Plant	439,491	427,440
Less Accumulated Depreciation	25,980	20,354
Net CATV Plant	413,511	407,086

CATV plant in service and under construction is stated at cost. The company provides for depreciation on a straight-line basis at annual rates which will amortize the depreciable property over its estimated useful life.

	19X4	19X3
Deregulated Customer Premises Equipment—Leased	$109,699	0
Less: Accumulated Provisions for Depreciation	6,081	0
Total	$103,618	0

Deregulated customer premises equipment was reclassified as miscellaneous physical property as of January 1, 1983. Deregulated CPE is stated at cost. The company provides for depreciation on a straight-line basis at an annual rate of depreciation which will amortize the cost of the equipment over its estimated useful life.

Following is a summary of net income from miscellaneous physical property for the year ending December 31, 19X4:

	Deregulated		
	CATV	CPE	Total
Income from Operations	$32,425	$9,151	$41,576
Expenses	18,834	2,840	21,674
Total	13,591	6,311	19,902

Income tax expense totaled $3,556, of which $2,883 was applicable to CATV operations and $673 was applicable to CPE sales and leasing activities.

6. Prepaid Expenses:

Following is a summary of the amounts recorded as prepaid items as of December 31, 19X4 and 19X3:

	19X4	19X3
Prepaid Taxes	$10,000	$20,000
Prepaid Insurance	3,000	3,000
Prepaid Rent	36,185	39,201
Total	49,185	62,201

7. Deferred Charges:

The balance consists of the unamortized portion of the unprovided for loss in service value of plant retired.

Description	Date	Original balance net of income-tax savings	Unamortized balance	
			19X4	19X3
Aerial Plant	1/1/X2	$50,00	$40,000	$45,000

The Public Utilities Commission granted the company permission to amortize this loss over a ten year period net of income tax savings of $10,542.

8. Mortgage Notes:

Long-term debt is represented by mortgage notes payable to the United States of America. Following is a summary of outstanding long-term debt:

	19X4	19X3
5% Notes Due December 31, 1990	$4,739,304	$4,274,104
Less: Current Maturities	146,646	145,998
Total	4,592,658	4,128,106

As of December 31, 19X4, there were no unadvanced loan funds.

Principal and interest installments on the above notes are due quarterly in equal amounts of $63,200. The maturities of long-term debt for each of the five years succeeding the balance sheet date is as follows:

1995.....$146,649
1996.....$153,839
1997.....$155,743
1998.....$143,000
1999.....$139,976

The long-term debt agreements contain restrictions on the payment of dividends or redemption of capital stock. The terms of the Mortgage Agreement require the maintenance of defined amounts of members' equity and working capital after payment of dividends. Under these provisions approximately $293,688 of retained earnings was available for payment of dividends at December 31, 19X4.

9. Pension Plan:

The Corporation has a defined pension plan in effect for all employees. All accrued pension costs are funded through participation in a retirement program with the ZYX Reserve Insurance Company. The fund covers all vested benefits under the plan. The expense for the year ended 19X4 was $12,000 as compared to $11,500 for 19X3. The actuarial present value of accumulated benefits and the net assets available for those benefits are as follows:

	(In thousands of dollars)	
	19X4	19X3
Actuarial Present Value of Accumulated Plan Benefits:		
Vested	$1,340	$1,290
Nonvested	930	875
Total	2,270	2,065
Net Assets Available for Benefits	3,455	3,200

The assumed rate of return used in determining the actuarial present value of accumulated plan benefits was 6 percent for both 19X4 and 19X3. A plan amendment effective July 1, 19X3, refunded approximately $1,000 to current employees representing their contributions to the plan. The refund had no effect on the employees' pension benefits and did not materially affect the actuarial present value of vested accumulated plan benefits. Beginning in 19X5, this amendment is expected to increase annual pension costs by approximately $300.

10. Income Taxes and Deferred Income Taxes:

The company uses a different method of depreciation on plant additions for income tax purposes. As provided by the Economic Recovery Act of 1981, the company has elected to use the Accelerated Cost Recovery System (ACRS) method of depreciation for plant additions after 1980. In addition to the different depreciation practices for book and tax purposes, the company does not capitalize extraordinary maintenance and retirements and cost of removal charges for tax purposes. Provision is made in the statements of income and retained earnings for the taxes deferred as a result of the above timing differences. The differences between accounting for book and tax purposes pertaining to income taxes and investment tax credits are accounted for using the normalization method of accounting, as is required for property placed in service after December 31, 1980, under the Economic Recovery Tax Act of 1981.

11. Investment Tax Credits:

The company follows the practice of recording investment tax credit as a deferred income, to be amortized over the life of the assets providing the credit as required by the Public Service Commission. Accordingly, Federal income tax expense at December 31, 19X4 was reduced $7,400 by the investment tax credit amortization.

12. Commitments:

The company has executed contracts for construction programs for approximately $225,000 at December 31, 19X4. The amount unpaid against thse commitments at December 31, 19X4 is $185,000.

Appendix C—Sample Management Letter (Electric or Telephone)

REA requires that CPAs auditing REA borrowers provide a management letter in accordance with § 1789.32.

REA requires that this letter bear the same date as the accountant's report and be addressed to the board of directors. The CPA is required to sign both the management letter and the accountant's report.

Certified Public Accountants
1600 Main Street
City, State 24105
March 2, 19X5.

Board of Directors

We have examined the financial statements of (company) for the years ended December 31, 19X4 and 19X3, and have issued our report thereon dated March 2, 19X5. As part of our examination, we made a study and evaluation of the company's system of internal accounting control to the extent we considered necessary to evaluate the system as required by generally accepted auditing standards and specific REA audit requirements as set out in 7 CFR Part 1789—REA Policy on Audits of Electric and Telephone Borrowers. The purposes of our study and evaluation were to determine the nature, timing and extent of the auditing procedures necessary for expressing an opinion on the company's financial statements. Our study was more limited than would be necessary to express an opinion on the system of internal accounting control taken as a whole.

The management of (company) is responsible for establishing and maintaining a system of internal accounting control. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related

costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles.

Because of inherent limitations in any system of internal accounting control, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

Our study and evaluation made for the limited purposes described in the first paragraph would not necessarily disclose all material weaknesses in the system. Accordingly, we do not express an opinion on the system of internal accounting control of (company) taken as a whole. However, our study and evaluation disclosed no condition that we believed to be a material weakness.

Our comments on specific financial and accounting matters as required by REA and other comments and recommendations developed during our examination, which do not represent material internal control weaknesses, are detailed below.

Note.—In instances where the study and evaluation of internal control discloses material weaknesses (as defined in Statement on Auditing Standards No. 20, *Required Communication of Material Weaknesses in Internal Accounting Control*, the last sentence of the fourth paragraph and the fifth paragraph should be modified as follows:

However, our study and evaluation disclosed conditions that we believe result in more than a relatively low risk that errors or irregularities in amounts that would be material in relation to the financial statements of (company) may occur and not be detected within a timely period. These conditions were considered in determining the nature, timing and extent of the audit tests to be applied in our examination of the 19X4 financial statements, and this report does not affect our report on these financial statements dated March 2, 19X5.

These material weaknesses as well as comments on specific financial and accounting matters as required by REA and other comments and recommendations developed during our examination, which do not represent material weaknesses, are detailed below:

Comments

Statement that examination procedures specified in Part 1789 have been performed

Statement as to whether any special report, summary of recommendations or similar communications, was furnished to the borrower management during the course of the audit or during interim audit work

Material Weaknesses in Internal Accounting Control (if applicable)

Weaknesses in Internal Accounting Control not considered Material

Required Comments on Specific Financial and Accounting Matters (as detailed in § 1789.32)

Internal Control (additional information required by REA)

Accounting and Records

Material Control

Compliance with REA Mortgage

Reports to REA

Service Contracts

Deposits

Income Tax Status

Related Party Transactions

Acquisitions or Sales of Property

Depreciation Rates

Insurance Certification

Other Comments and Recommendations

This letter supplements the information included in the financial statements and notes. It is intended solely for the use of management, the Rural Electrification Administration, and supplemental lenders and should not be used for any other purpose.

In accordance with the terms of our engagement, we are enclosing copies of the report and management letter for each member of the Board, the Manager, and other required distribution. Two copies of the report and management letter should be transmitted to the REA and one copy transmitted to supplemental lenders, where applicable.

Certified Public Accountants

Dated: December 20, 1986.

Harold V. Hunter,

Administrator.

[FR Doc. 86-840 Filed 1-17-86; 8:45 am]

BILLING CODE 3410-15-M

federal register

Tuesday
January 21, 1986

Part III

Department of Health and Human Services

Office of the Secretary

45 CFR Part 92

Nondiscrimination Requirements (Including on the Basis of Sex or Religion) Applicable to Block Grants and Standard Nondiscrimination Procedures Applicable to Certain Other Programs; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 92

Nondiscrimination Requirements (Including on the Basis of Sex or Religion) Applicable to Block Grants and Standard Nondiscrimination Procedures Applicable to Certain Other Programs

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking proposes a rule to implement the nondiscrimination requirements (including new requirements pertaining to nondiscrimination on the basis of sex or religion) applicable to block grants authorized by the Omnibus Budget Reconciliation Act of 1981 (OBRA), Pub. L. 97-35. This rule encompasses: (1) Requirements under civil rights statutes in effect prior to OBRA concerning nondiscrimination on the basis of race, color, national origin, sex (in education programs), handicap, and age—applicable to all seven HHS block grants; (2) new requirements concerning nondiscrimination on the basis of sex—applicable to all block grants, except the Social Services Block Grant; (3) new requirements concerning nondiscrimination on the basis of religion—applicable to the four block grants administered by the Public Health Service; and (4) standard procedural requirements concerning nondiscrimination in programs and activities receiving Federal financial assistance—applicable to certain other programs.

DATE: Comments on these proposed rules should be submitted by March 24, 1986.

ADDRESS: Office of the Director, Office for Civil Rights, Department of Health and Human Services, 330 Independence Avenue SW., Room 5514, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Marcella Haynes (202-245-6671) or Henry C. Tribble (202-472-4256), Office for Civil Rights, Department of Health and Human Services, 330 Independence Avenue SW., Washington, DC 20201 (TTY No. 202-472-2916).

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1981 [the Act] established seven block grant programs to be administered by the Secretary of Health and Human Services: Preventive Health and Health Services Block Grant, Alcohol and Drug Abuse and Mental Health Services Block Grant, Primary Care Block Grant, Maternal and Child Health Services Block Grant, Community Services Block Grant, Low Income Home Energy Assistance Block Grant, and the Social Services Block Grant. The authorizations for six of these seven block grants, all but the Social Services Block Grant, include specific nondiscrimination provisions. All of these nondiscrimination provisions are somewhat different from the nondiscrimination requirements previously applicable to Federal grantees. These proposed rules implement the nondiscrimination requirements applicable to the seven block grants.

The Department has experienced some delay in the preparation of these proposed rules. The delay resulted, first, from the need to await a May 1982 decision by the Supreme Court in *North Haven Board of Education* v. *Bell*, a precedent-setting case affecting the interpretation of the block grant nondiscrimination provisions in connection with employment practices. Further delays were encountered in completing interagency coordination requirements, begun in February 1983, under Executive Orders. These delays, however, have not adversely affected the Department's implementation of the block grant nondiscrimination provisions. The Department has received and handled discrimination complaints pertaining to block grant programs in accordance with existing procedures and express statutory authorities.

Continuation of Existing Nondiscrimination Requirements

Section 92.3 of these proposed rules makes clear that nondiscrimination requirements which existed prior to the enactment of the Act continue to apply to the block grants. These are: title VI of the Civil Rights Act of 1964 (prohibits discrimination on the basis of race, color, or national origin); title IX of the Education Amendments of 1972 (prohibits discrimination on the basis of sex in education programs); section 504 of the Rehabilitation Act of 1973 (prohibits discrimination on the basis of handicap); and the Age Discrimination Act of 1975 (prohibits discrimination on the basis of age).

Several of the nondiscrimination provisions contained in the Act (those applicable to the Preventive Health and Health Services, Alcohol and Drug Abuse and Mental Health Services, Primary Care, and Maternal and Child Health Services Block Grants) specifically reference these statutues. Two nondiscrimination provisions contained in the Act (those applicable to the Community Services and Low Income Home Energy Assistance Block Grants) do not specifically reference these statutes but describe the nondiscrimination requirement in terms very similar to the language contained in these statutes. The Social Services Block Grant Act included no specific nondiscrimination provisions.

By the term of the civil rights statutes in effect prior to OBRA, all of them continue to apply to all seven block grants.

Referral to the Chief Executive Officer

Section 92.4 implements the statutory provision for referral of block grant related compliance actions to the chief executives of the states to give them up to sixty days to obtain voluntary compliance. If the chief executive does not obtain such compliance within this period, the Department will proceed to effect compliance. Although this procedure is not required for the Social Services Block Grant, in order to provide consistency among the block grants, the proposed rule, as a matter of agency discretion, includes the Social Services Block Grant in the referral process.

Assurances of Compliance

Section 92.5 provides that existing requirements that recipients sign assurances of compliance with nondiscrimination laws continue to apply to the block grants. It also requires that such assurances must be signed relative to nondiscrimination on the basis of sex and religion, and provides acceptable and suggested consolidated assurance language. Consistent with present practice, an assurance submitted by a recipient in connection with a grant of Federal financial assistance during one fiscal year remains in effect during subsequent fiscal years when the grant of Federal financial assistance is renewed.

Nondiscrimination on the basis of sex

Section 92.6(a) sets forth the statutory applicability of the new prohibition of discrimination on the basis of sex. Under the nondiscrimination provisions contained in the Omnibus Budget Reconciliation Act, discrimination on the basis of sex is prohibited in connection with all block grants, except the Social Services Block Grant.

Section 92.6 also establishes a general prohibition of discrimination on the basis of sex and sets forth specific applications of the general prohibition. These provisions are modeled after existing regulatory requirements prohibiting discrimination on the basis of race, color, national origin, handicap and age.

Nondiscrimination on the basis of religion

Section 92.7(a) sets forth the statutory applicability of the new prohibition of discrimination on the basis of religion. Under the nondiscrimination provisions contained in the Act, discrimination on the basis of religion is prohibited in connection with four of the block grant programs: the Preventive Health and Health Services, Alcohol, and Drug Abuse and Mental Health Services, Primary Care, and Maternal and Child Health Block Grants.

Section 92.7 also establishes a general prohibition of discrimination on the basis of religion and sets forth specific applications of the general prohibition. Unlike the provisions regarding nondiscrimination on the basis of sex, the provisions in § 92.7(c) do not adopt an "effects standard" for nondiscrimination on the basis of religion. Because the HHS regulations implementing title IX of the Education Amendments of 1972, 45 CFR Part 86, incorporate an effects standard, inclusion of such a standard in connection with nondiscrimination on the basis of sex in this regulation will result in consistent interpretation and enforcement of all sex discrimination complaints under the block grant programs. However, the Department of Justice, acting under Executive Order 12250, determined that there is no similar basis for providing an effects standard with respect to nondiscrimination on the basis of religion.

Effect of other statutes

Section 92.8 provides, consistent with the Department's other nondiscrimination regulations, that State and local laws may not impair the accomplishment of the purposes of the nondiscrimination provisions of this regulation.

Employment Discrimination

Section 92.9(a) reflects the Department's interpretation of the statutory prohibitions of discrimination on the basis of sex and religion to include discrimination in employment practices. This interpretation is based on the Supreme Court's recent decision in *North Haven Board of Education* v. *Bell*, 102 S.Ct. 1912 (1982), which held that broadly-worded nondiscrimination statutes should, absent indications of contrary Congressional intent, be interpreted to cover employment discrimination.

The wording of the statutory provisions applicable to the Community Services Block Grant and the Low Income Home Energy Assistance Block Grant concerning nondiscrimination on the basis of race, color or national origin suggests a similar interpretation. The four health-related block grants specifically incorporate title VI of the Civil Rights Act. Section 604 of that Act provides that it does not apply to employment practices except where a primary objective of the Federal financial assistance is to provide employment. However, unlike these four block grants, the Community Services Block Grant and Low Income Home Energy Assistance Block Grant do not reference title VI. Rather, the provisions for these block grants concerning nondiscrimination on the basis of race, color and national origin are broadly-worded and indicate no Congressional intent to limit their application in connection with employment practices. Therefore, § 92.9(a) also reflects the Department's conclusion, following the *North Haven* precedent, that the apparent Congressional intent was to make these nondiscrimination provisions applicable to employment practices.

To avoid significant administrative complications, section 92.9(b) incorporates the substantive standards of title VII of the Civil Rights Act of 1964. Title VII prohibits, subject to several exceptions, employment discrimination on the basis of race, color, religion, sex, or national origin. Therefore, the standards that are utilized to determine employment discrimination under title VII will be the standards utilized to determine such employment discrimination by HHS recipients.

Section 92.9(c) provides that complaints of employment discrimination shall be handled in accordance with the provision of 28 CFR Part 42 and 29 CFR Part 1691. These are the regulations of the Department of Justice and the Equal Employment Opportunity Commission, 48 FR 3570 (January 25, 1983), establishing procedures for handling complaints of employment discrimination under all provisions of Federal law which prohibit discrimination on grounds of race, color, religion, sex or national origin in programs or activities receiving Federal financial assistance. In summary, these regulations provide that complaints solely alleging employment discrimination against an individual covered by both title VII of the Civil Rights Act and a Federal statute which prohibits discrimination in programs or activities receiving Federal financial assistance will be referred to the Equal Employment Opportunity Commission for handling.

Incorporation of Standard Civil Rights Procedures

To avoid imposing confusing or contradictory procedures on recipients, § 92.10 incorporates for purposes of nondiscrimination on the basis of sex or religion existing Department civil rights procedures (except for the procedure of referral to chief executive officers, as provided in § 92.4). This incorporation of standard civil rights procedures includes procedural requirements relative to cooperation and assistance by the Department, compliance reporting, access to sources of information, providing information and notice to beneficiaries and participants regarding nondiscrimination prohibitions in federally assisted programs, Department administrative procedures relative to the investigation and resolution of complaints and compliance reviews, and Departmental procedures for effecting compliance, hearings, and other matters consistent with the Administrative Procedure Act.

Applicability of Standard Rules and Procedures to Other Statutory Nondiscrimination Requirements

In addition to creation of the block grant programs, the Omnibus Budget Reconciliation Act reauthorized a number of categorical programs, among them the Community Economic Development and Head Start Programs. The authorizing statutory provisions for these two programs, like those for most of the block grants, include nondiscrimination requirements, which, also like most of the block grants, are somewhat different than the nondiscrimination requirements generally applicable to Federal grantees.

There are other HHS programs for which the authorizing statutes also include nondiscrimination provisions somewhat different from those generally applicable.

To assure efficient implementation of all of these nondiscrimination provisions, § 92.11 provides that the standard Department nondiscrimination procedures shall be applicable unless inconsistent with the statutory provisions. This provision is designed to assure continuity and avoid the need to promulgate new regulations (and the attendant potential delay in implementation) whenever Congress includes separate nondiscrimination requirements in new or amended program authorizing statutes. The regulatory provisions referenced deal only with procedures. In addition to procedures set forth in 45 CFR Parts 80 and 81, the procedures set forth in 28

CFR Part 42 and 29 CFR Part 1691 (concerning complaints of employment discrimination) are also, by their own terms, applicable.

Regulatory Procedures

Interagency Coordination

In accordance with requirements of Executive Order 12250 ("Leadership and Coordination of Nondiscrimination Laws") and Executive Order 12067 ("Providing for Coordination of Federal Equal Employment Opportunity Programs"), the Department, in February 1983, began the process of coordinating with the Department of Justice and Equal Employment Opportunity Commission by submitting a draft proposed rule. Both agencies concur in the publication of this proposed rule and will be again consulted in connection with issuance of a final rule.

Executive Order 12291 Impact Analysis

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of $100 million or more—or certain other specified effects. The Department concludes that the regulations implementing the prohibitions on discrimination contained in the block grant programs are not major rules within the meaning of the Executive Order because they do not have an effect on the economy of $100 million or more, or otherwise meet the threshold criteria.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis must be prepared describing the rule's impact on small entities. The proposed rules do not impose a significant economic impact on a substantial number of small entities because the rules simply establish basic substantive and procedural elements necessary for effective implementation of the statutory nondiscrimination provisions. Virtually all of the provisions of the proposed rules are derived directly from the statute and existing regulatory requirements and procedures. The Department has made every effort to assure that the new statutory requirements, such as those concerning nondiscrimination on the basis of sex and religion, can be easily integrated into existing nondiscrimination activities and compliance procedures. For these reasons, the Secretary certifies that a regulatory flexibility analysis is not required.

Paperwork Reduction Act (Recordkeeping and Reporting Requirements)

These proposed rules propose no new reporting or data collection requirements on recipients that require OMB clearance pursuant to the Paperwork Reduction Act.

List of Subjects in 45 CFR Part 92

Civil rights, Religious discrimination, Sex discrimination.

Dated: December 31, 1985.

Otis R. Bowen, M.D.,

Secretary.

For the reasons set forth in the preamble, Title 45 of the Code of Federal Regulations is proposed to be amended by adding a new Part 92, as follows:

PART 92—NONDISCRIMINATION REQUIREMENTS (INCLUDING ON THE BASIS OF SEX OR RELIGION) APPLICABLE TO BLOCK GRANTS AND STANDARD NONDISCRIMINATION PROCEDURES APPLICABLE TO CERTAIN OTHER PROGRAMS

Subpart A—General

Sec.

92.1 Purpose of this Part.
92.2 Applicability of this Part.

Subpart B—Requirements applicable to Block Grants

92.3 Existing nondiscrimination requirements applicable.
92.4 Referral to Chief Executive Officer.
92.5 Assurances.
92.6 Nondiscrimination on the basis of sex.
92.7 Nondiscrimination on the basis of religion.
92.8 Effect of other statutes.
92.9 Employment practices.
92.10 Provisions of Parts 80 and 81 applicable to this Part.

Subpart C—Standard Procedures for Other Nondiscrimination Requirements

92.11 Applicability of standard procedures to other statutory nondiscrimination requirements.

Authority: Secs. 671–82, 901, 1741–45, 2191–94, 2351–55, 2601–11, Pub. L. 97–35, 95 Stat. 511–19 (42 U.S.C. 9901–11), 95 Stat. 535–59 (42 U.S.C. 300w–300w–8, 42 U.S.C. 300x–300x–9, 42 U.S.C. 300y–300y–10), 95 Stat. 762–64 (31 U.S.C. 1243 note), 95 Stat. 818–30 (42 U.S.C. 701–709), 95 Stat. 867–74 (42 U.S.C. 1397–1397f), 95 Stat 893–902 (42 U.S.C. 8621–29).

Subpart A—General

§ 92.1 Purpose of this Part.

The purpose of this Part is: (a) in Subpart B, to implement the nondiscrimination requirements applicable to the block grants authorized by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35; and (b) in Subpart C, to provide for the applicability of standard nondiscrimination procedures to certain other programs.

§ 92.2 Applicability of this Part.

(a) Subpart B applies to programs or activities receiving Federal financial assistance pursuant to the following statutory authorizations:

(1) Preventive Health and Health Services Block Grant (42 U.S.C. 300w *et seq.*);

(2) Alcohol and Drug Abuse and Mental Health Services Block Grant (42 U.S.C. 300x *et seq.*);

(3) Primary Care Block Grant (42 U.S.C. 300y *et seq.*);

(4) Maternal and Child Health Services Block Grant Act (42 U.S.C. 701 *et seq.*);

(5) Community Services Block Grant Act (42 U.S.C. 9901 *et seq.*);

(6) Low Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 *et seq.*); and

(7) Social Services Block Grant Act (42 U.S.C. 1397 *et seq.*).

(b) Subpart C applies to any other program or activity receiving Federal financial assistance from the Department for which the authorizing statute prohibits discrimination on the basis of race, color, national origin, handicap, sex, religion, or any other ground.

Subpart B—Requirements Applicable to Block Grants

§ 92.3 Existing nondiscrimination requirements applicable.

Except as modified by the provisions of the Omnibus Budget Reconciliation Act and this Part, the provisions of title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and 45 CFR Parts 80, 84, 86 and 91 shall apply to any program or activity assisted under the statutes listed in § 92.2(a).

§ 92.4 Referral to Chief Executive Officer.

(a) Whenever the Department determines that a recipient, in a program or activity assisted under the statutes listed in § 92.2(a), has failed to comply with this Subpart, the Department will notify the chief executive officer of the State and will request the chief executive officer to secure compliance. Voluntary compliance agreements secured by the chief executive officer

must be in writing and approved by the Department. If, within a reasonable period of time, not to exceed 60 days, the chief executive officer refuses or fails to secure compliance, the Department will proceed to effect compliance in accordance with 45 CFR 80.8.

(b) For purposes of this section, "chief executive officer" means the Governor of a State, the Mayor of the District of Columbia, and the chief executive officer of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

§ 92.5 Assurances.

(a) Assurances required by 45 CFR 80.4, 84.5, 86.4, and 91.33 are required by this Subpart.

(b) For programs or activities subject to § 92.6, every application for Federal financial assistance shall, as a condition for its approval, contain or be accompanied by an assurance, establishing a judicially enforceable contractual obligation, that the applicant will comply with the provisions of this Subpart with respect to such programs or activities.

(c) The requirements contained in paragraphs (a) and (b) of this section may be satisfied by the following language: "The applicant, in consideration of and for the purpose of obtaining the Federal financial assistance herein requested, gives an assurance and undertakes a judicially enforceable contractual obligation that it will comply with the applicable nondiscrimination provisions of the Omnibus Budget Reconciliation Act of 1981 and the provisions of 45 CFR Part 92."

§ 92.6 Nondiscrimination on the basis of sex.

(a) Applicability. The provisions of this section concerning nondiscrimination on the basis of sex apply to programs and activities assisted under each of the statutes listed in § 92.2(a)(1)–(6). These are:

(1) Preventive Health and Health Services Block Grant;

(2) Alcohol and Drug Abuse and Mental Health Services Block Grant;

(3) Primary Care Block Grant;

(4) Maternal and Child Health Block Grant;

(5) Community Services Block Grant; and

(6) Low Income Home Energy Assistance Block Grant.

(b) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Health and Human Services under the applicable statutory authorities indentified in paragraph (a) of this section.

(c) *Specific discrimination prohibited.* (1) A recipient may not, in any program or activity receiving Federal financial assistance directly or through contractual or other arrangements, on the basis of sex:

(i) Deny or limit individuals' opportunity to participate in or benefit from the program or activity;

(ii) Provide individuals an opportunity to participate in or benefit from the program or activity which is not equivalent to that provided to others;

(iii) Aid or perpetuate discrimination by providing significant assistance to any agency, organization or person that discriminates on the basis of sex in providing any aid, benefit, or service to beneficiaries of the recipient's program or activity; or

(iv) Otherwise discriminate against individuals.

(2) A recipient may not directly or through contractual or other arrangements, utilize critieria or methods of administration that:

(i) Have the effect of subjecting persons to discrimination on the basis of sex; or

(ii) Have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to persons of a particular sex.

§ 92.7 Nondiscrimination on the basis of religion.

(a) *Applicability.* The provisions of this section concerning discrimination on the basis of religion apply to programs and activities under the following statutes:

(1) Preventive Health and Health Services Block Grant;

(2) Alcohol and Drug Abuse and Mental Health Services Block Grant;

(3) Primary Care Block Grant; and

(4) Maternal and Child Health Block Grant.

(b) *General.* No person shall, on the basis of religion, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance from the Department of Health and Human Services under the applicable statutory authorities identified in paragraph (a) of this section.

(c) *Specific discrimination prohibited.* (1) A recipient may not, in any program or activity receiving Federal financial assistance on the basis of religion:

(i) Deny or limit individuals' opportunity to participate in or benefit from the program or activity;

(ii) Provide individuals an opportunity to participate in or benefit from the program or activity which is not equivalent to that provided to others;

(iii) Aid or perpetuate discrimination by providing significant assistance to any agency, organization or person that discriminates on the basis of religion in providing any aid, benefit, or service to beneficiaries of the recipient's program or activity; or

(iv) Otherwise discriminate against individuals.

(2) A recipient may not:

(i) Subject persons to discrimination on the basis of religion; or

(ii) Defeat or substantially impair accomplishment of the objectives of the recipient's program with respect to persons of a particular religion.

§ 92.8 Effect of other statutes.

A recipient's responsibility to comply with this Subpart is not affected by provisions of any State or local law or other requirement that would impair the accomplishment of the purposes of this Subpart.

§ 92.9 Employment practices.

(a) Except to the extent the applicable statutory nondiscrimination requirement expressly limits its applicability to employment practices, the nondiscrimination requirement shall apply to the employment practices of a recipient.

(b) When employment practices are subject to statutory requirements regarding nondiscrimination on the basis of race, color, religion, sex or national origin, a recipient may not, directly or through contractual or other arrangements, engage in any employment practice that would be unlawful for a covered employer to engage in under title VII of the Civil Rights Act of 1964. This reference to standards under title VII of the Civil Rights Act of 1964 shall not be construed to incorporate any procedural requirement to title VII.

(c) Complainants of employment discrimination shall be handled in accordance with the provisions of 28 CFR Parts 42 and 29 CFR 1691 ("Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance").

§ 92.10 Provisions of Parts 80 and 81 applicable to this Part.

The following provisions of 45 CFR Parts 80 and 81 apply to nondiscrimination on the basis of sex or religion under this Subpart on the same basis that they apply to nondiscrimination on the basis of race, color, or national origin under Parts 80 and 81:

(a) *Cooperation and assistance.* The provisions of § 80.6(a) concerning cooperation and assistance by the Department apply to this Subpart.

(b) *Compliance reports.* The first sentence of § 80.6(b) concerning the authority of HHS to require the maintenance of necessary records and the submission of necessary compliance reports applies to this Subpart.

(c) *Access to sources of information.* The provisions of § 80.6(c) concerning access to sources of information apply to this Subpart.

(d) *Information to beneficiaries and participants.* The provisions of § 80.6(d) concerning information to beneficiaries and participants apply to this Subpart. A recipient may meet this requirement by including notice regarding nondiscrimination on the basis of sex or religion with other notice activities regarding nondiscrimination on the basis or race, color, national origin, handicap, and age.

(e) *Conduct of investigations.* The provisions of § 80.7 concerning the conduct of investigations, including periodic compliance reviews, complaints, investigations, resolution of matters, and intimidatory or retaliatory acts apply to this Subpart.

(f) *Procedures for effecting compliance, hearings, and other matters.* The provisions of §§ 80.8 (Procedure for effecting compliance), 80.9 (Hearings), 80.10 (Decisions and notices) and 80.11 (Judicial review) apply to this Subpart.

(g) *Definitions.* The definitions contained in § 80.13 apply to this Subpart.

(h) *Practice and procedure for hearings.* The provisions of Part 81 concerning practice and procedures for hearings apply to this Subpart.

Subpart C—Standard Procedures for Other Nondiscrimination Requirements

§ 92.11 Applicability of standard procedures to other statutory nondiscrimination requirements.

With respect to nondiscrimination requirements applicable to any program or activity receiving Federal financial assistance for which the authorizing statute prohibits discrimination on the basis of race, color, national origin, handicap, age, sex, religion, or any other ground, to the extent they do not by their own terms apply, and to the extent not inconsistent with the authorizing statute, the procedural provisions of 45 CFR Parts 80 and 81 listed in § 92.10 shall be applicable.

[FR Doc. 86-953 Filed 1-17-86; 8:45 am]

BILLING CODE 4150-04-M

Reader Aids

Federal Register

Vol. 51, No. 13

Tuesday, January 21, 1986

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JANUARY

1-188.....2
189-336.....3
337-576.....6
577-718.....7
719-874.....8
875-1234.....9
1235-1360.....10
1361-1480.....13
1481-1766.....14
1767-2336.....15
2337-2468.....16
2469-2668.....17
2669-2810.....21

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5425.....719
5426.....1237
5427.....2337
5428.....2339
5429.....2341
5430.....2469

Executive Orders:
11157 (Amended by EO 12541).....585
12490 (Amended by EO 12545).....2343
12496 (Amended by EO 12540).....577
12526 (Amended by EO 12542).....587
12540.....577
12541.....585
12542.....587
12543.....875
12544.....1235
12545.....2343

Administrative Orders:

Presidential Determinations:
No. 86-4 of December 24, 1985.....1481

Memorandums:
January 10, 1986.....1483

5 CFR

530.....721
531.....318
352.....337

Proposed Rules:
530.....400

7 CFR

17.....2471
54.....589
400.....877
451.....1239
800.....1767
907.....189, 1244, 2669
971.....1
1007.....1245
1062.....1361
1136.....2669
1137.....1361
1789.....2788
1900.....2345
3015.....1485

Proposed Rules:
Ch. IV.....761
Ch. X.....1378
443.....961
800.....606
959.....760
1131.....2506
1136.....2506
1205.....209
1772.....2403
1788.....607
1924.....2507
1944.....2507, 2516
3015.....762

9 CFR

50.....2345
78.....2346
166.....2347
318.....1769

Proposed Rules:
92.....613

10 CFR

1.....731
463.....593

Proposed Rules:
19.....1092
20.....1092
30.....1092
31.....1092
32.....1092
34.....1092
40.....1092
50.....1092
61.....1092
70.....1092

12 CFR

207.....1771
330.....731
337.....880
563.....731, 1246
563b.....593
611.....2472

Proposed Rules:
217.....1379
18.....27
204.....27
210.....613
217.....31
352.....2519
556.....33

13 CFR

302.....1782
305.....1492, 1782
306.....1492
307.....1492
308.....1492
314.....1783

Proposed Rules:
111.....966

14 CFR

11.....1218, 2348
21.....2671
39.....2-5, 337-339, 732-736, 1247, 1363, 1489-1491, 2348-2350, 2676-2679

61 ... 1226
63 ... 1226
71 ... 5–9, 189, 190, 340, 341, 737, 1247, 1248, 2350–2352, 2682
73 ... 191, 738, 2682
75 ... 9, 2683
91 ... 1226
97 ... 341, 2352
107 ... 1350
108 ... 1350
121 ... 1218
125 ... 873
1260 ... 2626

Proposed Rules:
39 ... 37, 1383, 1514, 1515 2520
71 ... 38, 614, 1385, 2403
73 ... 614
75 ... 2721
121 ... 1330

15 CFR

376 ... 1493
385 ... 2353
390 ... 2353
399 ... 1493, 2683
904 ... 1249

Proposed Rules:
303 ... 1386

16 CFR

1750 ... 10

Proposed Rules:
13 ... 967
423 ... 614
435 ... 1516
453 ... 978

17 CFR

1 ... 2684
200 ... 738, 1783
211 ... 739
230 ... 2472
240 ... 2472

Proposed Rules:
240 ... 2521

18 CFR

37 ... 343
271 ... 191, 1364–1366
292 ... 2354

Proposed Rules:
11 ... 211
271 ... 1387
1301 ... 2403

20 CFR

404 ... 288
416 ... 288
422 ... 288

Proposed Rules:
404 ... 614, 979
416 ... 614, 979

21 CFR

73 ... 2477
74 ... 375
81 ... 375
82 ... 375
51 ... 593
172 ... 1495, 2692
173 ... 1495
175 ... 1495
176 ... 881, 1495
177 ... 882
178 ... 1495
184 ... 1495
436 ... 1367
442 ... 2478
520 ... 2693
522 ... 740
529 ... 593
555 ... 1367
558 ... 594
561 ... 1784

Proposed Rules:
101 ... 2405
145 ... 1388
163 ... 1257
606 ... 2523
870 ... 564
880 ... 1910

23 CFR

658 ... 1367

Proposed Rules:
628 ... 1389

24 CFR

115 ... 595
200 ... 1369
201 ... 596, 1249, 1495
203 ... 596, 1249
207 ... 2358
213 ... 2358
220 ... 2358
221 ... 2358
231 ... 2358
232 ... 2358
234 ... 596, 1249
241 ... 2358
242 ... 2358
300 ... 597

Proposed Rules:
203 ... 216
204 ... 216
905 ... 280
964 ... 979
968 ... 979

25 CFR

Proposed Rules:
11 ... 400
89 ... 2722
169 ... 1391

26 CFR

1 ... 376, 741, 883, 1496, 1785, 2478
20 ... 1496
25 ... 1496
48 ... 11
154 ... 11
602 ... 11, 376, 741, 1496, 2478

Proposed Rules:
1 ... 401, 619, 763, 985, 1392, 1517, 2524, 2726
7 ... 2726
31 ... 619

27 CFR

9 ... 749
19 ... 598
240 ... 598
245 ... 598
270 ... 598
285 ... 598
295 ... 598

Proposed Rules:
5 ... 1393
9 ... 2728

28 CFR

16 ... 750–753, 883

Proposed Rules:
16 ... 986

29 CFR

1952 ... 2481
2619 ... 1788

Proposed Rules:
541 ... 2525
1910 ... 312
1915 ... 312
1926 ... 312

30 CFR

906 ... 884
936 ... 1508, 2360
943 ... 2489
944 ... 2361

Proposed Rules:
75 ... 2525
733 ... 272
914 ... 989
917 ... 1517, 2731
944 ... 1519
948 ... 1520
950 ... 21, 1816

31 CFR

550 ... 1354, 2462

32 CFR

199 ... 2490
286a ... 2364
706 ... 23, 24

33 CFR

100 ... 2693
110 ... 394
117 ... 395, 396, 886, 1509, 2393–2395
165 ... 2396, 2693
334 ... 1370

Proposed Rules:
110 ... 991, 2731
117 ... 402
162 ... 402, 1521
165 ... 224–228
166 ... 1257
167 ... 2408
402 ... 763, 1521

34 CFR

772 ... 2396

Proposed Rules:
500 ... 1393
501 ... 1393
505 ... 1393
510 ... 1393
514 ... 1393
525 ... 1393
526 ... 1393
527 ... 1393
537 ... 1393
561 ... 1393
573 ... 1393
574 ... 1393

36 CFR

261 ... 1250

37 CFR

201 ... 599

38 CFR

3 ... 1510, 1789
21 ... 2694

Proposed Rules:
17 ... 992
21 ... 764, 2408

39 CFR

961 ... 1251

Proposed Rules:
111 ... 993, 1257

40 CFR

52 ... 192, 600, 755, 886, 2397–2401, 2492, 2695–2698
60 ... 150, 1790, 2699
61 ... 1511, 2699
81 ... 886
166 ... 1896
180 ... 25, 844, 1790, 2702
202 ... 850
205 ... 850
261 ... 1253, 2702
271 ... 1370, 1791
716 ... 1233, 2702
799 ... 1793

Proposed Rules:
Ch. I ... 1257
52 ... 38, 41, 1394, 2732
60 ... 854
65 ... 627
180 ... 229, 765
260 ... 229, 1602
261 ... 229, 1602, 2526
262 ... 229, 1602
264 ... 229, 1602
265 ... 229, 1602
268 ... 229, 1602
270 ... 229, 1602
271 ... 229, 496, 631, 1394, 1602
704 ... 1521
721 ... 1396
766 ... 2736
796 ... 472, 1521, 1522
797 ... 472, 1521, 1522
798 ... 1521, 1522
799 ... 472, 1521

41 CFR

Ch. 101 ... 1511
101–26 ... 1793
101–47 ... 193

Proposed Rules:
51–2 ... 766

42 CFR

Proposed Rules:
405 ... 2736

43 CFR

2740 ... 1795

44 CFR

2 ... 194, 2499
64 ... 1795, 2499

Proposed Rules:
67 ... 2529

45 CFR

Proposed Rules:
92 ... 2806

46 CFR

169 ... 888

170..... 888
171..... 888
173..... 888

47 CFR

1.....2702
2.....2704
63..... 2708
65..... 1795
67..... 2708
68.....929
69..... 1371
73.....1374, 2501, 2704, 2711
76..... 1255
87..... 1512
94..... 2702
97.....2401, 2712

Proposed Rules:

Ch. I.....405, 1817
22.....405
67..... 1400
68..... 1261
69.....633
73.....42

48 CFR

1.....2648
2.....2648
4.....2648
5.....2648
6.....2648
8.....2648
9.....2648
10..... 2648
13..... 2648
14..... 2648
15..... 2648
17..... 2648
19..... 2648
22..... 2648
25..... 2648
27..... 2648
28..... 2648
30..... 2648
31..... 2648
32..... 2648
36..... 2648
42..... 2648
45..... 2648
46..... 2648
47..... 2648
48..... 2648
49..... 2648
52..... 2648
53..... 2648
513..... 1814
549..... 194
552..... 194
1301..... 1377
1302..... 1377
1304..... 1377
1305..... 1377
1306..... 1377
1314..... 1377
1315..... 1377
1319..... 1377
1331..... 1377
1337..... 1377
1351..... 1377
2801..... 758
2835..... 758

Proposed Rules:

31..... 2536

49 CFR

212..... 756
217..... 756
219..... 756
225..... 756
543..... 706
571..... 603
573..... 397
1048..... 1815
1105..... 196
1150..... 2503
1152..... 196, 2504

Proposed Rules:

Ch. X..... 2740
543..... 715
571.....641, 657, 994, 1542, 1826, 2536
1180..... 1828
1244..... 767
1248..... 229

50 CFR

17.....952
216..... 197
611.....202, 956
650..... 208
652..... 757
655..... 959
663..... 1255
671..... 757
672..... 956
675..... 956

Proposed Rules:

17.....230, 996, 2409, 2410, 2741
20.....409
80.....769
642..... 769
651..... 232
655..... 658
681..... 1262

LIST OF PUBLIC LAWS

Last List January 17, 1986

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 1083/Pub. L. 99-240

Low-Level Radioactive Waste Policy Act. (Jan. 15, 1986; 83 pages) Price: $1.75

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $595.00 domestic, $148.75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at **(202) 783-3238** from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	$5.50	Apr. 1, 1985
3 (1984 Compilation and Parts 100 and 101)	7.50	Jan. 1, 1985
4	12.00	Jan. 1, 1985
5 Parts:		
1–1199	18.00	Oct. 1, 1985
1200–End, 6 (6 Reserved)	7.50	Jan. 1, 1985
7 Parts:		
0–45	14.00	Jan. 1, 1985
46–51	13.00	Jan. 1, 1985
52	14.00	Jan. 1, 1985
53–209	14.00	Jan. 1, 1985
210–299	13.00	Jan. 1, 1985
300–399	8.00	Jan. 1, 1985
400–699	12.00	Jan. 1, 1985
700–899	14.00	Jan. 1, 1985
900–999	14.00	Jan. 1, 1985
1000–1059	12.00	Jan. 1, 1985
1060–1119	9.50	Jan. 1, 1985
1120–1199	8.00	Jan. 1, 1985
1200–1499	13.00	Jan. 1, 1985
1500–1899	7.50	Jan. 1, 1985
1900–1944	12.00	Jan. 1, 1985
1945–End	13.00	Jan. 1, 1985
8	7.50	Jan. 1, 1985
9 Parts:		
1–199	13.00	Jan. 1, 1985
200–End	9.50	Jan. 1, 1985
10 Parts:		
0–199	17.00	Jan. 1, 1985
200–399	9.50	Jan. 1, 1985
400–499	12.00	Jan. 1, 1985
500–End	14.00	Jan. 1, 1985
11	7.50	Jan. 1, 1985
12 Parts:		
1–199	8.00	Jan. 1, 1985
200–299	14.00	Jan. 1, 1985
300–499	9.50	Jan. 1, 1985
500–End	14.00	Jan. 1, 1985
13	13.00	Jan. 1, 1985
14 Parts:		
1–59	16.00	Jan. 1, 1985
60–139	13.00	Jan. 1, 1985
140–199	7.50	Jan. 1, 1985
200–1199	15.00	Jan. 1, 1985
1200–End	8.00	Jan. 1, 1985
15 Parts:		
0–299	6.50	Jan. 1, 1985
300–399	13.00	Jan. 1, 1985
400–End	12.00	Jan. 1, 1985

Title	Price	Revision Date
16 Parts:		
0–149	9.00	Jan. 1, 1985
150–999	10.00	Jan. 1, 1985
1000–End	13.00	Jan. 1, 1985
17 Parts:		
1–239	20.00	Apr. 1, 1985
240–End	14.00	Apr. 1, 1985
18 Parts:		
1–149	12.00	Apr. 1, 1985
150–399	19.00	Apr. 1, 1985
400–End	7.00	Apr. 1, 1985
19	21.00	Apr. 1, 1985
20 Parts:		
1–399	8.00	Apr. 1, 1985
400–499	16.00	Apr. 1, 1985
500–End	18.00	Apr. 1, 1985
21 Parts:		
1–99	9.00	Apr. 1, 1985
100–169	11.00	Apr. 1, 1985
170–199	13.00	Apr. 1, 1985
200–299	4.25	Apr. 1, 1985
300–499	20.00	Apr. 1, 1985
500–599	16.00	Apr. 1, 1985
600–799	6.50	Apr. 1, 1985
800–1299	10.00	Apr. 1, 1985
1300–End	5.50	Apr. 1, 1985
22	21.00	Apr. 1, 1985
23	14.00	Apr. 1, 1985
24 Parts:		
0–199	11.00	Apr. 1, 1985
200–499	19.00	Apr. 1, 1985
500–699	6.50	Apr. 1, 1985
700–1699	13.00	Apr. 1, 1985
1700–End	9.00	Apr. 1, 1985
25	18.00	Apr. 1, 1985
26 Parts:		
§§ 1.0–1.169	21.00	Apr. 1, 1985
§§ 1.170–1.300	12.00	Apr. 1, 1985
§§ 1.301–1.400	7.50	Apr. 1, 1985
§§ 1.401–1.500	15.00	Apr. 1, 1985
§§ 1.501–1.640	12.00	[2] Apr. 1, 1984
§§ 1.641–1.850	11.00	Apr. 1, 1985
§§ 1.851–1.1200	22.00	Apr. 1, 1985
§§ 1.1201–End	22.00	Apr. 1, 1985
2–29	15.00	Apr. 1, 1985
30–39	9.50	Apr. 1, 1985
40–299	18.00	Apr. 1, 1985
300–499	11.00	Apr. 1, 1985
500–599	8.00	[1] Apr. 1, 1980
600–End	4.75	Apr. 1, 1985
27 Parts:		
1–199	18.00	Apr. 1, 1985
200–End	13.00	Apr. 1, 1985
28	16.00	July 1, 1985
29 Parts:		
0–99	11.00	July 1, 1985
100–499	5.00	July 1, 1985
500–899	19.00	July 1, 1985
900–1899	7.00	July 1, 1985
1900–1910	21.00	July 1, 1985
1911–1919	5.50	[3] July 1, 1984
1920–End	20.00	July 1, 1985
30 Parts:		
0–199	16.00	July 1, 1985
200–699	6.00	July 1, 1985
700–End	13.00	July 1, 1985
31 Parts:		
0–199	8.50	July 1, 1985
200–End	11.00	July 1, 1985

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	[4] July 1, 1984
1–39, Vol. II	19.00	[4] July 1, 1984
1–39, Vol. III	18.00	[4] July 1, 1984
1–189	13.00	July 1, 1985
190–399	16.00	July 1, 1985
400–629	15.00	July 1, 1985
630–699	12.00	[3] July 1, 1984
700–799	15.00	July 1, 1985
800–999	7.50	July 1, 1985
1000–End	5.50	July 1, 1985
33 Parts:		
1–199	20.00	July 1, 1985
200–End	14.00	July 1, 1985
34 Parts:		
1–299	15.00	July 1, 1985
300–399	8.50	July 1, 1985
400–End	18.00	July 1, 1985
35	7.00	July 1, 1985
36 Parts:		
1–199	9.00	July 1, 1985
200–End	14.00	July 1, 1985
37	9.00	July 1, 1985
38 Parts:		
0–17	16.00	July 1, 1985
18–End	11.00	July 1, 1985
39	9.50	July 1, 1985
40 Parts:		
1–51	16.00	July 1, 1985
52	21.00	July 1, 1985
53–80	23.00	July 1, 1985
81–99	18.00	July 1, 1985
100–149	18.00	July 1, 1985
150–189	13.00	July 1, 1985
190–399	19.00	July 1, 1985
400–424	14.00	July 1, 1985
425–699	13.00	July 1, 1985
700–End	8.00	July 1, 1985
41 Chapters:		
1, 1–1 to 1–10	13.00	[5] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[5] July 1, 1984
3–6	14.00	[5] July 1, 1984
7	6.00	[5] July 1, 1984
8	4.50	[5] July 1, 1984
9	13.00	[5] July 1, 1984
10–17	9.50	[5] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[5] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[5] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[5] July 1, 1984
19–100	13.00	[5] July 1, 1984
1–100	7.50	July 1, 1985
101	19.00	July 1, 1985
102–200	8.50	July 1, 1985
201–End	5.50	July 1, 1985
42 Parts:		
1–60	12.00	Oct. 1, 1985
61–399	7.00	Oct. 1, 1985
400–End	18.00	Oct. 1, 1984
*430–End	11.00	Oct. 1, 1985

Title	Price	Revision Date
43 Parts:		
1–999	10.00	Oct. 1, 1985
1000–3999	18.00	Oct. 1, 1985
4000–End	8.50	Oct. 1, 1985
44	13.00	Oct. 1, 1985
45 Parts:		
1–199	10.00	Oct. 1, 1985
200–499	7.00	Oct. 1, 1985
500–1199	13.00	Oct. 1, 1985
1200–End	9.00	Oct. 1, 1985
46 Parts:		
1–40	9.50	Oct. 1, 1984
41–69	10.00	Oct. 1, 1985
70–89	5.50	Oct. 1, 1985
90–139	9.00	Oct. 1, 1985
140–155	8.50	Oct. 1, 1985
156–165	10.00	Oct. 1, 1985
166–199	9.00	Oct. 1, 1985
*200–499	15.00	Oct. 1, 1985
500–End	7.50	Dec. 31, 1985
47 Parts:		
0–19	13.00	Oct. 1, 1984
20–69	14.00	Oct. 1, 1984
70–79	13.00	Oct. 1, 1984
80–End	14.00	Oct. 1, 1984
48 Chapters:		
*1 (Parts 1–51)	16.00	Oct. 1, 1985
1 (Parts 52–99)	13.00	Oct. 1, 1984
*2	15.00	Oct. 1, 1985
3–6	12.00	Oct. 1, 1984
*7–14	17.00	Oct. 1, 1985
15–End	12.00	Oct. 1, 1984
49 Parts:		
1–99	7.00	Oct. 1, 1985
100–177	14.00	Nov. 1, 1984
178–199	13.00	Nov. 1, 1984
200–399	13.00	Oct. 1, 1985
400–999	13.00	Oct. 1, 1984
1000–1199	13.00	Oct. 1, 1985
1200–1299	13.00	Oct. 1, 1985
1300–End	2.25	Oct. 1, 1985
50 Parts:		
1–199	9.50	Oct. 1, 1984
200–End	14.00	Oct. 1, 1984
CFR Index and Findings Aids	18.00	Jan. 1, 1985
Complete 1986 CFR set	595.00	1986
Microfiche CFR Edition:		
Complete set (one-time mailing)	155.00	1983
Complete set (one-time mailing)	125.00	1984
Subscription (mailed as issued)	185.00	1986
Individual copies	3.75	1986

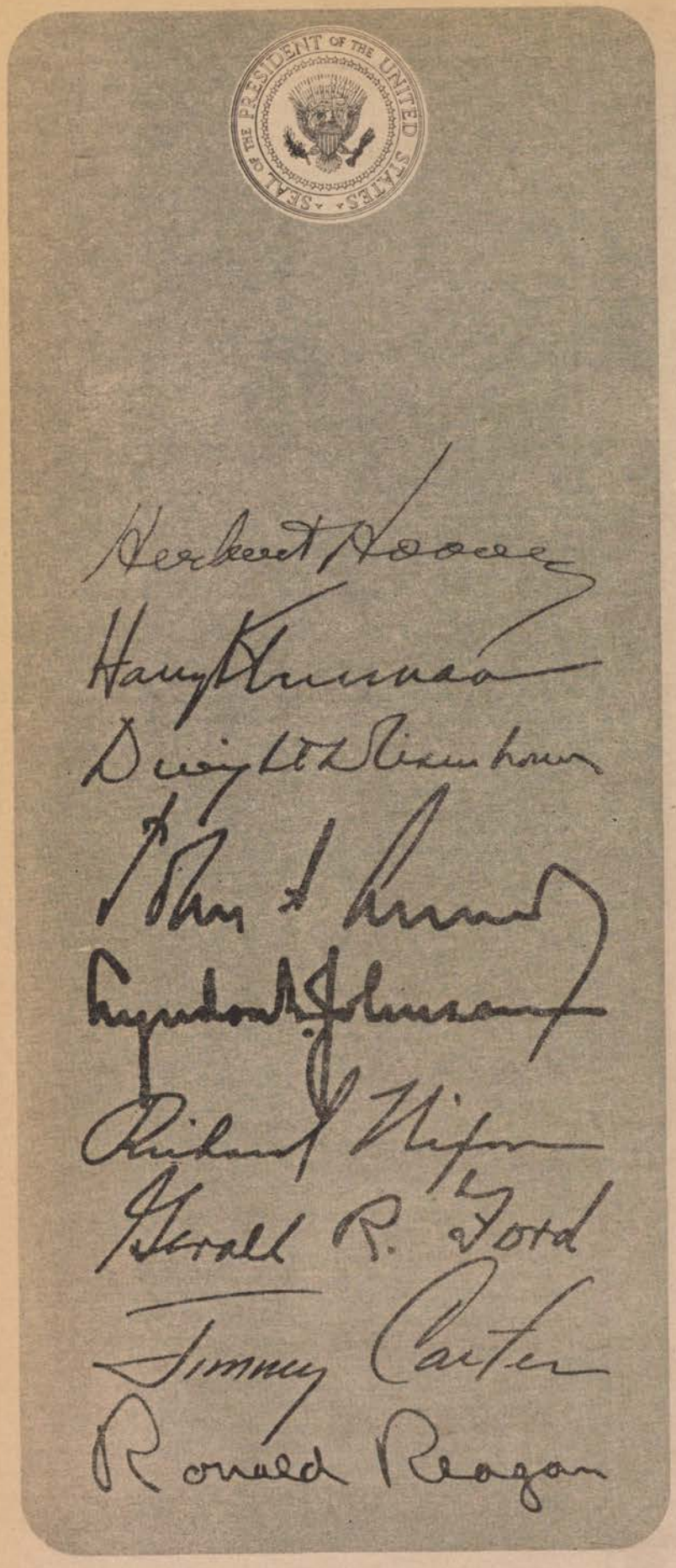
[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1985. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are available:

Herbert Hoover

1929 ..... $19.00
1930 ..... $19.00
1931 ..... $20.00
1932–33 ..... $24.00
Proclamations & Executive Orders-March 4, 1929 to March 4, 1933
2 Volume set $32.00

Harry Truman

1945 ..... Out of print
1946 ..... Out of print
1947 ..... $17.00
1948 ..... Out of print
1949 ..... $18.00
1950 ..... $19.00
1951 ..... $20.00
1952–53 ..... $24.00

Dwight D. Eisenhower

1953 ..... Out of print
1954 ..... $23.00
1955 ..... $20.00
1956 ..... $23.00
1957 ..... Out of print
1958 ..... Out of print
1959 ..... Out of print
1960–61 ..... Out of print

John Kennedy

1961 ..... Out of print
1962 ..... Out of print
1963 ..... Out of print

Lyndon B. Johnson

1963–64
(Book I) $21.00
1963–64
(Book II) ..... Out of print
1965
(Book I) ..... Out of print
1965
(Book II) $18.00
1966
(Book I) ..... Out of print
1966
(Book II) $20.00
1967
(Book I) $19.00
1967
(Book II) ..... Out of print
1968–69
(Book I) $20.00
1968–69
(Book II) $19.00

Richard Nixon

1969 ..... $23.00
1970 ..... Out of print
1971 ..... Out of print
1972 ..... Out of print
1973 ..... Out of print
1974 ..... $18.00

Gerald R. Ford

1974 ..... $19.00
1975
(Book I) $22.00
1975
(Book II) $22.00
1976–77
(Book I) $23.00
1976–77
(Book II) ..... Out of print
1976–77
(Book III) $22.00

Jimmy Carter

1977
(Book I) $23.00
1977
(Book II) $22.00
1978
(Book I) $24.00
1978
(Book II) $25.00
1979
(Book I) $24.00
1979
(Book II) $24.00
1980–81
(Book I) $21.00
1980–81
(Book II) $22.00
1980–81
(Book III) $24.00

Ronald Reagan

1981 ..... $25.00
1982
(Book I) ..... Out of print
1982
(Book II) $25.00
1983
(Book I) $31.00

Published by the Office of the Federal Register, National Archives and Records Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

1-21-86
Vol. 51—No. 13
BOOK 2:
PAGES 2811-2870

federal register

Book 2 of 2 Books
Tuesday, January 21, 1986

Part IV

General Accounting Office

Budget Reductions for Fiscal Year 1986—A Report to the President of the United States, President of the Senate, and Speaker of the House of Representatives

Editorial Note. This document was not received in time for inclusion in the table of contents appearing in Book 1 of the issue of Tuesday, January 21, 1986.

U.S. GENERAL ACCOUNTING OFFICE

BUDGET REDUCTIONS FOR FISCAL YEAR 1986 - A Report to the President of the United States, President of the Senate, and Speaker of the House of Representatives

AGENCY: U.S. General Accounting Office

ACTION: Report Transmittal.

SUMMARY: This notice publishes the Sequestration Report for fiscal year 1986 of the Comptroller General of the United States to the President and the Congress in accordance with the provisions the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177.

Charles A. Bowsher

January 21, 1986

Comptroller General
of the United States

GAO

United States
General Accounting Office
Washington, D.C. 20548

Comptroller General
of the United States
B-221498

January 21, 1986

The President
The President of the Senate
The Speaker of the House of Representatives

Having received the report of the Directors of the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO), I hereby submit my report for fiscal year 1986 as required by the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177).

My report makes several changes in individual accounts, but these changes are not sufficient in the aggregate to alter the percentage reductions of 4.9 percent for defense programs and 4.3 percent for non-defense programs, as contained in the report received from OMB and CBO.

Summary of Changes from the Report of OMB and CBO

The General Accounting Office (GAO) changes from the OMB/CBO report are specified and explained in Appendix A. They are summarized as follows:

OMB and CBO did not include in the sequesterable base approximately $6.3 billion of unobligated balances authorized for transfer to other accounts in the Department of Defense. We determined that these amounts should be included in the base and made subject to sequester. This increases the amount to be sequestered in the Department of Defense by $309 million. The outlays associated with this increase in the amount to be sequestered are $44.6 million.

OMB and CBO did not agree on whether or not the appropriation to pay the federal share of interest costs on bonds issued by the Washington Metropolitan Area Transit Authority should be subject to sequester. We determined that it should not. Thus, the amount of this federal subsidy payment is not affected by the Act.

We also differ from the OMB/CBO report with respect to the application of the Act to certain other accounts in the non-defense area. In some cases, the Directors reported amounts as being subject to sequester that we determined should not be sequestered. In other cases the situation was reversed. The net effect of these changes is to increase the estimated outlay reduction from sequester in the non-defense area by $3.3 million.

Summary of Required Determinations

Having concluded that any economic assumptions that we might adopt as alternatives to those used by OMB and CBO would not affect the required reduction for fiscal year 1986, we did not develop an independent set of economic assumptions for this report. We reviewed the assumptions contained in the OMB/CBO report, along with the numerous forecasts available outside the government. On the basis of this review, together with our analysis of current economic conditions, we determined that both the OMB and CBO assumptions were within a reasonable range for fiscal year 1986. No alternative assumptions which we might adopt would result in a deficit of less than $191.9 billion, and any deficit exceeding this amount requires sequestering the maximum amount of $11.7 billion for fiscal year 1986. The economic assumptions are discussed further in Appendix B.

Revenues are estimated at $776.0 billion in fiscal year 1986. Outlays are estimated at $996.5 billion. This yields a deficit of $220.5 billion, which is $48.6 billion more than the maximum deficit amount of $171.9 billion specified in the Act.

The required deficit reduction of $11.7 billion is to be divided equally between defense and non-defense programs, $5.9 billion each. Eliminating automatic spending increases for certain indexed programs is estimated to reduce outlays by $1.0 billion, of which $497 million is credited to defense and $542 million to non-defense.

The remaining reduction required in defense programs is $5.4 billion. The President has informed us that, as authorized by the Act, he has decided to exempt about $61.3 billion of military personnel costs from the sequestration procedures of the Act. To achieve the required reduction from the remaining defense programs requires a uniform percentage reduction of 4.9 percent, the same as reported by OMB and CBO.

The remaining reduction required in non-defense programs is $5.3 billion. Certain of these programs, such as Guaranteed Student Loans and Medicare, are subject to special reduction procedures. Applying these procedures yields outlay reductions of $397 million. To achieve the remaining $4.9 billion of outlay reductions requires a uniform reduction of 4.3 percent in the other non-defense programs, which is again the same figure as reported by OMB and CBO.

The principal determinations required by the Act are shown in Appendix C. Determinations with respect to programs designated as automatic spending increases and programs subject to special rules are contained in Appendix D.

Procedures Used by GAO

This report reflects the results of GAO's review of the report and other material submitted by OMB and CBO. Much of this material, including voluminous supporting documentation and data, was supplied before the delivery of the OMB/CBO report. In addition, we considered information available to us through our ongoing audit, evaluation, and other analytical work, and information that we gathered from OMB, CBO, and the

departments and agencies while preparing this report. We also held in-depth discussions with officials and staff of OMB, CBO, and the departments and agencies.

Differences in amounts reported by OMB and CBO for certain defense accounts led us to review these accounts with particular care. We discussed these accounts with staff of the Office of the Secretary of Defense and the military departments, as well as OMB and CBO, in order to assess the methodologies used by each agency to develop its estimates. After reviewing the available data, we concluded that each agency has historically been reasonably accurate in short-term estimating of total defense outlays. Accordingly, we concluded that there was no basis for choosing one methodology as superior to the other. Thus, we decided to use the average of the two estimates, as reported by OMB and CBO, as the basis for the sequestration procedures required by the Act.

This letter and its four Appendices constitute the report of the Comptroller General of the United States to the President and the Congress for fiscal year 1986, as required by the Balanced Budget and Emergency Deficit Control Act of 1985.

Charles A. Bowsher

Charles A. Bowsher
Comptroller General
of the United States

Appendix A - Changes Required from the Report of OMB and CBO

Appendix B - Economic Assumptions

Appendix C - Principal Determinations Required by the Act

Appendix D - Automatic Spending Increases and Special Rules

Contents

Report of the Comptroller General of the United States---------- 1

Appendix A, Changes Required from the Report of OMB and CBO---- 5

Part I, Defense Programs---------- 6

Unobligated Balances Available for Transfer, Defense Budget Accounts---------- 6

Unobligated Balances Available for Transfer, PPA Listing---------- 12

Omitted Pages from OMB/CBO Report---------- 15

Part II, Non-Defense Programs---------- 19

Appendix B, Economic Assumptions---------- 35

Appendix C, Principal Determinations Required by the Act---------- 47

Appendix D, Automatic Spending Increases and Special Rule---------- 53

Appendix A

Changes Required from the Report of OMB and CBO

Introduction

This Appendix A sets out and explains the changes from the OMB/CBO report by the Comptroller General. The Appendix consists of two parts. Part I covers defense programs and Part II covers non-defense programs. Except for these changes, our determination of the base from which reductions are to be made, the percentage and amount of reductions, and the estimated outlay savings resulting from these reductions are the same as in the OMB/CBO report.

Part I (Defense) is divided into three sections. The first section adds to the sequesterable base about $6.3 billion of unobligated balances available for transfer which the OMB/CBO report excluded from the sequesterable base. This increases the amount to be sequestered in defense programs by $309 million, with associated outlays of $44.6 million. This is distributed among 18 of the defense Procurement and Research, Development, Test and Evaluation accounts. Following a narrative explanation of the changes are new account entries which substitute for the corresponding entries in the OMB/CBO report. In each case, the new entry identifies the page number in the Federal Register where the account appears and the account title.

The second section of Part I (Defense) makes changes in the defense program, project and activity (PPA) listing in the OMB/CBO report to reflect the account changes discussed above. In this section, the entries consist of new PPA lines to be inserted in the PPA listing at the indicated location. As with the account-level changes, each entry identifies the Federal Register page and the account title where the insertion is to be made.

The third section of Part I (Defense) adds three pages of the defense PPA listing which were inadvertently omitted from the OMB/CBO report to GAO and from the Federal Register. The narrative indicates the point in the OMB/CBO report at which these pages should be inserted. The pages are then reproduced in their entirety.

Part II (Non-defense) is limited to changes only at the account level, since neither the OMB/CBO report nor the report of the Comptroller General is required to adjust programs, projects, or activities within accounts in non-defense programs. In Part II, each narrative explanation of a change is followed by a new entry for the account affected. In each case, the new entry is a complete replacement for the existing entry in the OMB/CBO report. Each entry identifies the page in the Federal Register and the title of the account where the replacement is being made.

Appendix A
Changes Required from the Report of OMB and CBO

The GAO changes in both defense programs and non-defense programs have not been carried forward into all informational material appearing in the OMB/CBO report. Whenever changes are made by this Appendix in any account or program, project, or activity listing, parallel changes would be required for consistency in totals, summary tables, and other materials in the OMB/CBO report.

Part I - Defense Programs

The changes listed in Tables A-1 through A-3 are required with respect to the items and amounts shown for the defense programs in the OMB/CBO report. Page numbers refer to the report as published in the Federal Register on January 15, 1986.

Unobligated Balances Available For Transfer - Defense Budget Accounts

The OMB/CBO report did not include within the sequesterable base of the Department of Defense (DOD) over $6.3 billion of prior year unobligated balances of certain Procurement and Research, Development, Test and Evaluation (RDT&E) accounts. We find no basis for exempting these unobligated balances, however, and have included them in the sequesterable base.

Section 8103 of the Department of Defense Appropriations Act, 1986 (included as section 101(b) of the Further Continuing Appropriations Resolution for Fiscal Year 1986, P. L. 99-190), authorizes the Secretary of Defense to transfer $6,306,906,000 of unobligated balances from 18 Procurement and RDT&E accounts to other DOD accounts. This transfer authority has not been used by the Secretary. The funds therefore remain available for obligation in the Procurement and RDT&E accounts to which they were appropriated.

Section 8103 contains a specific proviso that none of the funds authorized to be transferred "may be transferred, reprogrammed, or otherwise applied to offset the impact of sequester orders required under the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985." In our view, that restriction provides no authority to exempt these balances from sequestration in the accounts in which they are presently located, nor is there any other basis for such an exemption.

Table A-1 indicates the account-level changes that are required, and the pages of the January 15, 1986, Federal Register where these accounts are found. Items which are changed are indicated by bold type.

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 1: Revised Defense Budget Accounts
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Department of the Navy					
Aircraft Procurement, Navy (07-15-1506-X-1-051-A, 17-1506)	1984				
Budget Authority		11,175,678	547,608	11,175,678	547,608
Unobligated Balances		2,857,719	140,028	2,857,719	140,028
Unobligated Balances Available for Transfer		0	0	**551,300**	**27,014**
Outlays		1,248,875	61,195	**1,297,937**	**63,599**
Weapons Procurement, Navy (07-15-1507 -X-1-051-A; 17-1507)	1984				
Budget Authority		5,227,693	256,157	5,227,693	256,157
Unobligated Balances		2,130,436	104,391	2,130,436	104,391
Unobligated Balances Available for Transfer		0	0	**15,000**	**735**
Outlays		790,825	38,750	**792,437**	**38,829**
Shipbuilding and Conversion, Navy (07-15-1611 -X-1-051-A; 17-1611)	1984				
Budget Authority		10,001,200	490,059	10,001,200	490,059
Unobligated Balances		11,761,651	576,321	11,761,651	576,321
Unobligated Balances Available for Transfer		0	0	**1,999,300**	**97,966**
Outlays		1,356,564	66,472	**1,481,188**	**72,578**
Other Procurement, Navy (07-15-1810 -X-1-051-A, 17-1810)	1984				
Budget Authority		6,040,800	295,999	6,040,800	295,999
Unobligated Balances		2,158,657	105,774	2,158,657	105,774
Unobligated Balances Available for Transfer		0	0	**276,483**	**13,548**
Outlays		881,156	43,177	**910,868**	**44,633**

Appendix A
Changes Required from the Report of OMB and CBO

Table A-1: Revised Defense Budget Accounts (continued)
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Procurement, Marine Corps (07-15-1109 -X-1-051-A; 17-1109)	1983				
Budget Authority		1,660,766	81,378	1,660,766	81,378
Unobligated Balances		678,141	33,229	678,141	33,229
Unobligated Balances Available for Transfer		0	0	47,717	2,338
Outlays		224,885	11,019	229,473	11,244
Department of the Army					
Aircraft Procurement, Army (07-15-2031 -X-1-051-A; 21-2031)	1984				
Budget Authority		3,524,200	172,686	3,524,200	172,686
Unobligated Balances		889,898	43,605	889,898	43,605
Unobligated Balances Available for Transfer		0	0	117,900	5,777
Outlays		662,315	32,453	680,005	33,320
Missile Procurement, Army (07-15-2032-X-1-051-A; 21-2032)	1984				
Budget Authority		2,904,332	142,312	2,904,332	142,312
Unobligated Balances		1,009,016	49,442	1,009,016	49,442
Unobligated Balances Available for Transfer		0	0	66,500	3,258
Outlays		284,358	13,934	289,190	14,170
Other Procurement,Army (07-15-2035 -X-1-051-A; 21-2035)	1984				
Budget Authority		5,241,956	256,856	5,241,956	256,856
Unobligated Balances		1,869,692	91,615	1,869,692	91,615
Unobligated Balances Available for Transfer		0	0	257,500	12,618
Outlays		568,841	27,873	589,438	28,882

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 1: Revised Defense Budget Accounts (continued)
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Procurement of Ammunition, Army (07-15-2034 -X-1-051-A; 21-2034)	1984				
Budget Authority		2,497,200	122,363	2,497,200	122,363
Unobligated Balances		256,426	12,565	256,426	12,565
Unobligated Balances Available for Transfer		0	0	**178,100**	**8,727**
Outlays		743,708	36,442	**791,810**	**38,799**
Procurement of Weapons and Tracked Combat Vehicles, Army (07-15-2033 -X-1-051-A; 21-2033)	1984				
Budget Authority		4,684,800	229,555	4,684,800	229,555
Unobligated Balances		1,520,846	74,521	1,520,846	74,521
Unobligated Balances Available for Transfer		0	0	**590,300**	**28,925**
Outlays		277,064	13,576	**303,419**	**14,868**
Department of the Air Force					
Aircraft Procurement,Air Force (07-15-3010 -X-1-051-A; 57-3010)	1984				
Budget Authority		23,255,424	1,139,516	23,255,424	1,139,516
Unobligated Balances		9,095,075	445,659	9,095,075	445,659
Unobligated Balances Available for Transfer		0	0	**1,110,400**	**54,410**
Outlays		2,220,270	108,793	**2,296,479**	**112,527**

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 1: Revised Defense Budget Accounts (continued)
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO Base	OMB/CBO Sequester	GAO Base	GAO Sequester
Missile Procurement, Air Force (07-15-3020 -X-1-051-A; 57-3020)	1984				
Budget Authority		8,312,442	407 310	8,312 442	407 310
Unobligated Balances		2,775,347	135,992	2 775 347	35,992
Unobligated Balances Available for Transfer		0	0	82,800	4,057
Outlays		2,632,200	128,978	2,651,856	129,941
Other Procurement, Air Force (07-15- 3080 -X-1-051-A; 57-3080)	1985				
Budget Authority		8,551,031	419,001	8,551 031	419,001
Unobligated Balances		2,406,177	117 903	2,406,177	117 903
Unobligated Balances Available for Transfer		0	0	347,476	17,026
Outlays		5,226,028	256,075	5,391,756	264,196
Defense Agencies					
Procurement, Defense Agencies (07-15-0300 -X-1-051-A; 97-0300)	1983				
Budget Authority		1,302,740	63,834	1,302,740	63,834
Unobligated Balances		404,402	19,816	404 402	19,816
Unobligated Balances Available for Transfer		0	0	36,000	1,764
Outlays		437 288	21 427	446,509	21,879

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 1: Revised Defense Budget Accounts (continued)
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Research, Development, Test and Evaluation, Defense Agencies (07-20-0400 -X-1-051-A; 97-0400)	1985				
Budget Authority		6,637,386	325,232	6,637,386	325,232
Unobligated Balances		365,062	17,888	365,062	17,888
Unobligated Balances Available for Transfer		0	0	**82,000**	**4,018**
Outlays		3,236,393	158,583	**3,274,292**	**160,440**
Department of the Navy					
Research, Development, Test and Evaluation, Navy (07-20-1319 -X-1-051-A; 17-1319)	1985				
Budget Authority		10,065,239	493,197	10,065,239	493,197
Unobligated Balances		423,653	20,759	423,653	20,759
Unobligated Balances Available for Transfer		0	0	**188,000**	**9,212**
Outlays		5,374,962	263,373	**5,471,301**	**268,094**
Department of the Army					
Research, Development, Test and Evaluation, Army (07-20-2040 -X-1-051-A; 21-2040)	1985				
Budget Authority		4,798,172	235,110	4,798,172	235,110
Unobligated Balances		387,169	18,971	387,169	18,971
Unobligated Balances Available for Transfer		0	0	**96,130**	**4,710**
Outlays		2,657,516	130,218	**2,706,783**	**132,632**

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 1: Revised Defense Budget Accounts (continued)
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO Base	OMB/CBO Sequester	GAO Base	GAO Sequester
Department of the Air Force					
Research, Development, Test and Evaluation, Air Force (07-20-3600-X-1051-A,57-3600	1985				
Budget Authority		13,718,208	672,192	13,718,208	672,192
Unobligated Balances		1,484,651	72,748	1,484,651	72,748
Unobligated Balances Available for Transfer		0	0	264,000	12,936
Outlays		7,373,325	361,293	7,501,364	367,567

Unobligated Balances Available for Transfer - PPA Listing

Additions and changes are also required in the defense PPA listing to reflect the addition of the $6.3 billion in unobligated balances available for transfer to the sequesterable base. Items in Table A-2 represent new lines which are added to the PPA listing at the indicated point. Each entry identifies the page in the Federal Register and the account where the new line is inserted.

Appendix A
Changes Required from the Report of OMB and CBO

Table A-2: Required Changes in Defense Program, Project and Activity Listing
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	Fiscal Year	Unoblig. Bal. Avail. for Transfer	Sequester	Outlay Reduction
Department of the Navy					
Aircraft Procurement, Navy (07-15-1506 -X-1-051-A; 17-1506)	2122	1984	60,800	2,979	265
		1985	490,500	24,035	2,139
Subtotal			551,300	27,014	2,404
Weapons Procurement, Navy (07-15-1507 -X-1-051-A; 17-1507)	2125	1985	15,000	735	79
Shipbuilding and Conversion, Navy (07-15-1611 -X-1-051-A; 17-1611)	2127	1982	391,600	19,188	1,196
	2129	1983	691,300	33,874	2,111
		1984	398,600	19,531	1,217
		1985	517,800	25,372	1,582
Subtotal			1,999,300	97,965	6,106
Other Procurement, Navy (07-15-1810 -X-1-051-A; 17-1810)	2145	1984	75,790	3,714	399
		1985	200,693	9,834	1,057
Subtotal			276,483	13,548	1,456
Procurement, Marine Corps (07-15-1109-X-1-051-A; 17-1109)	2148	1985	47,717	2,338	225
Department of the Army					
Aircraft Procurement, Army (07-15-2031 -X-1-051-A; 21-2031)	2094	1985	117,900	5,777	867
Missile Procurement, Army (07-15-2032-X-1-051-A; 21-2032)	2095	1984	10,100	495	36
		1985	56,400	2,764	201
Subtotal			66,500	3,259	237

Appendix A
Changes Required from the Report of OMB and CBO

Table A-2: Required Changes in Defense Program, Project and Activity Listing (continued)
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	Fiscal Year	Unoblig. Bal. Avail. for Transfer	Sequester	Outlay Reduction
Other Procurement,Army					
(07-15-2035 -X-1-051-A; 21,2035)	2118	1984	81,000	3,969	317
		1985	176,500	8,649	692
Subtotal			257,500	12,618	1,009
Procurement of Weapons and Tracked Combat Vehicles, Army					
(07-15-2033 -X-1-051-A; 21-2033)	2097	1984	336,500	16,489	736
		1985	253,800	12,436	555
Subtotal			590,300	28,925	1,291
Procurement of Ammunition, Army					
(07-15-2034 -X-1-051-A; 21-2034)	2101	1984	30,400	1,490	402
		1985	147,700	7,237	1,955
Subtotal			178,100	8,727	2,357
Department of the Air Force					
Aircraft Procurement,Air Force					
(07-15-3010 -X-1-051-A; 57-3010)	2151	1984	246,400	12,074	829
		1985	864,000	42,336	2,906
Subtotal			1,110,400	54,410	3,735
Missile Procurement, Air Force					
(07-15-3020 -X-1-051-A; 57-3020)	2154	1984	29,400	1,441	342
		1985	53,400	2,617	621
Subtotal			82,800	4,058	963
Other Procurement, Air Force					
(07-15-3080 -X-1-051-A; 57-3080)	2168	1984	94,127	4,612	2,200
		1985	253,349	12,414	5,921
Subtotal			347,476	17,026	8,121

Appendix A
Changes Required from the Report of OMB and CBO

Table A-2: Required Changes in Defense Program, Project and Activity Listing (continued)
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	Fiscal Year	Unoblig. Bal. Avail. for Transfer	Sequester	Outlay Reduction
Defense Agencies					
Procurement, Defense Agencies (07-15-0300 -X-1-051-A; 97-0300)	2170	1984	15,000	735	188
		1985	21,000	1,029	264
Subtotal			36,000	1,764	452
Research, Development, Test and Evaluation, Defense Agencies (07-20-0400-X-1-051-A; 97-0400)	2220	1985	82,000	4,018	1,857
Department of the Navy					
Research, Development, Test and Evaluation, Navy (07-20-1319-X-1-051-A; 17-1319)	2189	1985	188,000	9,212	4,721
Department of the Army					
Research, Development, Test and Evaluation, Army (07-20-2040-X-1-051-A; 21-2040)	2176	1985	96,130	4,710	2,414
Department of the Air Force					
Research, Development, Test and Evaluation, Air Force (07-20-3600-X-1-051-A; 57-3600)	2206	1985	264,000	12,936	6,274

Omitted Pages from OMB/CBO Report

Three pages were omitted from the OMB/CBO report to the Comptroller General and the Federal Register publication of that report. The missing pages should have been included after page 2145 of the report as published in the Federal Register and are set out in the following three pages of this report.

Appendix A
Changes Required from the Report of OMB and CBO

Table A-3: Omitted Pages from OMB/CBO Report

DEPARTMENT OF THE NAVY
GRAMM/RUDMAN/HOLLINGS REDUCTION

APPROPRIATION: 1109N Procurement Marine Corps (Rate of Reduction*: 4.9%)

Title	FY 1984 Base	FY 1984 Reduction	FY 1985 Base	FY 1985 Reduction	Subtotal 1984/1985 Reduction	FY 1986 Base	FY 1986 Reduction	Total Reduction	Outlays
	THOUSANDS OF DOLLARS								
LINEAR CHARGES, ALL TYPES	0	0	0	0	0	3,194	- 181	- 181	- 17
SMALL ARMS AMO, ALL TYPES	21	- 1	1	- 0	- 1	9,648	- 548	- 549	- 53
MACHINE GUN AMMO, ALL TYPES	0	0	47	- 2	- 2	34,932	- 1,984	- 1,986	- 191
MORTAR AMMO, ALL TYPES	0	0	93	- 5	- 5	33,289	- 1,891	- 1,896	- 182
GRENADES, ALL TYPES	0	0	0	0	0	2,202	- 125	- 125	- 12
ROCKETS, ALL TYPES	0	0	0	0	0	57,240	- 3,251	- 3,251	- 313
TRAINING AMMO, ALL TYPES	0	0	0	0	0	28,967	- 1,645	- 1,645	- 158
155MM AMMO, ALL TYPES 2/	6	- 0	0	0	0	239,600	-11,740	-11,740	-1,130
155MM PROJ COPPERHEAD	0	0	20	- 1	- 1	52,100	- 2,959	- 2,960	- 285
8 INCH AMMO, ALL TYPES	0	0	0	0	0	11,238	- 638	- 638	- 61
FUZES, ALL TYPES	0	0	422	- 21	- 21	31,259	- 1,775	- 1,796	- 173
AMMO MOD	661	- 32	7,107	- 348	- 380	5,718	- 325	- 705	- 68
ITEMS LESS THAN $900K	366	- 18	1,351	- 66	- 84	4,507	- 256	- 340	- 33
LVT7 WPN SYSTEM	6,976	- 342	204	- 10	- 352	0	0	- 352	- 34
LVT7 SERVICE LIFE EXT PROG	7,857	- 386	14,926	- 731	- 1,117	0	0	- 1,117	- 107
LIGHT ARMORED VEHICLE	32,219	- 1,581	46,944	- 2,299	- 3,880	0	0	- 3,880	- 373
SPARES AND REPAIR PARTS	3,189	- 156	3,626	- 178	- 334	0	0	- 334	- 32
MODIFICATION KITS (TRKD VEH)	2,561	- 126	516	- 25	- 151	1,093	- 62	- 213	- 20
M60 MINE PLOW	0	0	321	- 16	- 16	0	0	- 16	- 2
RECOVERY VEHICLE M88	0	0	0	0	0	4,544	- 258	- 258	- 25
BRIDGE, ARMORED VEH LAUNCHED	0	0	0	0	0	8,640	- 491	- 491	- 47
ITEMS LESS THAN $900K (TRKD VEH)	0	0	36	- 2	- 2	1,479	- 84	- 86	- 8
POS AZIMUTH DETERM SYS (PADS)	0	0	0	0	0	26,345	- 1,496	- 1,496	- 144
M198 155MM HOWITZER 2/	0	0	0	0	0	28,000	-1,372	-1,372	-132
SPARES AND REPAIR PARTS	38	- 2	197	- 10	- 12	0	0	- 12	- 1
ITEMS LESS THAN $900K (ATL-OTH)	75	- 4	963	- 47	- 51	1,869	- 106	- 157	- 15
M2 MACHINE GUN, CAL. 60	125	- 6	0	0	- 6	0	0	- 6	- 1
9MM HANDGUN	0	0	0	0	0	2,970	- 169	- 169	- 16

*Actual rate applied to all PPAs not exempt/limited: FY 1986, 5.7%
1/ Exempted from sequester
2/ Congressional Add 10% or greater. Reduction will be 4.9%

Appendix A
Changes Required from the Report of OMB and CBO

Table A-3: Omitted Pages from OMB/CBO Report

DEPARTMENT OF THE NAVY
GRAMM/RUDMAN/HOLLINGS REDUCTION

APPROPRIATION: 1109N Procurement Marine Corps (Rate of Reduction*: 4.9%)

Title	THOUSANDS OF DOLLARS								
	FY 1984 Base	FY 1984 Reduction	FY 1985 Base	FY 1985 Reduction	Subtotal 1984/1985 Reduction	FY 1986 Base	FY 1986 Reduction	Total Reduction	Outlays
ORD VEH SUP EQ	0	0	507	- 25	- 25	0	0	- 25	- 2
MACHINE GUN, AUTO SAW 5.56MM	0	0	0	0	0	0	0	0	0
M-16 5.56MM RIFLE	670	- 33	0	0	- 33	14,093	- 800	- 833	- 80
MK-19 40MM MACHINE GUN	0	0	1,337	- 65	- 65	1,000	- 57	- 122	- 12
EOD EQUIPMENT	178	- 9	97	- 5	- 14	717	- 41	- 55	- 5
MORTAR, MED EXTENDED RANGE	0	0	0	0	0	0	0	0	0
SMAW 81MM ROCKET	295	- 14	27	- 1	- 15	4,676	- 266	- 281	- 27
HAWK	0	0	35	- 2	- 2	139,976	- 7,950	- 7,952	- 765
HAWK MOD	0	0	30	- 1	- 1	39,098	- 2,221	- 2,222	- 214
STINGER	0	0	0	0	0	59,397	- 3,373	- 3,373	- 324
TOW	1,467	- 72	0	0	- 72	39,505	- 2,244	- 2,316	- 223
SPARES AND REPAIR PARTS	138	- 7	6,580	- 322	- 329	0	0	- 329	- 32
MODIFICATION KITS	0	0	0	0	0	712	- 40	- 40	- 4
MANPACK RADIOS AND EQUIP	3,330	- 163	548	- 27	- 190	12,656	- 719	- 909	- 87
VEHICLE MTD RADIOS & EQUIPMENT	372	- 18	5,492	- 269	- 287	10,592	- 602	- 889	- 85
UNIT LEVEL CIRCUIT SWITCH (ULCS)	0	0	7,395	- 362	- 362	12,600	- 716	- 1,078	- 104
ULCS LIFE CYCLE SUPPORT	0	0	0	0	0	15,361	- 872	- 872	- 84
TACT COMM CENTER EQUIP	0	0	1,540	- 75	- 75	3,970	- 225	- 300	- 29
SB-3614(V)TT AUTO TEL SWITCHBOARD	0	0	878	- 43	- 43	0	0	- 43	- 4
AN/UGC-74A DATA COMM TERMINAL	1,313	- 64	0	0	- 64	0	0	- 64	- 6
AN/PSG( ) DIGITAL COMM TERMINAL	5,287	- 259	3,019	- 148	- 407	0	0	- 407	- 39
AN/USM-323 GEN SGNL, ELECTRONIC	0	0	1,018	- 50	- 50	5,580	- 317	- 367	- 35
AUTO TEST EQUIP SYS	0	0	3,464	- 170	- 170	5,186	- 295	- 465	- 45
SHOP SET ELECTRONIC	0	0	0	0	0	5,306	- 301	- 301	- 29
ELECTRONIC TEST EQUIP (TEL)	4,312	- 212	7,188	- 352	- 564	1,000	- 57	- 621	- 60
PP-7333 POWER SUPPLY	0	0	0	0	0	3,813	- 217	- 217	- 21
AN/TRQ-35(V)TACTICAL FREQ MANAGEMENT	0	0	351	- 17	- 17	0	0	- 17	- 2
TACT FACSIMILE SET AN/GXC-7	0	0	21	- 1	- 1	6,725	- 382	- 383	- 37

*Actual rate applied to all PPAs not exempt/limited: FY 1986, 5.7%
1/ Exempted from sequester
2/ Congressional Add 10% or greater. Reduction will be 4.9%

Appendix A
Changes Required from the Report of OMB and CBO

Table A-3: Omitted Pages from OMB/CBO Report

DEPARTMENT OF THE NAVY
GRAMM/RUDMAN/HOLLINGS REDUCTION

APPROPRIATION: 1109N Procurement Marine Corps (Rate of Reduction* - 4.9%)

Title	FY 1984 Base	FY 1984 Reduction	FY 1985 Base	FY 1985 Reduction	Subtotal 1984/1985 Reduction	FY 1986 Base	FY 1986 Reduction	Total Reduction	Outlays
	THOUSANDS OF DOLLARS								
ANDVT/TACTERM	0	0	0	0	0	1,513	- 86	- 86	- 8
TIME DIVERSITY MODEM MX-() (TL)	0	0	2,151	- 105	- 105	0	0	- 105	- 10
TEST CALIB + MAINT SPT	580	- 28	1,217	- 60	- 88	1,000	- 57	145	- 14
SPARES AND REP PARTS(TEL)	2,742	- 135	14,040	- 687	- 822	0	0	- 822	- 79
INITIAL SPARES (TEL)	0	0	0	0	0	0	0	0	0
MODIFICATION KITS (TEL)	6,091	- 299	5,852	- 287	- 586	3,600	- 204	- 790	- 76
ITEMS LESS THAN $900K (TEL)	684	34	3,110	152	186	927	53	239	23
POS LOCATING RPTG SYSTEM (PLRS)	11,235	- 551	8,498	416	- 967	51,484	2,924	3,891	- 374
TACTICAL AIR OPER MODULE (TAOM)	0	0	0	0	0	75,300	- 4,277	4,277	- 411
AN/TPS-69 DECOY	0	0	10,403	- 509	- 509	6,109	347	856	82
AN/PPN-19 RADAR TRANSPONDER	0	0	5,518	- 270	- 270	13,129	746	1,016	98
REMOTE SENSOR EQUIPMENT	0	0	0	0	0	691	39	39	4
AN/TPB-1D RADAR BOMB DIRECTING SET	1,471	- 72	0	0	72	0	0	72	7
AUTOMATIC ATMOSPHERIC SNDG SET	2,259	- 111	7,745	- 379	490	0	0	490	47
AIRBORNE RADIO DIRECTION FINDER	0	0	0	0	0	0	0	0	0
METEORLOGICAL DATA SYSTEM	0	0	0	0	0	13,338	758	758	73
ELECTRONIC TEST EQUIP (NONTEL)	5,463	- 268	8,452	- 414	682	1,000	- 57	739	71
MECH TEST MOD	0	0	2,545	- 125	125	0	0	125	- 12
PP-7286 BATTERY CHARGER	1,638	- 80	806	39	119	0	0	119	- 11
MOD UNIV LASER EQUIP (MULE)	6,119	300	4,033	197	497	0	0	497	- 48
NIGHT VISION EQUIPMENT	2,766	- 136	8,226	403	- 539	10,473	595	1,134	- 109
PROD ENHANCEMENT	0	0	8,588	421	421	516	29	450	43
ADP EQUIPMENT	1,072	53	5,548	272	325	15,016	853	1,178	- 113
TEST CALIB & MAINT SPT (NON-TEL	418	- 21	1,022	50	71	1,582	90	161	- 15
SPARES AND REPAIR PARTS	1,293	63	11,913	583	646	0	0	646	62
MODIFICATION KITS (NONTEL)	10,478	514	7,195	352	866	8,433	479	1,345	129
ITEMS LESS THAN $900K (NONTEL)	306	15	468	23	38	388	22	60	6

*Actual rate applied to all PPAs not exempt/limited FY 1986, 5.7%
1/ Exempted from sequester
2/ Congressional Add 10% or greater Reduction will be 4.9%

Appendix A
Changes Required from the Report of OMB and CBO

Part II-Non-Defense Programs

The changes listed below are required with respect to the items and amounts shown for non-defense programs for fiscal year 1986 in the OMB/CBO report Page numbers refer to the report as published in the Federal Register on January 15,1986. In the tables, items which are changed are indicated in bold type.

House of Representatives
Restaurant Fund (Revolving Fund)

The OMB/CBO report included the Restaurant Fund in the listing of accounts subject to sequester. We have deleted the fund from that listing. The fund does not receive appropriations in annual Legislative Branch Appropriation Acts and does not have a designated budget account identification code number in the appendix to the President's budget. Therefore it is not an account subject to sequester under the Act.

Inclusion of Unobligated Balances In the Sequesterable Base

In a number of accounts, both OMB and CBO have included within the sequesterable base administrative expenses financed by prior year unobligated balances. We have deleted these amounts from the sequesterable base and from the amounts to be sequestered, as shown in Table A-4.

Section 256(b) of the Act states that administrative expenses of federal departments and agencies (including independent agencies) are subject to sequestration "without regard to any exemption, exception, limitation, or special rule" otherwise applicable.

We do not consider section 256(b) to expand the categories of obligational authority subject to reduction under a Presidential sequestration order. These categories are clearly delineated in the Act. For non-defense accounts, they are: new budget authority, new loan guarantee commitments, new direct loan obligations, obligation limitations, and spending authority. Unobligated balances are not subject to sequestration in non-defense accounts.

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 4: Unobligated Amounts For Administrative Expenses
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO Base	OMB/CBO Sequester	GAO Base	GAO Sequester
Funds Appropriated to the President					
Agency for International Development					
Housing and Other Credit Guaranty Programs (04-14-4340 -X-3-151-A; 72-4340)	1960				
Budget Authority		0	0	0	0
Guaranteed Loan Limitation		152,000	6,536	152,000	6,536
Unobligated Balances - Admin		6,048	260	0	0
Outlays		4,536	195	0	0
Overseas Private Investment Corporation					
Overseas Private Investment Corporation (04-20-4030 -X-3-151-A; 71-4030)	1961				
Direct Loan Limitation		14,250	613	14,250	613
Guaranteed Loan Limitation		142,500	6,128	142,500	6,128
Unobligated Balances - Admin		12,400	533	0	0
Outlays		14,630	629	2,850	123
Department of Commerce					
General Administration					
Salaries and Expenses (06-05-0120 -X-1-376-A, 13-0120)	1976				
Budget Authority		32,300	1,389	32,300	1,389
Unobligated Balances - Admin.		4,622	199	0	0
Outlays		35,579	1,530	30,957	1,331

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 4: Unobligated Amounts For Administrative Expenses
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO Base	OMB/CBO Sequester	GAO Base	GAO Sequester
Department of Commerce					
National Oceanic and Atmospheric Administration					
Federal Ship Financing Fund, Fishing Vessels (06-48-4417 -X-3-376-A; 13-4417)	1979				
Guaranteed Loan Limitation		35,000	1 505	35,000	1,505
Unobligated Balances - Admin		1,261	54	0	0
Outlays		1,261	54	0	0
Fishing Vessel and Gear Damage Compensation Fund (06-48-5119 -X-2-376-A 13-5119)	1979				
Budget Authority		0	0	0	0
Unobligated Balances - Admin.		237	10	0	0
Outlays		237	10	0	0
Fishermen's Contingency Fund (06-48-5120 -X-2-376-A; 13-5120)	1979				
Budget Authority		750	32	750	32
Unobligated Balances - Admin		60	3	0	0
Outlays		649	28	589	25
Department of Defense-Civil					
Corps of Engineers- Civil					
General Expenses (08-10-3124 -X-1-301-A; 96-3124)	1989				
Budget Authority		107,000	4,601	107,000	4,601
Unobligated Balances - Admin.		3,377	145	0	0
Outlays		92,362	3,972	88,985	3,826

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 4: Unobligated Amounts For Administrative Expenses
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Department of Education					
Office of Postsecondary Education					
College Housing Loans (18-40-4250 -X-3-502-A; 91-4250)	1993				
Direct Loan Limitation		60,000	2,580	60,000	2,580
Unobligated Balances - Admin.		4,097	176	0	0
Outlays		1,192	51	0	0
Department of Energy					
Energy Production					
Alternative Fuels Production (19-20-5180 -X-2-271-A; 89-5180)	1996				
Unobligated Balances - Admin.		202	9	0	0
Outlays		202	9	0	0
Power Marketing Administration					
Operation and Maintenance Southeastern Power Admin. (19-50-0302 -X-1-271-A; 89-0302)	1996				
Unobligated Balances - Admin		1,033	44	0	0
Outlays		909	39	0	0
Environmental Protection Agency					
Hazardous Sub Resp. Trust Fund (20-00-8145 -X-7-304-A, 20-8145)	2043				
Budget Authority		900,000	38,700	900,000	38,700
401(C) Authority - Off Coll.		9,261	398	9,261	398
Unobligated Balances - Admin		39,458	1,697	0	0
Outlays		210,428	9,048	176,511	7,590

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 4: Unobligated Amounts For Administrative Expenses
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Department of Housing and Urban Development					
Government National Mortgage Association					
Management and Liquidating Functions Fund (25-04-4016 -X-3-371-A; 86-4016)	2007				
401(C) Authority - Off Coll.		0	0	0	0
Unobligated Balances - Admin		1,047	45	0	0
Outlays		1,047	45	0	0
Rehabilitation Loan Fund (25-4036 -X-3-451-A; 86-4036)	2009				
Direct Loan Limitation		85,000	3,655	85,000	3,655
Unobligated Balances - Admin		19,700	847	0	0
Outlays		75,700	3,255	56,000	2,408
Department of Health and Human Services					
Social Security Administration					
Child Support Enforcement (09-60-0430 X-1-609-A, 75-0430)	2004				
Budget Authority		610,419	26,248	610,419	26,248
401(C) Authority - Off Coll		61	3	61	3
Unobligated Balances - Admin		1,176	51	0	0
Outlays		604,424	25,990	603,248	25,940

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 4: Unobligated Amounts For Administrative Expenses
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Department of Health and Human Services					
Social Security Administration					
Federal Old-age and Survivors Insurance Trust Fund (09-60-8006 X-7-571-A, 20-8006)	2004				
Obligation Limitation		1,956,770	84,141	1,835,482	78,926
Outlays		1,544,467	66,412	1,504,467	64,692
Department of Justice					
Office of Justice Programs					
Justice Assistance (11-21-0401 -X-1-754-A, 15-0401)	2022				
Budget Authority		203,982	8,771	203,982	8,771
Unobligated Balances - Admin		3,443	148	0	0
Outlays		75,971	3,267	75,528	3,119
Department of Treasury					
Financial Management Service					
Energy Security Reserve (15-10-0112 -X-1-271-A, 20-0112)	2038				
Unobligated Balances Admin		3,000	129	0	0
Outlays		3,000	129	0	0

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 4: Unobligated Amounts For Administrative Expenses
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Small Business Administration					
Salaries and Expenses (28-00-0100 -X-1-376-A; 73-0100)	2051				
Budget Authority		208,800	8,978	208,000	8,978
401(C) Authority - Off. Coll.		0	0	0	0
Unobligated Balances -Admin.		90,000	3,870	0	0
Outlays		241,278	10,375	151,278	6,505
White House Conference on Small Business (28-00-0104 -X-1-376-A; 73-0104)	2051				
Budget Authority		2,700	116	2,700	116
Unobligated Balances - Admin.		956	41	0	0
Outlays		3,168	136	2,212	95
Other Independent Agencies					
Other Historical and Memorial Agencies					
Christopher Columbus Quincentennary Jubilee Commission (31-05-0800 -X-1-376-A; 31-0800)	2063				
Unobligated Balances - Admin.		199	9	0	0
Outlays		175	8	0	0

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 4: Unobligated Amounts For Administrative Expenses
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO Base	OMB/CBO Sequester	GAO Base	GAO Sequester
Other Independent Agencies					
National Endowment for the Arts					
Grants and Administration (31-35-0100 -X-1 503-A; 59-0100)	2068				
Budget Authority		165,661	7,123	165,661	7,123
Unobligated Balances -Admin.		197	8	0	0
Outlays		56,587	2,433	56,567	2,432
Railroad Retirement Board					
Milwaukee Railroad Restructuring Administration (32-20-0108 -X-1-603-A; 60-0108)	2072				
Unobligated Balances - Admin.		243	10	0	0
Outlays		43	2	0	0

Agricultural Credit Insurance Fund
Rural Housing Insurance Fund

The OMB/CBO report did not include the amounts used for administrative expenses in the sequesterable base for these accounts. We have included the administrative expenses of these accounts in the sequesterable base and determined the required sequester, as shown inTables A-5 and A-6.

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 5: Farmers Home Administration
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Agricultural credit insurance fund (05-75-4140 -X-3-351-A. 12-4140)	1970				
Budget Authority		120,000	5,160	120,000	5,160
Direct Loan Limitation		3,342,000	143,706	3,342,000	143,706
Guaranteed Loan Limitation		1,956,000	84,108	1,956,000	84,108
Obligation Limitation		0	0	75,769	3,258
Outlays		2,060,000	88,580	2,135,769	91,838

Table A- 6: Farmers Home Administration
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Rural housing fund (05-75-4141 -X-3-371-A. 12-4141)	1970				
Direct Loan Limitation		2,127,600	91,487	2,127,600	91,487
Obligation Limitation		167,513	7,203	223,513	9,611
Outlays		1,145,764	49,268	1,201,764	51,676

National Bureau of Standards, Working Capital Fund

The report of OMB and CBO does not identify any sequesterable amount for this intragovernmental fund. We have identified as sequesterable the appropriation made to the fund because the Act provides that direct appropriations to intragovernmental funds are subject to sequester. We also specified the sequester amount for this appropriation.

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 7: National Bureau of Standards
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO Base	OMB/CBO Sequester	GAO Base	GAO Sequester
Working capital fund (06-52-4650 -X-4-376-A, 13-4650)	1980				
Budget Authority		0	0	2,102	90
Obligation Limitation		0	0	0	0
Outlays		0	0	1,577	498

Federal Subsidy for St. Elizabeths Hospital

The OMB/CBO report included a $25,000,000 payment from the District of Columbia in the amount subject to sequester in this account. We have deleted this payment from the sequesterable base because it is also subject to sequester in the District of Columbia's account for the Transitional Payment for Saint Elizabeths Hospital. In our view the payment should be treated like a payment from another federal account, and therefore exempt from the sequesterable base in this account, in order to avoid duplication of the sequester.

Table A- 8: Alcohol, Drug Abuse, & Mental Health Administration
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO Base	OMB/CBO Sequester	GAO Base	GAO Sequester
Federal subsidy for St Elizabeths Hospital (09-30-1300 -X-1-1551-A, 75-1300)	2001				
Budget Authority		43,696	1,879	43,696	1,879
401(C) Authority - Off Coll		67,827	2,917	42,827	1,842
Outlays		111,523	4,795	86,523	3,720

Appendix A
Changes Required from the Report of OMB and CBO

Comptroller of the Currency

The OMB/CBO report identified $164.9 million as sequesterable authority in this account. We have concluded that this does not fully reflect the resources of the Comptroller of the Currency that should be considered sequesterable. Accordingly, we have increased the sequesterable total and amount of sequester.

Table A- 9: Comptroller of the Currency
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Assessment fund (15-57-8413 X-8-376-A, 20-8413)	2042				
401(C) Authority		164,903	7,091	188,818	8,119
401(C) Authority - Off Coll		0	0	9,382	403
Outlays		162,490	6,987	195,227	8,395

District of Columbia Appropriation Act

The OMB/CBO report combined appropriations for the District of Columbia under six different headings into one account and determined a single sequesterable base and required sequester for the account. We have placed the appropriations under the six headings in six separate accounts and determined the sequesterable base and required sequester for each because the Act defines an account as "an item for which appropriations are made in any appropriation Act." We believe the six separate headings under which appropriations are made for the District of Columbia are items which must be treated as separate accounts for purposes of the Act.

In the case of the account for the Federal Payment for the District of Columbia, most of the sequesterable base in the account has been obligated and the unobligated balance remaining is less than what would otherwise be the required sequester. Therefore, because the Act precludes sequestering obligated balances in non-defense programs, the required sequester for this account is the amount of the remaining unobligated balance.

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 10: District of Columbia
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Federal payment to the District of Columbia (30-43-1700 -X-1-852-A; 20-1700)	2059				
Budget Authority		546,780	23,512	507,170	15,050
Outlays		546,780	23,512	507,170	15,050
Transitional payment for St. Elizabeth's Hospital (30-43-1700 -X-1-852-A; 20-1700)	2059				
Budget Authority		0	0	25,000	1,075
Outlays		0	0	25,000	1,075
Criminal justice initiative (30-43-1700 -X-1-852-A; 20-1700)	2059				
Budget Authority		0	0	13,860	596
Outlays		0	0	13,860	596
Student dropout prevention (30-43-1700 -X-1-852-A; 20-1700)	2059				
Budget Authority		0	0	150	6
Outlays		0	0	150	6
Job training initiative (30-43-1700 -X-1-852-A; 20-1700)	2059				
Budget Authority		0	0	500	22
Outlays		0	0	500	22
Court study (30-43-1700 -X-1-852-A, 20-1700)	2059				
Budget Authority		0	0	100	4
Outlays		0	0	100	4

Appendix A
Changes Required from the Report of OMB and CBO

Corporation for Public Broadcasting

This account was not included in the OMB/CBO report. Because the account is not otherwise exempt, we have specified budget authority and outlays subject to sequester. We have not included any amount for actual sequester, however, as the appropriation has been completely obligated and disbursed.

Table A- 11: Corporation for Public Broadcasting
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Public broadcasting (30-42-0151 -X-1-554-A, 20-0151)	2059				
Budget Authority		N/A	N/A	159,500	0
Outlays		N/A	N/A	159,500	0

Federal Deposit Insurance Corporation

The report of OMB and CBO did not fully identify the administrative amounts subject to sequestration. Our revision adds administrative amounts funded by offsetting collections from non-federal sources.

Table A- 12: Federal Deposit Insurance Corporation
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Federal Deposit Insurance Corporation (30-64-8419 -X-8-371-A, 51-8419)	2060				
401(c) Authority		187,118	8,046	187,118	8,046
401(C) Authority - Off Coll		0	0	8,158	351
Outlays		187,118	8,046	195,276	8,397

Appendix A
Changes Required from the Report of OMB and CBO

United States Customs Service,
Miscellaneous Permanent Appropriations

The OMB/CBO report did not include the full amount of budget resources provided for this account. Because the account is not otherwise exempt, we have revised the amount of the sequesterable base and the amount of the sequester.

Table A- 13: United States Customs Service
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO Base	OMB/CBO Sequester	GAO Base	GAO Sequester
Miscellaneous permanent appropriations (15-15-9922 -X-852-A, 20-9922)	2040				
Budget Authority		0	0	105,000	4,515
Obligation Limitation		20,449	879	0	0
Outlays		20,449	879	105,000	4,226

Internal Revenue Collections
For Puerto Rico

This account was not included in the OMB/CBO report. Because the account is not otherwise exempt, we have specified budget authority subject to sequester, and the amount of the sequester.

Table A- 14: Internal Revenue Service
(n thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO Base	OMB/CBO Sequester	GAO Base	GAO Sequester
Internal revenue collections for Puerto Rico (15-45-5737 -X-2-852 A, 20-5737)	2040				
Budget Authority		0	0	245,000	10,535
Outlays		0	0	245,000	10,535

Appendix A
Changes Required from the Report of OMB and CBO

Washington Metropolitan Area Transit Authority

According to the OMB/CBO report, the two directors were unable to resolve a conceptual issue regarding the federal payment of interest on federally guaranteed bonds issued by the Washington Metropolitan Area Transit Authority (WMATA). CBO takes the position that the WMATA payment is exempt from sequestration because it is already obligated under an existing contract authorized by law and fully funded by an appropriation act. CBO also considers the payment to be exempt because the government's bond guarantee obligation may be enforced through court action, a judgment from which would be exempt from sequestration under the Act. OMB, while agreeing that obligated balances are exempt from sequestration, does not consider the WMATA account to be exempt because payment is contingent upon the availability of appropriations and because all of the fiscal year 1986 payment has not been obligated. In our view, the entire federal interest payment to WMATA is obligated. Therefore, while the program is in the sequesterable base, it is not subject to sequester.

Section 256(l) of the Act provides that "obligated balances" (with certain exceptions relating to existing defense contracts) shall not be subject to reduction under a sequestration order of the President. OMB's regulations describe the term "obligated balances" as representing "net unpaid obligations that will result ultimately in budget outlays of the account being reported." "Obligations" reflect the amount of "orders placed, contracts awarded, services received, and similar transactions that will require payment."

The decisions of the Comptroller General make it clear that an obligation of funds arises from the establishment of a legal commitment to pay, whether by contract or by operation of law. The obligation takes place at the time of the legal commitment itself, even though actual payment may not be required until some time in the future. This is true regardless of whether the obligation is formally recorded.

In the present case, the Secretary of Transportation, in accordance with specific authority provided by the National Capital Transportation Amendments of 1979 (Public Law 96-184), has entered into a formal agreement with WMATA to pay two-thirds of the aggregate interest, principal, and other debt service costs of bonds issued by WMATA. The agreement specifies that the federal payment is to be made in accordance with schedules and in amounts set out in the agreement. The agreement further provides that the "financial obligations" of the United States are conditional on compliance with the Antideficiency Act (31 U.S.C. 1341).

The condition to which the government's contractual obligation is subject has been met. Included in the Department of Transportation and Related Agencies Appropriations Act, 1986, is an appropriation of $51,663,569 to WMATA for "necessary expenses for interest payments," to be disbursed pursuant to the 1979 legislation and the agreement. Regardless of whether the obligation has been recorded in the account, the government's legal obligation under the agreement was established as of the time of the appropriation.

Appendix A
Changes Required from the Report of OMB and CBO

Table A- 15: Washington Metropolitan Area Transit Authority
(in thousands of dollars)

Account Title, Category	Federal Register Page No.	OMB/CBO		GAO	
		Base	Sequester	Base	Sequester
Interest Payments (31-14-0300 -X-1-401-A, 46-0300)	2040				
Budget Authority		25,832	1,111	51,664	0
Outlays		25,832	1,111	51,664	0

Appendix B

Economic Assumptions

GAO's Responsibility

The Balanced Budget and Emergency Deficit Control Act of 1985 requires that the Comptroller General report his estimate of real economic growth for the fiscal year, for each quarter within the fiscal year, and for the two quarters preceding the fiscal year.

GAO estimates real economic growth in the second and third quarters of calendar 1985 (the two quarters immediately preceding fiscal year 1986) to have been 1.1 percent and 3.0 percent respectively. GAO estimates real growth in the fourth quarter of calendar 1985, (the first quarter of fiscal year 1986) to have been 3.2 percent. Each of these estimates represents the most recent estimate released by the Department of Commerce.

GAO estimates that real growth in each of the first three calendar quarters of 1986 (the last three quarters of fiscal 1986) will fall within a range, the midpoint of which is 3.0 percent, and that real growth for fiscal 1986 as a whole will fall within a range, of which 2.85 percent is the midpoint. GAO does not expect two consecutive quarters of negative real growth.

GAO analyzed current economic conditions and reviewed current estimates of future trends. On the basis of this analysis, GAO concluded that no set of economic assumptions that might have been adopted for estimating the budget deficit would have resulted in a deficit of less than $191.9 billion--the smallest deficit estimate necessary to trigger the maximum possible sequester this year. Since using our own economic assumptions would not have affected either the aggregate amount needed to be sequestered or the distribution of sequesters in fiscal year 1986, GAO did not develop an independent economic forecast.

The Act requires the Comptroller General to develop his estimates with due regard for the data, assumptions, and methodologies used in reaching the conclusions set forth in the report submitted by OMB and CBO. Although we did not develop our own set of assumptions for this report, we did review the assumptions reported by OMB and CBO. These assumptions are shown in Table B-1.

In our review, we first examined how the accuracy of economic forecasts made by OMB and CBO in the recent past compared with the accuracy of forecasts made at similar times by private sector forecasters. Then we compared current private sector forecasts with the current OMB and CBO forecasts. The remainder of this appendix discusses these two comparisons and our conclusion about the reasonable range for estimates of real growth during fiscal year 1986.

Appendix B
Economic Assumptions

Table B-1: Economic Assumptions Reported by OMB and CBO
Fiscal Year 1986

Economic Variable	OMB Assumption	CBO Assumption
Nominal GNP (billions of current dollars)	4209	4192
Nominal GNP Growth (percent change, year over year)	6.9	6.5
Real GNP (billions of 1982 dollars)	3675	3658
Real GNP Growth (percent change, year over year)	3.5	3.0
Quarterly Real GNP Growth (percent change, annual rate)		
April-June, 1985	1.1	1.1
July-September, 1985	3.0	3.0
October-December, 1985	4.2	3.2
January-March, 1986	4.0	3.5
April-June, 1986	4.0	3.3
July-September, 1986	4.0	3.4
GNP Implicit Price Deflator (percent change, year over year)	3.3	3.4
CPI-W (percent change, year over year)	3.3	3.3
Civilian Unemployment Rate (percent, fiscal year average)	6.9	6.9
Three-Month Treasury Bill Rate (percent, fiscal year average)	7.3	6.9
Ten Year Treasury Note Rate (percent, fiscal year average)	9.2	9.2

Sources: Office of Management and Budget, Congressional Budget Office

Appendix B
Economic Assumptions

Historical Analysis

GAO reviewed past forecasts to assess relative accuracy and to seek evidence of a systematic tendency either to over predict or under predict certain key economic indicators. Data in Table B-2 show the actual behavior of these indicators and the difference between the actual value and the value forecasted by OMB, CBO, and several private sector forecasters. The private sector forecasts include those released by three individual organizations and two surveys that provide measures of the consensus of the forecasts of a larger number of individual forecasters.[1]

Table B-2 shows the prediction errors of these forecasts for the past 6 years. A positive number indicates that the value that had been forecast exceeded the actual value. The "mean error" is the simple average of the errors in each of the 6 years. The "root mean square error" is a measure of the accuracy of the forecast without regard to whether errors were positive or negative. The OMB and CBO forecasts are those released in January or early February when the President submits his budget to the Congress. The private sector forecasts are the forecasts released in January of each year (or the most recent one available in January). All comparisons focus on the accuracy of the forecast of the upcoming calendar year only.

Our analysis of the data in Table B-2 suggests several conclusions:

1. Neither OMB nor CBO has been substantially less accurate than the private sector forecasters in forecasting the upcoming year and neither has had a greater tendency to over predict or under predict than have the private sector sources. For any particular variable, mean errors of the OMB and CBO forecasts tend to be of the same sign, and both mean errors and root mean square errors tend to be of similar magnitudes, to the corresponding measure of private sector accuracy.

---

[1]The three private firms are Chase Econometrics, Inc., Data Resources, Inc., and Wharton Econometric Forecasting Associates; each produces forecasts that are used widely in business and government. The two surveys present the consensus of a broad range of informed opinion about the future course of the economy. The American Statistical Association and the National Bureau of Economic Research (ASA/NBER) jointly sponsor a survey of 25 economic forecasters in industry, finance, consulting firms, and universities. The Blue Chip Economic Indicators' survey includes about 50 economists from similar backgrounds in its panel. The results reported represent the median of the forecasts surveyed by ASA/NBER and the mean of the forecasts surveyed by Blue Chip.

Appendix B
Economic Assumptions

Table B-2: History of Forecast Errors, 1980-85
(Predicted Less Actual, Percentage Points)

Nominal GNP Growth	1980	1981	1982	1983	1984	1985[a]	Mn.[b] Error	RMS[c] Error
Actual	8.8	12.4	3.8	7.7	10.8	6.1		
Differences:								
OMB	-0.5	-1.0	4.3	-1.0	-0.7	1.7	0.5	2.0
CBO	-0.9	-0.6	3.7	-0.9	-0.5	1.2	0.3	1.7
Chase	-1.5	-1.0	3.6	-0.6	-0.9	1.6	0.2	1.8
DRI	-0.7	-1.8	3.4	-0.7	-1.1	0	-0.2	1.7
Wharton	0.1	-0.5	4.3	0	0	1.7	0.9	1.9
ASA/NBER	-1.6	-1.6	4.6	0.1	-0.6	1.7	0.4	2.2
Blue Chip	-0.8	-2.0	4.3	0.1	-0.7	1.4	0.4	2.1
Real GNP Growth								
Actual	-0.3	2.5	-2.1	3.7	6.8	2.5		
Differences:								
OMB	-0.3	-1.6	2.3	-2.3	-1.5	1.4	-0.3	1.7
CBO	-0.6	-1.2	2.0	-1.6	-1.4	1.0	-0.3	1.4
Chase	-0.9	-1.5	1.8	-1.6	-1.7	0.9	-0.5	1.4
DRI	-1.1	-2.4	1.6	-2.1	-1.5	0	-0.9	1.6
Wharton	-0.3	-0.9	1.8	-1.3	-1.2	1.3	-0.1	1.2
ASA/NBER	-1.0	-1.3	2.6	-1.3	-1.6	0.9	-0.3	1.6
Blue Chip	-0.7	-1.8	2.4	-1.2	-1.5	0.8	-0.3	1.5

Appendix B
Economic Assumptions

Table B-2 (continued)

Inflation - GNP Deflator	1980	1981	1982	1983	1984	1985[a]	Mn.[b] Error	RMS[c] Error
Actual	9.2	9.6	6.0	3.8	3.8	3.5		
Differences:								
OMB	-0.3	0.9	1.9	1.4	0.7	0.3	0.8	1.1
CBO	-0.4	0.7	1.5	0.8	0.9	0.1	0.6	0.9
Chase	-0.6	0.7	1.7	1.2	0.8	0.6	0.7	1.0
DRI	0.4	0.8	1.7	1.5	0.4	0	0.8	1.0
Wharton	0.4	0.5	2.5	1.4	1.1	0.4	1.0	1.3
ASA/NBER	-0.4	-0.1	1.9	1.5	1	0.8	0.8	1.1
Blue Chip	-0.1	0	1.7	1.3	0.9	0.6	0.7	1.0
Unemployment Rate (Civilian)								
Actual	7.1	7.6	9.7	9.6	7.5	7.2		
Differences:								
OMB[d]	-0.1	0.2	-0.8	1.3	0.4	-0.1	0.1	0.6
CBO	-0.1	0.2	-0.8	1.0	0.3	-0.1	0.1	0.5
Chase	0.1	0.5	-0.6	1.3	0.3	-0.1	0.3	0.6
DRI	0.1	0.3	-0.8	1.1	0.5	0.3	0.2	0.6
Wharton	0	0	-0.9	0.9	0.6	-0.3	0.1	0.6
ASA/NBER	0.2	0.1	-1.5	0.1	0.8	0	-0.1	0.7
Blue Chip	0.3	0.3	-1.1	0.7	0.5	0	0.1	0.6

Appendix B
Economic Assumptions

Table B-2 (continued)

Three-month Bill Rate	1980	1981	1982	1983	1984	1985	Mn.[b] Error	RMS[c] Error
Actual	11.5	14.0	10.7	8.6	9.6	7.5		
Differences:								
OMB	-1.0	-0.5	1.0	-0.6	-1.1	0.6	-0.3	0.8
CBO	-1.5	-1.5	1.3	-1.8	-0.7	0.8	-0.6	1.3
Chase	-0.8	-0.7	1.3	-1.6	-0.7	1.3	-0.2	1.1
DRI	-1.4	-1.1	0.2	-0.7	-1.0	-0.1	-0.7	0.9
Wharton	-1.2	-0.8	1.2	-1.2	-0.6	0.9	-0.3	1.0
ASA/NBER	na	na	0.8	-0.5	-0.8	2.0		
Blue Chip	na	na	0.1	-0.9	-0.8	1.1		

Note: (-) indicates underprediction
na indicates data not available

[a] 1985 actual growth rates in nominal GNP, real GNP, and GNP deflator based on December 20 "flash" estimate.
[b] Simple average of errors.
[c] Root mean square average of errors.
[d] OMB forecast the total unemployment rate for 1983-85. The difference between the actual civilian and total unemployment rates was added to OMB's forecasted value to make it comparable with the other forecasts.

2. Over this period, no one source consistently produced the most accurate forecast of all of the key indicators. If any one source can be considered to have had the most success in forecasting these indicators over these years, it is the CBO. The root mean square error of CBO's prediction is equal to or lower than that of every other source for three of the five indicators.[2] Wharton Econometric Forecasting Associates had the lowest error in forecasting real GNP, and CBO was tied for second. In forecasting the Treasury bill rate, the OMB had the lowest root mean square error.[3]

3. Forecast errors tend to result from developments that few if any forecasters anticipated, causing forecasts generally to err in the same direction. Thus, with few exceptions, the error reported in Table B-2 for every source's forecast of a particular indicator in a particular year has the same sign. For example, (except for one perfect forecast) all sources overestimated real GNP growth in 1982 and 1985, and all sources underestimated real growth in the other 4 years. Over the entire 6 year period, the mean error of all sources' forecasts of real growth was negative, while the mean error of all sources' forecasts of inflation was positive. This result is more likely a reflection of the particular events occurring in those 6 years than it is a reflection of an underlying bias in all sources' forecasting techniques.

Current Forecasts

GAO surveyed current private sector forecasts to provide one basis for evaluating the reasonableness of the current OMB and CBO forecasts. Key results of our survey are shown in Table B-3.

Compared to CBO, OMB forecasts higher real growth and higher interest rates but a slightly slower rate of growth in the GNP deflator. The real growth rates forecast by both OMB and CBO exceed those forecast by the typical private sector sources we have examined. OMB's real growth rate is 0.8 percentage points above the consensus measured in the American Statistical Association/National Bureau of Economic Research (ASA/NBER) survey, and is 0.6 percentage points above the consensus measured in the Blue Chip survey. CBO's forecasted real growth also exceeds these two measures of private sector consensus, but the gap between CBO and ASA/NBER is only 0.3 percentage points and the gap between CBO and Blue Chip is insignificant. The three commercial forecasting services expect even slower growth than is

---

[2]In these years CBO's forecasts tended to be released several weeks after the release of the other forecasts listed in this table. We do not know the extent to which this accounts for their somewhat better record.

[3]In fact, despite its relative success during these years, OMB did not claim to be forecasting interest rates. Its projections merely assumed that interest rates would rise or fall with forecasted changes in the rate of inflation.

Appendix B
Economic Assumptions

Table B-3: Comparison of Current Economic Forecasts (in Percent)

	Annual[a] 1986		
	Real GNP	GNP Deflator	Nominal GNP
1. OMB	3.5	3.3	6.9
2. CBO	3.0	3.4	6.5
3. Chase	2.3	2.9	5.3
4. DRI	2.1	3.3	5.4
5. Wharton	2.6	3.1	5.7
6. ASA/NBER	2.7	3.4	6.2
7. Blue Chip	2.9	3.2	6.1
	Unemployment Rate	3 Month Bill Rate	
1. OMB	6.9	7.3	
2. CBO	6.9	6.9	
3. Chase	7.3	6.9	
4. DRI	7.2	6.6	
5. Wharton	7.2	6.4	
6. ASA/NBER	7.1	7.1	
7. Blue Chip	7.0	7.1	

Appendix B
Economic Assumptions

Table B-3 (continued)

	Quarterly Growth[b]			
	1985 IV	1986 I	1986 II	1986 III
Real GNP				
1. OMB	4.2	4.0	4.0	4.0
2. CBO	3.2	3.5	3.3	3.4
3. Chase	2.9	1.3	1.2	3.8
4. DRI	2.9	-0.6	3.1	3.0
5. Wharton	2.8	2.0	2.6	4.2
7. ASA/NBER	3.2	2.8	2.7	3.2
8. Blue Chip	3.2	3.0	3.1	3.2

[a] For real and nominal GNP and GNP deflator, amounts shown are fiscal year over fiscal year growth rates. For unemployment and Treasury bill rates, amounts shown are fiscal year average rates.
[b] Annual Rate

reflected in the two surveys. Thus, the differences between the agencies' and the commercial services' forecasts is greater than the difference between the agencies' forecasts and the results reported in the two surveys.

The GNP deflators forecast by OMB and CBO are similar to those forecast by the commercial forecasting firms and to those contained in the surveys. Thus, most of the difference between either the OMB or the CBO forecasts of real growth and the real growth forecast by the other sources translates directly into differences in the respective forecasts of nominal GNP growth.

With respect to unemployment rates, differences between OMB and CBO as well as differences between either OMB or CBO and the commercial forecasting firms are consistent with the real growth differences noted previously: both agencies forecast slightly lower unemployment as a result of higher real growth.

The focus thus far on the relationship between the OMB and CBO forecasts and the survey averages obscures the extent of the variation in current private sector opinion about future economic activity. When the individual projections of calendar 1986 real growth reported by the 50 firms in the Blue Chip survey are divided into quintiles, the median of each quintile is:

First Quintile:	3.9 percent
Second Quintile:	3.3 percent
Third Quintile:	3.0 percent
Fourth Quintile:	2.8 percent
Fifth Quintile:	1.9 percent

In a separate announcement, the Administration has said that it expects real GNP in the fourth quarter of calendar 1986 to exceed real GNP in the fourth quarter of calendar 1985 by 4.0 percent. Together with the quarterly growth rates reported for fiscal 1986, this implies a forecast of 3.7 percent growth between calendar 1986 and calendar 1985. CBO has informed GAO that it expects 3.4 percent real growth in the fourth quarter of 1986, implying that 1986 real GNP will exceed 1985 real GNP by 3.2 percent. In the Blue Chip distribution of calendar 1986 forecasts, the OMB forecast would fall at the bottom of the first quintile and the CBO forecast would fall near the bottom of the second quintile.

In summary, the OMB and CBO real growth forecasts are well within the range of current private sector forecasts. At the same time, both agencies, but especially OMB, forecast somewhat faster real growth than is expected by either of the two measures of the private sector consensus or by any of the three commercial forecasters discussed here. Each agency's forecast of inflation is consistent with private sector forecasts, so that each agency's forecast of nominal GNP is also somewhat more optimistic than the typical private sector source. Differences with respect to unemployment are minor and are consistent with the differences in the forecasts of real growth. Finally, the OMB and CBO forecasts of interest rates seem to be consistent with current private sector thinking.

Appendix B
Economic Assumptions

Current Economic Conditions

Economic indicators continue to follow the mixed pattern that has prevailed since mid-1984, suggesting considerable uncertainty in forecasting the economy. The most likely outcome is neither brisk nor sluggish real growth during 1986.

Several positive factors suggest that a recession is unlikely:

- The deterioration in the trade balance should be behind us as a result of last year's decline in the dollar;
- Last year's rapid monetary growth and declining interest rates suggest higher real growth in 1986. In particular, lower interest rates should support renewed strength in housing starts.
- Expected further declines in oil prices should moderate inflationary expectations, giving the Federal Reserve room to respond to any weaknesses that seem to be developing.

Several negative factors make sustained and very rapid economic growth equally unlikely:

- Consumer spending has been outstripping income growth, leading to a historically low personal savings rate;
- The moderate rate of manufacturing capacity utilization and the high office and apartment vacancy rates should weaken the attractiveness of business investment. Recent surveys suggesting a decline in constant dollar capital spending during the first half of calendar 1986 may overstate the severity of the problem, but it does not now look as though fiscal year 1986 is likely to enjoy a capital spending boom.

In this environment, we believe that real growth over each of the last three quarters of fiscal 1986 is unlikely to be more than 5.0 percent or less than 1.0 percent. If we start with the Commerce Department's very preliminary estimate of a 3.2 percent real growth rate in the fourth quarter of calendar 1985, real growth at an annual rate of 5.0 percent in each of the first three calendar quarters of 1986 implies growth in fiscal 1986 averaging 3.6 percent. From the same base, real growth at an average annual rate of 1.0 percent in each of the next three quarters implies growth in fiscal 1986 averaging 2.1 percent. Historically, quarterly growth rates have been much more volatile than have average growth rates over the course of a year. Thus, it is entirely possible that growth in one or two of the remaining quarters in fiscal 1986 will be outside of GAO's range. Nonetheless, we expect the average for the three remaining quarters to fall within GAO's range and we do not expect two consecutive quarters of negative growth.

Summary

GAO does not expect real growth in each of the next three quarters to be more than 5.0 percent or less than 1.0 percent, and we do not expect real growth for fiscal year 1986 to average more than 3.6 percent or less than 2.1 percent.

Appendix B
Economic Assumptions

Individual quarterly growth rates are much more variable and are thus much more difficult to predict than annual growth rates, and we are less confident that the actual rate for any particular quarter will fall within the range we have predicted.

The quarterly real growth rates forecast by both OMB and CBO fall well within the range GAO considers reasonable. The fiscal year real growth rates also fall within the range that GAO considers reasonable, although as a result of its assumption about the strength of the fourth quarter of calendar 1985, OMB is very near the top of that range. Compared to the private forecasts reported here, the OMB forecast is fairly optimistic. The CBO forecast is closer to the private forecasts, but is still somewhat more optimistic about real growth prospects than are most measures of private sector consensus. It is also true, however, that in recent years, on average, CBO has been among the more accurate of the forecasters of real GNP.

The unemployment rates forecast by both OMB and CBO are slightly lower than those forecast by other sources we checked, a result that is consistent with their forecast of higher real growth. Their forecasts of inflation and interest rates fall within the range of the other forecasts.

Appendix C

Principal Determinations Required by the Act

Economic Growth Rate

The estimated rate of real economic growth is as follows:

Fiscal Year 1985

April - June, 1985	1.1%
July - September, 1985	3.0%

Fiscal Year 1986

October - December, 1985	3.2%
January - March, 1986	3.0%
April - June, 1986	3.0%
July - September, 1986	3.0%

Fiscal Year 1986, overall 2.85%

We do not forecast two consecutive quarters of negative real economic growth.

This forecast and our reasons for adopting it are discussed in greater detail in Appendix B.

Table C-1 presents a summary of revenue, outlay, deficit, and budget reduction computations.

Revenues

Total revenues are estimated at $776.0 billion. This figure is the same as the amount reported as the average in the OMB/CBO report.

Outlays

Total budget outlays are estimated at $996.5 billion. This figure is the same as the amount reported as the average in the OMB/CBO report.

Budget Deficit Before Reductions

The total budget deficit, estimated in accordance with the procedures specified in section 251 of the Act, is $220.5 billion. This amount is the same as that reported as the average in the OMB/CBO report.

The maximum deficit amount specified for fiscal year 1986 in section 3(7) of the Congressional Budget Act of 1974, as amended, is $171.9 billion. The estimated deficit exceeds this amount by $48.6 billion.

Appendix C
Principal Determinations
Required by the Act

Table C-1: Summary of Required Reductions
(In billions of dollars)

	OMB	CBO	Results of Averaging	GAO
Total Budget Revenue	774.9	777.2	776.0	776.0
Total Budget Outlays	994.9	998.0	996.5	996.5
Budget Deficit	220.1	220.9	220.5	220.5
Maximum Deficit Amt.	171.9	171.9	171.9	171.9
Deficit Excess	a	a	48.6	48.6
Required Outlay Reduction:				
Defense	5.850	5.850	5.850	5.850
Non-defense	5.850	5.850	5.850	5.850
Total	11.700	11.700	11.700	11.700
Reductions from Automatic Spending Increases:				
Defense Retirement	0.496	0.497	0.497	0.497
Non-defense:				
Retirement	0.496	0.497	0.497	0.497
Other	0.045	0.045	0.045	0.045
Subtotal	0.541	0.542	0.542	0.542
Remaining Reduction Required				
Defense	5.354	5.353	5.353	5.353
Non-defense	5.309	5.308	5.308	5.308

a Only the averaged figure is included in the OMB/CBO report

Appendix C
Principal Determinations
Required by the Act

Required Reductions in Outlays

Section 251(a)(3)(A) of the Act provides that, with respect to fiscal year 1986, the amount by which accounts shall be reduced shall be 7/12 of the amount of the excess deficit, but not more than $11.7 billion. Accordingly, the amount of the required reductions is $11.7 billion.

Section 251(a)(3)(B) of the Act provides that half the required reductions shall be made in defense programs and half in non-defense programs. Accordingly, the required reductions in defense and non-defense programs are each $5.9 billion.

Automatic Spending Increases

Increases in outlays due to changes in indexes for programs listed in section 257(1) of the Act are required to be reduced to zero, unless such reduction would exceed one-half of the adjusted deficit excess. For programs listed in section 257(1)(A), this is estimated to reduce outlays by $994 million. Section 251(a)(3)(E)(i) provides that half this amount ($497 million) shall be credited to the required reduction in defense programs and half to non-defense.

For programs listed in section 257(1)(B) of the Act, the reduction in automatic spending increases is estimated to reduce outlays by $45 million. Section 251(a)(3)(F)(i) provides that this amount shall be credited to the required reduction in non-defense programs.

The amounts and percentages by which automatic spending increases are required to be reduced, and the resulting amount by which outlays are estimated to be reduced, are shown for each affected program in Appendix D.

Remaining Reduction--Defense Programs

After crediting half the savings from the elimination of automatic spending increases for programs listed in section 257(1)(A) of the Act, the remaining required reduction for defense programs is $5.4 billion. See Table C-2. The President has notified the Comptroller General that he will exercise his authority, pursuant to section 252(a)(2)(B), to exempt from the sequestration procedures of the Act approximately $61.3 billion within the Military Personnel Accounts of the Department of Defense.

After considering the effect of this exemption, the outlays from new budget authority and unobligated balances in other defense programs are estimated to be $110.3 billion. Accordingly, to achieve the required reduction in outlays in these accounts, new budget authority and unobligated balances are required to be reduced by 4.9 percent in each account, and for each program, project, or activity within each account.

The amount of new budget authority and unobligated balances that is required to be sequestered in order to achieve these reductions is the amount set forth for each account and for each program, project, or activity within each account in the OMB/CBO report, modified as required by Appendix A of this report.

Appendix C
Principal Determinations
Required by the Act

Table C-2: Computation of Defense Percentage Reduction
(dollars in billions)

	OMB	CBO	Results of Averaging	GAO
Remaining Reduction Required ($)	5.4	5.4	5.4	5.4
Outlays from Sequesterable Budget Authority and Unobligated Balances ($)	106.2	112.4	109.3	110.3
Percentage Reduction Required	5.0	4.8	4.9	4.9

Pursuant to section 252(a)(2)(C) of the Act, the President has authority, with respect to fiscal year 1986, to adjust the sequestration requirements within accounts for defense programs. He may make a greater reduction (up to two times the percentage reduction otherwise applicable) in one or more programs, projects, or activities within an account. To the extent that he makes such additional reductions, the President may provide for a lesser reduction (or no reduction at all) for another program, project, or activity in the same account.

Certain of these adjustments are reflected in the OMB/CBO report, and our review revealed no inconsistencies with the requirements of the Act. Further adjustments, not reflected in the OMB/CBO report, may be made in the President's order, issued pursuant to section 252 of the Act.

In addition, the President has the authority, pursuant to section 251(d)(3) of the Act and subject to certain constraints, to substitute the termination or modification of existing defense contracts for the sequestrations otherwise required. No such terminations or modifications have been proposed.

Remaining Reduction--Non-Defense Programs

After crediting half the savings from eliminating automatic spending increases for programs listed in section 257(1)(A) of the Act, together with the savings from eliminating automatic spending increases for programs listed in section 257(1)(B), the remaining required reduction for non-defense programs is $5.3 billion. See Table C-3.

Appendix C
Principal Determinations
Required by the Act

Table C-3: Computation of Non-defense Percentage Reduction
(Dollars in billions)

	OMB	CBO	Results of Averaging	GAO
Remaining Reduction Required ($)	5.3	5.3	5.3	5.3
Reduction under Special Rules ($)	0.4	0.4	0.4	0.4
Remaining Reduction($)	4.9	4.9	4.9	4.9
Outlays from Sequesterable Budget Resources ($)	114.4	115.1	114.8	115.2
Percentage Reduction Required	4.3	4.3	4.3	4.3

Application of Special Rules

Section 256 of the Act specifies certain rules governing the application of the procedures to the following programs:

Guaranteed Student Loans
Medicare
Foster Care and Adoption Assistance
Community and Migrant Health Centers, Indian Health Services and Facilities, and Veterans' Medical Care
Commodity Credit Corporation.
Child Support Enforcement
Unemployment Compensation
Mine Worker Disability Compensation

The program by program application of these special rules is described in Appendix D.

The application of these special rules is estimated to result in outlay reductions totaling $397 million. Accordingly, the outlay reduction required in the remaining non-defense programs is $4.9 billion.

Percentage Reduction in Other Non-Defense Programs

Outlays from sequesterable budgetary resources (new budget authority, new loan guarantee commitments, new direct loan obligations, obligation limitations, and spending authority as defined in section 401(c)(2) of the

Appendix C
Principal Determinations
Required by the Act

Congressional Budget Act of 1974, excluding the accounts and portions of accounts which are exempt or subject to special rules) are estimated at $115.2 billion for non-defense programs in fiscal year 1986. To achieve the needed reduction in these outlays, sequesterable budgetary resources are required to be reduced at the uniform rate of 4.3 percent.

The amount of the required sequestering for each account, together with the estimated outlay reduction resulting therefrom, is the amount shown in the OMB/CBO report, modified as required by Appendix A of this report.

Appendix D

Automatic Spending Increases and Special Rules

Section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 requires the Comptroller General to determine and report the outlay reductions to be achieved in two ways: by modifying or suspending automatic spending increases in the programs listed in section 257(1) and by applying the special rules listed in section 256, subsections (c) through (l).

Automatic Spending Increases

The OMB and CBO estimates and the Comptroller General 's estimate with respect to each automatic spending increase are shown in Table D. GAO's estimate is the same as the estimate reported in the OMB/CBO report. In those cases when OMB and CBO agreed, the amount shown is the estimate to which they agreed. In those cases when OMB and CBO estimates did not agree, the amount shown is the average of the individual estimates.

Withholding the automatic spending increase in several of the programs is estimated to have no effect on outlays because of the assumption that benefit payments in these programs would not have been adjusted during the remainder of fiscal year 1986 even in the absence of the Act. Unless otherwise noted in Table D, the automatic spending increase in the absence of the Act would have been 3.1 percent. All automatic spending increases modified by the Act will be reduced to zero.

Savings from the retirement and disability programs listed in subparagraph (A) of section 257(1) are estimated to total $993.5 million; one-half of these savings are treated as defense sequestrations and one-half are treated as non-defense sequestrations. Savings from the other indexed programs listed in subparagraph (B) of section 257(1) are estimated to total $44.8 million and are treated as non-defense sequestrations.

Special Rules

The following programs and items are subject to special rules under the Act:

Guaranteed Student Loans

Section 251(a) requires calculating of the maximum reduction permissible by applying specified rules to the Guaranteed Student Loan program. The maximum effect of the rules specified in section 256(c) of the Act would be achieved if the special allowance payable to lenders were to be reduced by 0.40 percentage points and the origination fee for these loans were to be increased by 0.50 percentage points for all new student loans originated between March 1, 1986, and September 30, 1986. The reduction in the special allowance applies only to the first four payments.

Appendix D
Automatic Spending Increases
and Special Rules

Table D: Estimated Outlay Savings from Sequestering Automatic Spending Increases in Fiscal Year 1986 (in millions of dollars)

Program	OMB Estimate	CBO Estimate	GAO Estimate
Retirement and Disability Programs (Section 257(1), Part A)			
Black lung benefits[a]	0	0	0
CIA retirement and disability system fund	b	b	b
Civil service retirement and disability fund	529.0	540.0	534.5
Comptrollers general retirement system	c	c	c
Foreign service retirement and disability fund	5.7	6.0	5.9
Judicial survivors' annuities fund[a]	0	0	0
Longshoremen's and harbor workers' compensation benefits[d]	0	0	0
Military retirement fund	410.2	408.0	409.1
NOAA retirement	0.2	0.2	0.2
Pensions for former Presidents[a]	0	0	0
Railroad Retirement Tier II[e]	18.0	18.0	18.0
Retired pay, Coast Guard	10.2	7.0	8.6
Retirement pay for commissioned Public Health Service officers	2.6	2.0	2.3
Special benefits, FECA[f]	17.0	13.0	15.0
Special benefits for disabled coal miners[a]	0	0	0
Tax Court judges survivors annuity fund[a]	0	0	0
TOTAL, Part A	992.8	994.2	993.5
Other Programs (Section 257(1), Part B)			
National Wool Act[g]	10.3	10.3	10.3
Special milk program[h]	0	0	0
Vocational rehabilitation[i]	34.5	34.5	34.5
TOTAL, Part B	44.8	44.8	44.8

Appendix D
Automatic Spending Increases
and Special Rules

Notes for Table D

a Benefits are indexed to General Schedule , Judicial, or Executive Level Pay, which did not increase for fiscal year 1986.

b Amounts are classified and have not been included in totals.

c Less than $50,000.

d The automatic spending increase in this program took effect October 1, 1985, before enactment of P.L. 99-177; the increase was 2.7 percent.

e Scheduled benefit increase was 1.0 percent.

f Scheduled benefit increase was 3.4 percent

g Scheduled increase was 4.8 percent

h Benefits are indexed to the Producer Price Index for Fresh Processed Milk which is estimated to decline during the measuring period for the 1986 COLA. Thus, no increase was projected in the absence of the Act

i Authorized level is indexed to change in CPI-U for year ending October 1984; increase would have been 4.2 percent

Individual items may not add to totals due to rounding

OMB and CBO agree in their estimate of the maximum effect of this provision, and we have adopted their estimate. The decrease in special allowance payments to lenders is estimated to have the effect of sequestering $5.0 million in fiscal year 1986 budget authority. The increased fees paid by students are estimated to have the effect of sequestering $29.1 million in fiscal year 1986 budget authority. The combined effect of the two changes is estimated to have the effect of sequestering $34.1 million. Since there is a delay in receiving the fees and making special allowance payments, outlay reductions for fiscal year 1986 are estimated to be only $9.6 million.

The maximum reductions allowable under this rule ($9.6 million) are less than the reductions that would occur if the general sequester percentage were applied to the Guaranteed Student Loan Program. Thus, the estimated maximum reduction is also the estimated actual reduction.

Medicare

Section 251(a) requires calculating the maximum reduction permissible under section 256(d). It requires these reductions to be made unless the reduction achieved through the application of the general rule for sequestering non-defense programs would produce a lesser reduction. Section 256(d) provides that each separate payment amount for covered services shall be reduced by one percent over the remainder of fiscal year 1986. OMB and CBO agree that this change is estimated to reduce fiscal year 1986 outlays by $300.0 million, and we have adopted their estimate. Applying the general rule would not produce a lesser reduction.

Foster Care and Adoption Assistance

Only federal matching payments for state increases in foster care maintenance payment rates and adoption assistance payment rates are subject to sequester under Section 256 (f) of the Act. OMB and CBO agree that the total budget authority for these programs in the Office of Human Development Services of the Department of Health and Human Services is $549.6 million; that $6.6 million in budget authority will be sequestered; and that outlays will be reduced by $5.1 million as a result of sequesteration. We concur in these estimates.

Community and Migrant Health Centers, Indian Health Services and Facilities, and Veterans' Medical Care

Section 251 (a) of the Act requires calculating the maximum reduction permissible under section 256 (k). It also requires such reductions to be made unless the reduction achieved through the application of the general rule for sequestering domestic programs -- 4.3 percent in this fiscal year -- would result in smaller reductions. Section 256 (k) stipulates a maximum permissible reduction of 1 percent of the fiscal year 1986 budget authority for these programs. One percent produces the smaller reduction, and thus is applied for fiscal year 1986. Sequestration is estimated to yield outlay reductions of $3.0 million for the Community and Migrant Health Centers programs; of $0.1 million for Indian Health Facilities; and of $5.9 million for Indian Health Services. All are programs of the Health Resources and Services Administration of the Department of Health and Human Services.

Outlay reductions from the Veterans' Administration's Veterans Medical Care program are estimated at $73.6 million. The total amount of outlay reductions under this special rule for these programs is estimated at $82.6 million. OMB and CBO agree on each of these estimates, and we concur.

Commodity Credit Corporation

Section 256(j) specifies the procedures for reducing outlays of the Commodity Credit Corporation. Section 251(a)(3)(F)(iv)(II) provides that in determining the uniform sequester amount for non-defense programs, reductions with respect to Commodity Credit Corporation contracts entered into during the fiscal year are to be credited as reductions for that year, even if the outlay reduction actually occurs in the next fiscal year. OMB and CBO made separate estimates of the effect of applying these rules. Although the estimates differed slightly, each individual estimate rounded to $0.8 billion, and we have adopted the estimate of $0.8 billion. Roughly half of the estimated $0.8 billion outlay reductions will occur in fiscal year 1987.

Child Support Enforcement

Section 256 (e) of the Act requires that the full amount of any reduction in expenditures under section 455 and 458 of the Social Security Act will be achieved by reducing the federal matching rate for state administrative expenses. OMB and CBO agree that in order to achieve the required savings of $31.4 million, the federal matching rate on most child support enforcement expenditures must be reduced from 70 percent to 66.65 percent and that the rate for computer-related expenditures must be reduced from 90 to 85.69 percent. GAO concurs.

Federal Pay

Section 256(g) provides that federal pay under a statutory pay system and certain elements of military pay shall be subject to sequestration, except that a sequestration order may not have the effect of reducing the rate of pay or the rate of any specified element of military pay. We agree with the conclusion in the OMB/CBO report that the amount of savings to be achieved in 1986 from reducing available funds for employee compensation cannot be estimated.

Unemployment Compensation

Section 256(h) provides that the following are not subject to reduction:

- regular unemployment compensation payments by a state from its account in the Unemployment Trust Fund,
- advances to states from the federal unemployment account, under Title XII of the Social Security Act, and advances to the account under section 1203 of that Act, and
- payments from the Federal Employees Compensation Account (FECA) and funds appropriated, transferred to, or deposited in that account.

Appendix D
Automatic Spending Increases
and Special Rules

Payments to states under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 are subject to reduction. These payments are required to be reduced by 4.3 percent, the percentage sequester amount applied to most other non-defense programs.

OMB estimated the effect of sequestering extended unemployment benefits to be an outlay reduction of $1.0 million, while the outlay reduction estimated by CBO was $1.1 million. The average of these estimates was $1.0 million. OMB estimated that sequestering railroad unemployment benefits would reduce outlays by $7.4 million, and CBO estimated the reduction to be $8.1 million. The average of the two estimates was $7.8 million. We have adopted the respective averages of these two estimates as our estimate of the effect of this special rule.

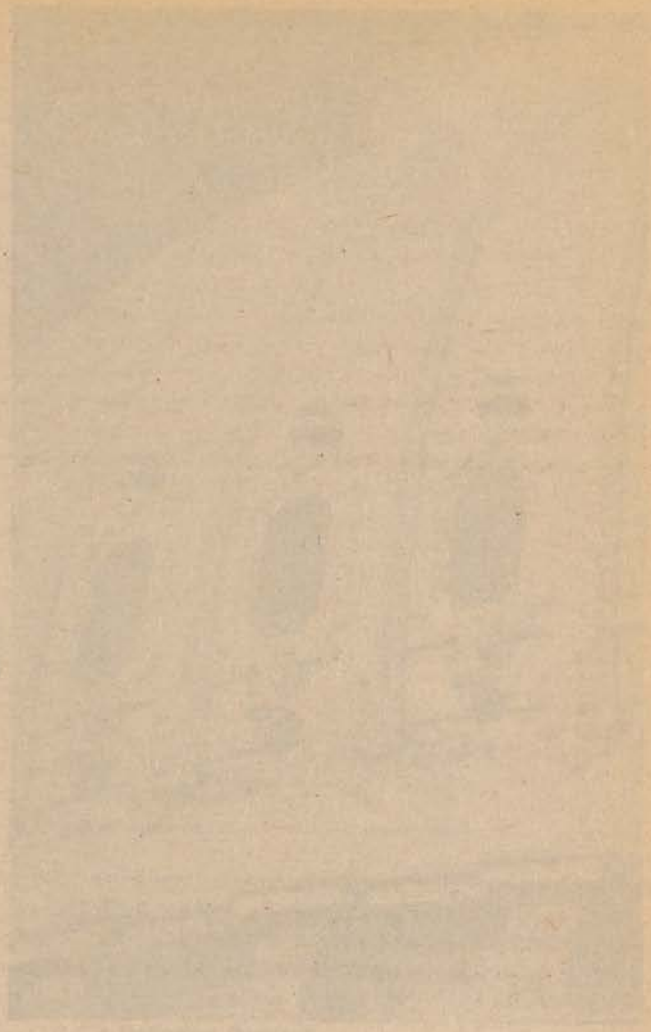
Mine Worker Disability Compensation

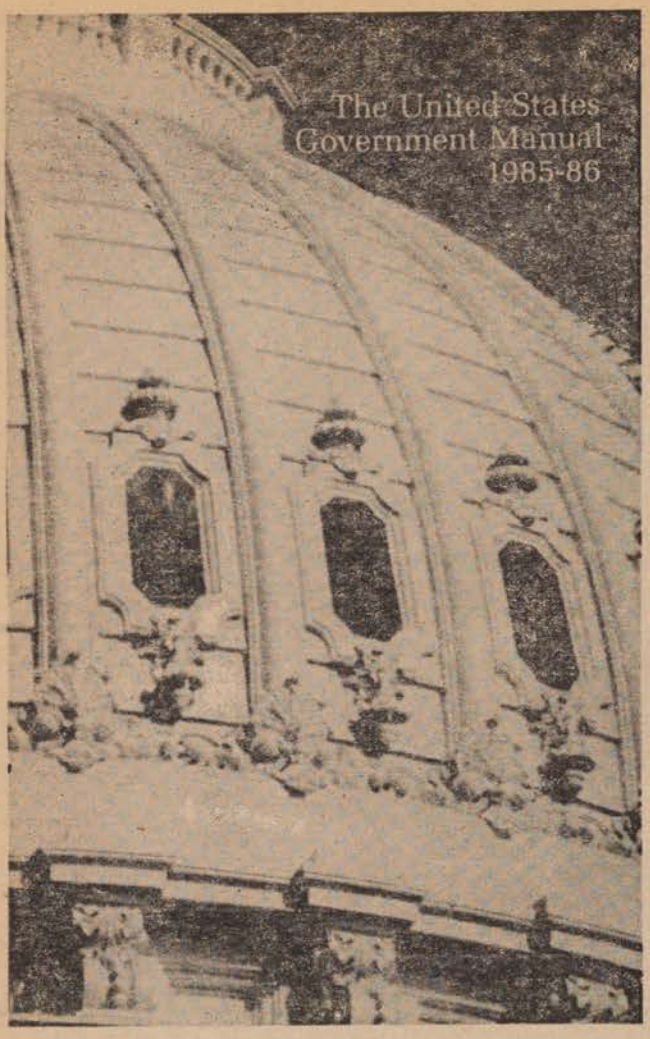
Section 256(i) provides that increases in disability benefits under the Federal Mine Safety and Health Act are not subject to reduction except in the same manner as automatic spending increase programs. The benefit programs under the Federal Mine Safety and Health Act are listed in the table showing the effect of the Automatic Spending Increase provisions. Since no automatic spending increase would have occurred in these programs in the absence of P.L. 99-177, the Act has no effect on outlays in these programs.

Obligated Balances

Section 256 (l) provides that obligated balances shall not be subject to reduction, except for certain defense contracts, which may be terminated or modified to achieve outlay savings under specified conditions, if the President notifies the Comptroller General and the Congress of such proposed actions by specified dates (January 15, 1986, for fiscal year 1986). No defense terminations or modifications were proposed for this year.

[FR Doc. 86-1469 Filed 1-20-86; 3:00 pm]
BILLING CODE 1610-01-C





Order Now!

The United States Government Manual 1985/86

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to see about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and subject/agency indexes.

Of significant historical interest is Appendix A, which describes the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

$15.00 per copy

Order Form

Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No. _____

MasterCard and VISA accepted.

Credit Card Orders Only

Total charges $_____

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Customer's Telephone Nos.
Area Code Home Area Code Office

Charge orders may be telephoned to the GPO order desk at (202)783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Please send me _____ copies of The United States Government Manual, 1985/1986 at $15.00 per copy. Stock No. 022-003-01118-8

PLEASE PRINT OR TYPE

Company or Personal Name

Additional address/attention line

Street address

City State ZIP Code

(or Country)

(Rev.9-1-85)