AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

2-13-86
Vol. 51 No. 30
Pages 5305-5512

Federal Register

Thursday
February 13, 1986

Briefings on How To Use the Federal Register—
For information on briefings in St. Louis, MO, and Denver, CO, see announcement on the inside cover of this issue.

Selected Subjects

Administrative Practice and Procedure
Securities and Exchange Commission

Air Pollution Control
Environmental Protection Agency

Animal Diseases
Animal and Plant Health Inspection Service

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Bridges
Coast Guard

Crop Insurance
Federal Crop Insurance Corporation

Drug Traffic Control
Drug Enforcement Administration

Endangered and Threatened Species
Fish and Wildlife Service

Fisheries
National Oceanic and Atmospheric Administration

Food Additives
Food and Drug Administration

Freedom of Information
Postal Service

CONTINUED INSIDE

Selected Subjects

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

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.

Government Procurement
General Services Administration

Hazardous Waste
Environmental Protection Agency

Income Taxes
Internal Revenue Service

Loan Programs—Education
Education Department

Marine Safety
Coast Guard

Marketing Agreements
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

Motor Vehicle Safety
National Highway Traffic Safety Administration

Postal Service
Postal Service

Security Measures
Coast Guard

Surface Mining
Surface Mining Reclamation and Enforcement Office

Underground Mining
Surface Mining Reclamation and Enforcement Office

Water Pollution Control
Delaware River Basin Commission

Wine
Alcohol, Tobacco and Firearms Bureau

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

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

WHO: The Office of the Federal Register.

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

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

ST. LOUIS, MO

WHEN: March 11; at 9 am.

WHERE: Room 1612,
Federal Building,
1520 Market Street, St. Louis, MO.

RESERVATIONS: Delores O'Guin,
St. Louis Federal Information Center.
314-425-4109

DENVER, CO

WHEN: March 24; at 9 am.

WHERE: Room 239,
Federal Building,
1961 Stout Street, Denver, CO.

RESERVATIONS: Elizabeth Stout
Denver Federal Information Center.
303-236-7181

Contents

Federal Register

Vol. 51, No. 30

Thursday, February 13, 1986

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders
Georgia et al., 5363
Milk marketing orders:
Great Basin, 5367
Lake Mead, 5368
Oranges, grapefruit, tangerines, and tangelos grown in Florida, 5361

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Federal Crop Insurance Corporation; Forest Service

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol; viticultural area designations:
Lodi, CA, 5363
PROPOSED RULES
Alcoholic beverages:
Wine labeling; grape variety names, 5372

Animal and Plant Health Inspection Service
RULES
Interstate transportation of animals and animal products (quarantine):
Brucellosis—
State and area classification, 5309

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

Coast Guard
RULES
Drawbridge operations:
Florida, 5325
Ports and waterways safety:
San Diego Bay, CA; security zone, 5325
PROPOSED RULES
Lifesaving equipment:
Launching equipment for liferafts, 5377

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration

Defense Department
NOTICES
Meetings:
Electron Devices Advisory Group, 5393
(2 documents)

Delaware River Basin Commission
PROPOSED RULES
Basin regulations:
Comprehensive plan and water code; amendments and hearing, 5369

Drug Enforcement Administration
RULES
Nomenclature changes, etc., 5319
PROPOSED RULES
Schedules of controlled substances:
Changes in definitions; use of administrative controlled substances code numbers; addition of emergency scheduling regulation, 5370
NOTICES
Applications, hearings, determinations, etc.:
Pittenger, Rex A., M.D., 5422
Thorkelson, John M., M.D., 5421

Economic Regulatory Administration
NOTICES
Consent orders:
Alliance Oil & Refining Co., 5394
Atlantic Richfield Co., 5394
Bass Enterprises Production Co., 5400

Education Department
PROPOSED RULES
Postsecondary education:
National direct student loan program, 5484

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission
NOTICES
Great Plains coal gasification facility, ND; solicitation of interest in proposed sale, 5508
Nuclear waste management:
Civilian radioactive waste management—
Transportation business plan, 5393

Environmental Protection Agency
RULES
Air quality implementation plans:
Visibility new source review and monitoring strategy, 5504
Hazardous waste:
Identification and listing—
Ethylene dibromide production wastes, 5327
PROPOSED RULES
Hazardous waste:
Identification and listing—
Commercial chemical products; discarded mixtures, 5472
Toxic substances:
Testing requirements—
Mesityl oxide, 5376
NOTICES
Air pollution control:
Sulfur dioxide emission standards; Phelps Dodge Corp., Douglas, AZ ; suspension extended, 5401
Committees; establishment, renewals, terminations, etc.:
Advisory committee to negotiate new source performance standards for residential wood combustion units
Correction, 5402

Federal Aviation Administration
RULES
Airworthiness directives:
Pratt & Whitney, 5311
Transition areas, 5312–5314
(4 documents)

NOTICES
Organization and functions:
Martha's Vineyard, MA, 5437

Federal Crop Insurance Corporation
RULES
Crop insurance; various commodities:
Apples, peaches, etc., 5309
PROPOSED RULES
Crop insurance; various commodities:
Corn, 5356
Pepper, 5351
Sugarcane, 5341
Tomatoes, 5345

Federal Energy Regulatory Commission
NOTICES
Natural Gas Policy Act:
Pipeline decontrol; waivers, rehearings, clarifications, etc., 5401

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
American Kings, Inc., et al., 5402
Jackie International Corp. et al., 5402
Meetings; Sunshine Act, 5470
Rulemaking petitions:
U.S. Atlantic-North Europe Conferences et al., 5402

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
Burlington Northern Railroad Co., 5437

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 5470

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Flattened musk turtle, 5384

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Amoxicillin trihydrate and clavulanate potassium film-coated tablets, 5317
Amoxicillin trihydrate and clavulanate potassium for suspension, 5317
Amoxicillin trihydrate and clavulanate potassium tablets, 5318
Food additives:
Adhesive coatings and components, etc.—
1,4-Benzenedicarboxylic acid, bis[2-(1,1-dimethylethyl)-6-[[3-(1,1-dimethylethyl)-2-hydroxy-5-methylphenyl]methyl]-4-methylphenyl] ester, 5316
Polymaleic acid, 5315

Forest Service
NOTICES
Environmental statements; availability, etc.:
Deerlodge National Forest, MT, 5386
Western spruce budworm insect control, 5386

General Services Administration
RULES
Acquisition regulations:
Construction contracts; payment due dates; temporary, 5335
Protests, disputes, and appeals; format determination; construction contracts, bid documents charges, etc., 5331

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration

Health Care Financing Administration
NOTICES
Medicare:
Freestanding home health agencies; assignment and reassignment to designated regional intermediaries, 5403

Housing and Urban Development Department
NOTICES
Grants; availability, etc.:
Urban development action grants; minimum standards for large cities and urban counties, 5413
Organization, functions, and authority delegations:
Assistant Secretary for Community Planning and Development; execution of legal instruments, 5412

Immigration and Naturalization Service
PROPOSED RULES
Immigrant visas:
Adjustment of status to permanent residence, 5369

Indian Affairs Bureau
NOTICES
Facilities improvement and repair priority ranking system, 5415

Interior Department
See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Superfund:
Natural resource damage assessments, 5376

Internal Revenue Service
RULES
Income taxes:
Hospital services furnished by tax-exempt hospitals, 5320
Income taxes, etc.:
Qualified conservation contributions—Correction, 5322

International Trade Administration
NOTICES
Countervailing duties:
Industrial nitrocellulose from France, 5386
Export privileges, actions affecting:
Scheele, Werner, et al., 5389

International Trade Commission
NOTICES
Import investigations:
Steel fork arms, 5420

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Elgin, Joliet & Eastern Railway Co., 5421

Justice Department
See Drug Enforcement Administration; Immigration and Naturalization Service

Land Management Bureau
RULES
Oil and gas leasing:
Noncompetitive leases; applications for simultaneous oil and gas leases on public domain and acquired lands, 5331
NOTICES
Conveyance or leasing of public lands:
Arizona
Correction, 5415
Exchange of lands:
Arizona
Correction, 5415
New Mexico, 5415
Lease and sale of public lands:
Colorado, 5416
Oil and gas leases:
Montana, 5416
Utah, 5416
Opening of public lands:
Idaho, 5416
New Mexico, 5416
Sale of public lands:
Oklahoma, 5417
Utah, 5418
Survey plat filings:
Arkansas, 5418
Montana, 5418
(2 documents)
Withdrawal and reservation of lands:
Idaho, 5419

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
Chevron U.S.A. Inc., 5419
Exxon Co., U.S.A., 5419
ODECO Oil & Gas Co., 5420
Tenneco Oil Exploration & Production, 5420
Outer Continental Shelf operations:
Northern California lease sale; call for information and nominations, 5496

National Foundation on Arts and Humanities
NOTICES
Meetings:
Arts National Council, 5423
Design Arts Advisory Panel, 5423
Expansion Arts Advisory Panel, 5423
Humanities Panel, 5422
Museum Advisory Panel, 5424
President's Committee on Arts and Humanities, 5424
Theater Advisory Panel, 5424
(2 documents)

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Child restraint systems—
Restraints with tether strap, 5335
PROPOSED RULES
Motor vehicle safety standards:
Splash and spray suppression devices on truck tractors, trailers, and semitrailers, 5383
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Chrysler Corp., 5438
General Motors Corp., 5439

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Atlantic surf clam and ocean quahog, 5384
NOTICES
Endangered and threatened species:
North Pacific fur seals; meeting and issue paper availability, 5392
Winter-run chinook salmon; petition determination, etc., 5391
Fishery conservation and management:
Gulf of Alaska groundfish, 5392
Meetings:
Mid-Atlantic Fishery Management Council, 5390
North Pacific Fishery Management Council, 5390
Pacific Fishery Management Council, 5390
Permits:
Marine mammals, 5390, 5391
(2 documents)

Neighborhood Reinvestment Corporation
NOTICES
Meetings; Sunshine Act, 5470

Nuclear Regulatory Commission
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 5425
(2 documents)

Postal Rate Commission
NOTICES
Post office closings; petitions for appeal:
South Crafton, MA, 5426

Postal Service
RULES
Organization and administration:
Computer retrieved records, fees, 5326
PROPOSED RULES
Freedom of Information Act; implementation, 5374

Presidential Commission on the Space Shuttle Challenger Accident
NOTICES
Meetings, 5469

Presidential Documents
PROCLAMATIONS
Special observances:
Burn Awareness Week, National (Proc. 5440), 5305
Humanities Week, National (Proc. 5441), 5307

Public Health Service
See Food and Drug Administration

Securities and Exchange Commission
RULES
Conflict of interests:
Classification and declassification of national security information and material, 5314
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 5433
Philadelphia Stock Exchange, Inc., 5434, 5435 (2 documents)
Applications, hearings, determinations, etc.:
Central & South West Corp., 5427
Ford Motor Credit Co., 5427
Merrill Lynch Retirement Benefit Government Securities Fund, Inc., 5429
Sohio/BP Trans Alaska Pipeline Capital, Inc., et al., 5431

Surface Mining Reclamation and Enforcement Office
RULES
Abandoned mine land reclamation program:
Mine subsidence insurance program grants, 5490
PROPOSED RULES
Permanent program submission:
Ohio, 5373

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Railroad Administration; National Highway Traffic Safety Administration
NOTICES
Aviation proceedings:
Hearings, etc.—
Aero Union Corp., 5436
NWA Inc. et al., 5436

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 5440
Bonds,Treasury:
2016 series, 5440
Notes (foreign-targeted), Treasury:
B-1996 series, 5451
Notes, Treasury:
A-1996 series, 5446
Q-1989 series, 5445

Separate Parts In This Issue

Part II
Environmental Protection Agency, 5472

Part III
Department of Education, 5484

Part IV
Department of the Interior, Surface Mining Reclamation and Enforcement Office, 5490

Part V
Department of the Interior, Minerals Management Service, 5496

Part VI
Environmental Protection Agency, 5504

Part VII
Department of Energy, 5508

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.

3 CFR
Proclamations:
5440 ... 5305
5441 ... 5307

7 CFR
403 ... 5309
404 ... 5309
408 ... 5309
409 ... 5309
411 ... 5309
413 ... 5309
439 ... 5309
Proposed Rules:
417 ... 5341
444 ... 5345
445 ... 5351
449 ... 5356
905 ... 5361
913 ... 5361
1006 ... 5363
1007 ... 5363
1011 ... 5363
1012 ... 5363
1013 ... 5363
1046 ... 5363
1093 ... 5363
1094 ... 5363
1096 ... 5363
1098 ... 5363
1099 ... 5363
1136 ... 5367
1139 ... 5368

8 CFR
Proposed Rules:
245 ... 5369

9 CFR
78 ... 5309

14 CFR
39 ... 5311
71 (4 documents) ... 5312–5314

17 CFR
200 ... 5314

18 CFR
Proposed Rules:
410 ... 5369
430 ... 5369

21 CFR
173 ... 5315
175 ... 5316
178 ... 5316
540 (3 documents) ... 5317, 5318
1301 ... 5319
1302 ... 5319
1303 ... 5319
1304 ... 5319
1305 ... 5319
1306 ... 5319
1307 ... 5319
1308 ... 5319
1311 ... 5319
1312 ... 5319
1316 ... 5319
Proposed Rules:
1308 ... 5370

26 CFR
1 (2 documents) ... 5320, 5322
20 ... 5322
25 ... 5322
602 ... 5322

27 CFR
9 ... 5323
Proposed Rules:
4 ... 5372

30 CFR
887 ... 5390
Proposed Rules:
935 ... 5373

33 CFR
117 ... 5325
165 ... 5325

34 CFR
Proposed Rules:
674 ... 5483

39 CFR
265 ... 5326
Proposed Rules:
265 ... 5374

40 CFR
52 ... 5504
261 ... 5327
271 ... 5427
Proposed Rules:
261 ... 5472
799 ... 5376

43 CFR
3110 ... 5331
Proposed Rules:
11 ... 5376

46 CFR
Proposed Rules:
58 ... 5377
160 ... 5377

48 CFR
501 ... 5331
533 ... 5331
536 ... 5331
552 ... 5335

49 CFR
571 ... 5335
Proposed Rules:
584 ... 5383

50 CFR
Proposed Rules:
17 ... 5384
652 ... 5384

Federal Register
Vol. 51, No. 30
Thursday, February 13, 1986

Presidential Documents

Title 3—

The President

Proclamation 5440 of February 11, 1986

National Burn Awareness Week, 1986

By the President of the United States of America

A Proclamation

Burn injuries are one of the leading causes of accidental death in the United States. Every year, approximately two million people in this country are victims of burn injury and about twelve thousand of these victims die.

The rehabilitative and psychological impact of burns is devastating. Children, the elderly, and the disabled are most likely to suffer serious burns.

It is estimated that approximately 75 percent of all burns could be prevented by proper education of children and adults. Therefore, it is appropriate that all Americans have called to their attention the risks from burn accidents and the importance of burn prevention programs.

The Congress, by Senate Joint Resolution 234, has designated the week beginning February 9, 1986, as "National Burn Awareness Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of February 9, 1986, through February 15, 1986, as National Burn Awareness Week, and I call upon the people of the United States and all Federal, State, and local government officials to observe this week with appropriate programs and activities.

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

Ronald Reagan

[FR Doc. 3370
Filed 2-12-86; 10:32 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5441 of February 11, 1986

National Humanities Week, 1986

By the President of the United States of America

A Proclamation

In 1986, the United States celebrates the twentieth anniversary of the establishment of the National Endowment for the Humanities. The overriding goal of this small but important Federal agency is the promotion of humanities scholarship and programming.

The study of the humanities increases our understanding of the great traditions of civilization and of the intellectual heritage of mankind. In partnerships with State and local governments, private foundations, and corporations, the National Endowment for the Humanities, over the past two decades, has provided critical leadership and direction for both individuals and institutions seeking to improve our understanding of the humanities.

As a Nation, we have benefitted from the fruits of this humanities programming in a variety of ways: through improvements in humanities education at all levels; through scholarly research at the cutting edge of contemporary issues in the humanities; and through programs and projects in museums, libraries, and the media that foster a heightened understanding of the humanities across America.

The Congress, by Senate Joint Resolution 219, has designated the week beginning February 9, 1986, as "National Humanities Week, 1986" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning February 9, 1986, as National Humanities Week, 1986. I call upon the people of the United States to observe the week with appropriate conferences, programs, ceremonies, and activities recognizing the importance of the humanities in the lives of all Americans and acknowledging the significant role the National Endowment for the Humanities has played in sustaining and enriching our cultural heritage.

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

Ronald Reagan

[FR Doc. 86-3371
Filed 2-12-86; 10:33 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 51, No. 30
Thursday, February 13, 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

Federal Crop Insurance Corporation

7 CFR Parts 403, 404, 408, 409, 411, 413, and 439

[Doc. No. 0058A]

Crop Insurance Regulations; Various

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby adopts, as a final rule, an interim rule which was published in the **Federal Register** on September 30, 1985 (50 FR 39635). The interim rule amended the Eastern and Western U.S. Apple, Peach, Almond, and Grape Crop Insurance Regulations, effective for the 1985 crop year only, and the Arizona-California Citrus and Texas Citrus Crop Insurance Regulations, effective for the 1986 crop year only, by extending the date for filing contract changes specified in the policies for insuring such crops. The intended effect of this rule is to provide additional time in which to file changes made in the contracts for such crops for actuarial purposes. The authority for the promulgation of this rule is continued in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: February 13, 1986.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Monday, September 30, 1985, FCIC published an interim rule, effective upon publication in the **Federal Register** at 50 FR 39635, amending the Eastern and Western U.S. Apple, Peach, Almond, and Grape Crop Insurance Regulations, (7 CFR Parts 404, 408, 403, 439, and 411), effective for the 1985 crop year only, and the Arizona-California Citrus and Texas Citrus Crop Insurance Regulations (7 CFR Parts 409 and 413), effective for the 1986 crop year only, to change the date for filing contract changes specified in the policies for insuring such crops.

Written comments on the interim rule were solicited by FCIC for 60 days after publication of the rule in the **Federal Register**, and the rule was scheduled for review so that any amendments made necessary by public comment could be published in the **Federal Register** as quickly as possible.

No comments were received, therefore, the interim rule is hereby adopted as final.

List of Subjects in 7 CFR Parts 403, 404, 408, 409, 411, 413, and 439

Crop Insurance, Peach, Western U.S. Apple, Eastern U.S. Apple, Arizona-California Citrus, Grape, Texas Citrus, and Almond.

Final Rule

Accordingly, the Interim Rule published in the **Federal Register** on September 30, 1985, at 50 FR 39635, is hereby adopted as final.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Done in Washington, DC, on January 8, 1986.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–3153 Filed 2–12–86; 8:45 am]

BILLING CODE 3410-08-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 86–011]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: The document amends the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of the State of Nevada from Class B to Class A. This action is necessary because it has been determined that this State meets the standards for Class A status. The effect of this action is to relieve certain restrictions on the interstate movement of cattle from the State of Nevada.

DATES: Effective date of the interim rule is February 13, 1986. Written comments must be received on or before April 14, 1986.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, Hyattsville, MD 20782.

Comments should state that they are in response to Docket No. 86-011. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT:
Dr. M. J. Gilsdorf, Cattle Diseases Staff, VS, APHIS, USDA, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5961.

SUPPLEMENTARY INFORMATION:

Background

The brucellosis regulations (contained in 9 CFR Part 78 and referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or Areas which do not meet the minimum standards for Class C are required to be placed under Federal quarantine. This document changes the classification of the State of Nevada from Class B to Class A.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the period of 12 months preceding classification as Class Free. The Class C classification is for States or Areas with the highest rate of brucellosis, with Classes A and B in between. Restrictions on the movement of cattle are more stringent for movements from Class A States or Areas compared to movements from Free States or Areas, and are more stringent for movements from Class B States or Areas compared to movements from Class A States or Areas, and so on. The restrictions include testing for movement of certain cattle from other than Class Free States or Areas.

The basic standards for the different classifications of States or Areas concern maintenance of: (1) A State or Area-wide accumulated 12 consecutive month herd infection rate not to exceed a stated level; (2) a Market Cattle Identification (MCI) reactor prevalence rate not to exceed a stated rate (this concerns the testing of cattle at auction markets, stockyards, and slaughtering establishments); (3) a surveillance system which includes a testing program for dairy herds and cattle at slaughtering establishments, and provisions for indentifying and monitoring herds at high risk of infection, including herds adjacent to infected herds and herds from which infected animals have been sold or received under approved action plans; and (4) minimum procedural standards for administering the program.

Prior to the effective date of this document, the State of Nevada was classified as a Class B State. It had been necessary to classify this State as Class B rather than Class A because of the herd infection rate. To attain and maintain Class A status, States with more than 10,000 herds must maintain an accumulated 12-month herd infection rate for brucellosis not to exceed 2.5 herds per 1,000 (0.25 percent). With respect to the herd infection rate for States with 10,000 or fewer herds, the regulations provide for a special review by the Deputy Administrator to determine if such small herd population States qualify for Class A status. Locations of herds, sources of current infections, and control measures taken by the State are considered as a part of this review. A review of brucellosis program records establishes that the brucellosis classification of the State of Nevada, which has approximately 1,700 herds of cattle, should be changed to Class A since this State now meets the criteria for classification as Class A.

Executive Order and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of the State of Nevada reduces certain requirements on the interstate movement of these cattle. Cattle from Certified Brucellosis-Free Herds moving interstate are not affected by the change in status. It has been determined that the change in brucellosis status made by this document will not affect marketing patterns and will not have a significant economic impact on those persons affected by this document.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V.)

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted in order to delete unnecessary restrictions on the interstate movement of certain cattle from the State of Nevada.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 533, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest, and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document. A document discussing comments received and any amendments required will be published in the **Federal Register**.

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, 9 CFR Part 78 is amended as follows:

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111-114a-1, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.20 [Amended]

2. Section 78.20(b) is amended by adding "Nevada," immediately before "New Jersey,".

3. In § 78.20(c), "Nevada," is removed.

Done at Washington, DC, this 10th day of February 1986.

Billy G. Johnson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 86-3226 Filed 2-12-86; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-ANE-4; Amdt. 39-5236]

Airworthiness Directives; Pratt & Whitney (PW) JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, and -17AR Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires visual inspection of the combustion chamber outer case for cracks adjacent to the rear flange bolt holes on certain PW JT8D engines. This AD is needed to prevent rupture of the combustion chamber outer case due to fatigue cracking, which could result in inflight shutdowns, engine cowl release, or airframe damage.

DATE: Effective—February 28, 1986.

Compliance schedule—As prescribed in body of the AD.

Comments for inclusion in the docket must be received on or before April 28, 1986.

ADDRESSES: Comments on the amendment may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket Number 86-ANE-4, 12 New England Executive Part, Burlington, Massachusetts 01803.

or delivered in duplicate to Room Number 311 at the above address.

Comments delivered must be marked: Docket Number 86-ANE-4.

Comments may be inspected at the New England Regional Office, Office of the Regional Counsel, Room Number 311, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jim Jones, Engine Certification Branch, ANE-141, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7121.

SUPPLEMENTARY INFORMATION: The FAA has determined that combustion chamber outer cases develop cracks during service. These cracks result from low cycle fatigue initiating in the higher stressed areas of the case. Analytical studies, substantiated by service experience, identified a high stressed area at the rear flange bolt holes. Fatigue cracks can initiate in the rear flange bolt holes, propagate into the wall of the case, and progress in an axial direction until the case ruptures. To date, there have been a total of 35 rear flange cracks reported on combustion chamber outer cases. Two resulted in uncontained ruptures, causing both engine cowling and airframe damage.

Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued which requires initial and repetitive visual inspections of the combustion chamber outer case adjacent to the rear flange. The purpose of these inspections is to identify and remove from service combustion chamber outer cases which have developed rear flange cracks.

The visual inspection may be accomplished on-wing by using an extended mirror inserted through the tailpipe in conjunction with a white light. The case wall adjacent to the rear flange area should be completely inspected for cracks which have propagated from the flange into the wall of the case. The equipment required to accomplish this inspection is a standard shop mirror on an extended rod and a white light.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 days. Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedures, comments are invited on the rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above.

All communications received on or before the closing date for comments will be considered by the Director. This rule may be amended in light of comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD and determining whether additional rulemaking is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All commments submitted will be available for examination in the Rules Docket at the address given above. A report summarizing each FAA-public contact, concerned with the substance of this AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 86-ANE-4". The postcard will be date/time stamped and returned to the commenter.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of the final evaluation when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA amends Part 39 of the Federal Aviation Regulations (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 to § 39.13 the following new AD:

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, and -17AR turbofan engines.

Compliance is required as indicated unless already accomplished.

To prevent crack propagation and subsequent combustion chamber outer case rupture, visually inspect in accordance with Paragraph (f) below, combustion chamber outer case assembly Part Numbers 490547, 542155, 616315, 728829, 730413, 730414, 767197, and 767279, for rear flange cracks as follows:

For cases with total cycles in service on the effective date of this AD of 35,000 cycles or more for JT8D-1, -1A, -1B, -7, -7A, and -7B engines, 30,000 cycles or more for JT8D-9, -9A, and -11 engines, or 25,000 cycles or more for JT8D-15, -15A, -17, -17A, -17R, and -17AR engines, comply with paragraphs (a) through (e) within the next 200 cycles in service.

For cases with total cycles in service on the effective date of this AD of less than 35,000 cycles for JT8D-1, -1A, -1B, -7, -7A, and -7B engines, less than 30,000 cycles for JT8D -9, -9A, and -11 engines, or less than 25,000 cycles for JT8D-15, -15A, -17, -17A, -17R, and -17AR engines, comply with paragraphs (a) through (e) before the accumulation of 35,200 total cycles, 30,200 total cycles, or 25,200 total cycles in service, respectively.

(a) Inspect cases installed on PW JT8D-1, -1A, -1B, -7, -7A, and -7B engines, unless already accomplished within the last 2,800 cycles in service, and thereafter, reinspect at intervals not to exceed 3,000 cycles in service, since last inspection.

(b) Inspect cases installed on PW JT8D-9, -9A, and -11 engines, unless already accomplished within the last 1,800 cycles in service, and thereafter, reinspect at intervals not to exceed 2,000 cycles in service, since last inspection.

(c) Inspect cases installed on PW JT8D -15, and -15A engines, unless already accomplished within the last 1,300 cycles in service, and thereafter, reinspect at intervals not to exceed 1,500 cycles in service, since last inspection.

(d) Inspect cases installed on PW JT8D-17, -17A, -17R, and -17AR engines, unless already accomplished within the last 800 cycles in service, and thereafter, reinspect at intervals not to exceed 1,000 cycles in service, since last inspection.

(e) Remove cracked cases from service prior to further flight.

(f) Inspect by inserting an extended mirror through the tailpipe, and with a white light, examine the case wall within 3 inches of the rear flange and 360 degrees circumferentially around the case adjacent to the rear flange for cracks.

Notes.—(1) Inspection of the case rear flange at shop visit by visual or fluorescent penetrant inspection is considered an equivalent means of inspection for the purposes of this AD.

(2) Cases for which the total cycles in service cannot be determined from engine records or manufacturer's production records must be assigned a total cycle count equal to the highest cycle engine of that model in the owner/operators fleet for the requirements of this AD.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

This amendment becomes effective on February 28, 1986.

Issued in Burlington, Massachusetts, on February 5, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86-3134 Filed 2-10-86; 10:16 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 85-ANM-32]

Aspen, CO, Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes 700' and 1,200' transition areas at Aspen, Colorado. It provides controlled airspace for aircraft executing a new instrument approach procedure to Aspen-Pitkin County Airport. The intended effect is to ensure segregation of aircraft operating in instrument weather conditions and other aircraft operating in visual weather conditions.

Aviation in the Aspen area has needed a public instrument approach procedure for several years. Recent development of a VOR/DME approach has followed a lengthy and difficult process to install a VOR atop Red Table Mountain. It is necessary to implement the procedure as soon as possible in order to make the associated safety improvements during the winter season when they are most needed. Therefore, it is determined to be in the public interest to make the procedure effective on March 13, 1986, instead of the next available charting date 56 days later.

EFFECTIVE DATE: 0901 UTC, March 13, 1986.

FOR FURTHER INFORMATION CONTACT: Ted Melland, Airspace & Procedures Specialist, ANM-533, Federal Aviation Administration, Docket No. 85-ANM-32, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2530.

SUPPLEMENTARY INFORMATION:

History

On January 22, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulation (14 CFR Part 71) to establish 700' and 1,200' transition areas at Aspen, Colorado (51 FR 2896).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This Amendment to Part 71 of the Federal Aviation Regulations provides controlled airspace for aircraft conducting instrument flight rule (IFR) operations.

The FAA 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

Transition areas, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of 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. By amending § 71.181 as follows:

Aspen, Colorado (New)

That airspace extending upward from 700' above the surface within an 11 mile radius centered on lat. 39°14'15", long. 106°52'30"W; and that airspace extending upward from 1,200' above the surface beginning at lat. 39°47'45"N, long. 107°09'00" W; to lat. 39°47'45"N, long. 106°43'30"W; to lat. 39°16'30"N, long. 106°43'30"W; to lat. 39°16'30"N, long. 107°09'00"W, to the point of beginning, excluding the Eagle, Colorado, transition areas.

Issued in Seattle, Washington, on February 4, 1986

David E. Jones,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86-3135 Filed 2-10-86; 10:31 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AGL-26]

Transition Area Revocation; Grafton, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to revoke the transition area currently designated for Grafton, North Dakota and to return the associated 700-foot area to a non-controlled status.

EFFECTIVE DATE: 0901 G.m.t., May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Thursday, December 26, 1985, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the transition area designated for Grafton, North Dakota (50 FR 52796).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes the transition area currently designated for Grafton, North Dakota and to return the associated 700-foot area to a non-controlled status.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

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

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

2. By amending § 71.181 as follows:

Grafton, North Dakota [Revoked]

Issued in Des Plaines, Illinois, on February 4, 1986.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 86-3138 Filed 2-12-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AGL-27]

Transition Area Alteration; Gwinner, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: The nature of this action is to revoke the transition area currently designated for Gwinner, North Dakota and to return the associated 700-foot area to a non-controlled status.

EFFECTIVE DATE: 0901 G.m.t, May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, December 18, 1985, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the transition area designated for Gwinner, North Dakota (50 FR 51547).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes the transition area currently designated for Gwinner, North Dakota and to return the associated 700-foot area to a non-controlled status.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

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

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

2. By amending § 71.181 as follows:

Gwinner, North Dakota [Revoked]

Issued in Des Plaines, Illinois, on February 4, 1986.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 86–3136 Filed 2–12–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 85–AGL–28]

Transition Area Alteration—Britton, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to alter the transition area currently designated for Britton, South Dakota. The present 1200-foot description excludes Gwinner, North Dakota. The intent of this action is to include Gwinner, North Dakota in the description by deleting the words "Gwinner, ND".

EFFECTIVE DATE: 0901 G.m.t., May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION:

History

On Thurdsay, December 26, 1985, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area designated for Britton, South Dakota (50 FR 52795).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the 1200-foot transition area description designated for Britton, South Dakota by deleting the words "Gwinner, ND".

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

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

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

2. By amending § 71.181 as follows:

Britton, South Dakota [Amended]

Delete the words "Gwinner, ND" from the 1200-foot transition area description.

Issued in Des Plaines, Illinois, on February 4, 1986.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 86–3137 Filed 2–12–86; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 33–6624]

Classification and Declassification of National Security Information and Material

AGENCY: Securities and Exchange Commission.

ACTION: Amendments to rules.

SUMMARY: The Securities and Exchange Commission is amending its regulation which designates the senior agency official responsible for conducting an oversight program to ensure appropriate implementation of Executive Order, 12356 (47 FR 14874, April 6, 1982) and its implementing directive, Information Security Oversight Office Directive No. 1 (47 FR 27836, June 25, 1982). These orders, effective August 1, 1982, establish procedures and criteria for classifying, declassifying and safeguarding national security information.

EFFECTIVE DATE: February 13, 1986.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Jackson, Special Counsel, Office of the Executive Director, (202) 272–2700.

SUPPLEMENTARY INFORMATION: The Commission finds, in accordance with the Administrative Procedure Act ("APA"), that these amendments (1) relate solely to agency internal management, organization, procedure or practice, (2) do not relate to substantive rules, and (3) impose no significant burden on any member of the public. Accordingly, notice and opportunity for public comment pursuant to the APA are unnecessary. The Commission also finds that an immediate effective date is in the public interest.

Regulatory Flexibility Act

No regulatory flexibility analysis (or certification that one is not required) is necessary because the rule amendments are procedural and thus not within the definition of "rule" for purposes of Chapter 6, Title 5, U.S.C.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy, Securities.

Text of Amendments

In consideration of the foregoing, the Securities and Exchange Commission amends Subpart J of Part 200 of Chapter II, Title 17, Code of Federal Regulations, to read as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart J—Classification and Declassification of National Security Information and Material

1. The Authority citation for Part 200, Subpart J, continues to read as follows:

Authority: Sec. 19 of the Securities Act of 1933, as amended, 48 Stat. 84, 15 U.S.C. 77s. Executive Order 12356, 47 FR 14874, April 6,

1982. Information Security Oversight Office Directive No. 1 (47 FR 27836, June 25, 1982).

2. § 200.504 is amended by revising paragraph (g) as follows:

§ 200.504 Oversight Committee.

* * * * *

(g) Recommend to the Chairman of the Commission appropriate administrative action to correct abuse or violation of any provision of Executive Order 12356.

* * * * *

§§ 200.503, 200.504, 200,505, 200,508, 200,510, 200.511 [Amended]

3. In the following sections remove the word "Secretary" and replace it with the words "Executive Director."

(a) 17 CFR 200.503 Introductory text (2 places)
(b) 17 CFR 200.504 Introductory text
(c) 17 CFR 200.505(c)
(d) 17 CFR 200.508(a)
(e) 17 CFR 200.510(a)
(f) 17 CFR 200.511(a)

By the Commission.

Dated: February 6, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-3187 Filed 2-12-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 82F-0271]

Secondary Direct Food Additives Permitted in Food for Human Consumption

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 polymaleic acid and its sodium salt to control mineral scale in beet sugar juice and liquor or in cane sugar juice and liquor. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: February 13, 1986; objections by March 17, 1986. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 173.45 effective on February 13, 1986.

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

FOR FURTHER INFORMATION CONTACT:

Patricia J. McLaughlin, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 17, 1982 (47 FR 41205), FDA announced that a petition (FAP 2A3652) had been filed by Ciba-Giegy Corp., Hawthorne, NY 10532, proposing that Part 173 (21 CFR Part 173), Subpart A—Polymer Substances for Food Treatment, be amended to provide for the safe use of polymaleic acid and its sodium salt to control mineral scale in beet sugar juice and liquor or in cane sugar juice and liquor.

FDA has evaluated data in the petitioner and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended as set forth below.

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 and 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 statement is not required. The agency's findings 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 Environmental 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 March 17, 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 is 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 173

Food additives, Food processing aids, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR Part 173 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 Subpart A by adding new § 173.45 to read as follows:

§ 173.45 Polymaleic acid and its sodium salt.

Polymaleic acid (CAS Reg. No. 26099-09-2) and its sodium salt (CAS Reg. No. 70247-90-4) may be safely used in food in accordance with the following prescribed conditions:

(a) The additives have a minimum average molecular weight of 550-650 and a weight-average molecular weight of 650-850, calculated as the acid. Molecular weight shall be determined by a method entitled "Determination of Molecular Weight Distribution of Poly(Maleic Acid)," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW.,

Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(b) The additives may be used, individually or together, in the processing of beet sugar juice and liquor or of cane sugar juice and liquor to control mineral scale.

(c) The additives are to be used so that the amount of either or both additives does not exceed 0.4 part per million (calculated as the acid) by weight of the beet or cane sugar juice or liquor process stream.

Dated: February 3, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-3149 Filed 2-12-86; 8:45 am.]

BILLING CODE 4160-01-M

---

21 CFR Parts 175 and 178

[Docket No. 80F-0154]

Indirect Food Additives: Adhesives and Components of Coatings; Adjuvants, Production Aids, and Sanitizers

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 1,4-benzenedicarboxylic acid, bis[2-(1,1-dimethylethyl)-6-[[3-(1,1-dimethylethyl)-2-hydroxy-5-methylphenyl]methyl]-4-methylphenyl] ester as a stabilizer in olefin polymers and adhesives intended for food-contact use. This action responds to a petition filed by Borg-Warner Chemicals on behalf of Société Francaise d'Organo Synthése.

DATES: Effective February 13, 1986; objections by March 17, 1986.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 20, 1980 (45 FR 33726), FDA announced that a petition (FAP 9B3445) had been filed by Borg-Warner Chemicals, Borg-Warner Corp., Technical Centre, Washington, WV 26181, proposing that the food additive regulations be amended to provide for the safe use of bis[2-*tertiary*-butyl-4-methyl-6-[3-*tertiary*-butyl-5-methyl-2-hydroxybenzyl]phenyl]terephthalate as a stabilizer in polymers intended for food-contact application. Since the filing notice published, FDA has reviewed additional data from the petitioner. Based on this information, FDA agrees with the petitioner that a more appropriate name for the additive is 1,4-benzenedicarboxylic acid, bis[2-(1,1-dimethylethyl)-6-[[3-(1,1-dimethylethyl)-2-hydroxy-5-methylphenyl]-4-methylphenyl] ester. This is the Chemical Abstracts name for this compound.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed uses of the food additive are safe, and that the regulations should be amended as set forth below.

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 statement 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 Environmental 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 abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

Any person who will be adversely affected by this regulation may at any time on or before March 17, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. 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 is 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 document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 175

Adhesives, Food additives, Food packaging.

21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Parts 175 and 178 are amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR Part 175 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 and 5.61.

2. In § 175.105(c)(5) by alphabetically inserting a new item in the list of substances to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
. . . . .	
1,4-Benzenedicarboxylic acid, bis[2-(1,1-dimethylethyl)-6-[[3-(1,1-dimethylethyl)-2-hydroxy-5-methylphenyl]methyl]-4-methylphenyl]ester (CAS Reg. No. 57569-40-1)	For use as a stabilizer
. . . . .	

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 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 and 5.61.

2. In § 178.2010(b) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* *
1,4-Benzenedicarboxylic acid, bis[2-(1,1-dimethylethyl)-6-[[3-(1,1-dimethylethyl)-2-hydroxy-5-methylphenyl]methyl]-4-methylphenyl]ester (CAS Reg. No. 57569-40-1)	For use only at levels not to exceed 0.075 percent by weight of olefin polymers complying with § 177.1520 of this chapter
* * *	* *

Dated: January 24, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-3150 Filed 2-12-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Amoxicillin Trihydrate and Clavulanate Potassium for Oral Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Beecham Laboratories, providing for use in cats of amoxicillin trihydrate and clavulanate potassium for oral suspension. The drug is indicated for treatment of certain skin and soft tissue infections.

EFFECTIVE DATE: February 13, 1986.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Beecham Laboratories, Division of Beecham, Inc., Bristol, TN 37620, filed NADA 55-103 which provides for use in cats of amoxicillin trihydrate and clavulanate potassium for oral suspension. The drug is available as a powder for reconstitution and oral administration for treatment of skin and soft tissue infections such as wounds, abscesses and cellulitis/dermatitis due to susceptible strains of beta-lactamase producing *Staphylococcus aureus*, non-beta-lactamase producing *Staphylococcus aureus*, *Staphylococcus* spp., *Streptococcus* spp., *E. coli*, *Pasteurella multocida* and *Pasteurella* spp. The NADA is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

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

List of Subjects in 21 CFR Part 540

Animal drugs, Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 540 is amended as follows:

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR Part 540 continues to read as follows:

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

2. Section 540.103h is amended by adding paragraph (c)(3)(ii) to read as follows:

§ 540.103h Amoxicillin trihydrate and clavulanate potassium for oral suspension

* * * * *

(c) * * *

(3) * * *

(ii) *Cats*—(*a*) *Amount.* 62.5 milligrams (1 milliliter) twice daily (50 milligrams of amoxicillin and 12.5 milligrams clavulanic acid).

(*b*) *Indications for use.* It is used in the treatment of feline skin and soft tissue infections such as wounds, abscesses, and cellulitis/dermatitis due to susceptible strains of beta-lactamase (pencillinase) producing *Staphylococcus aureus*, non-beta-lactamase *Staphylococcus aureus*, *Staphylococcus* spp., *Streptococcus* spp., *E. coli*, *Pasteurella multocida*, and *Pasteurella* spp.

(*c*) *Limitations.* Administer 48 hours after all symptoms have subsided. If no improvement is seen after 3 days of treatment, discontinue therapy and reevaluate the case. Maximum duration of treatment should not exceed 30 days. Not for use in cats maintained for breeding. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: February 3, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-3152 Filed 2-12-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Amoxicillin Trihydrate and Clavulanate Potassium Film-Coated Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Beecham Laboratories to correct a discrepancy existing between the moisture content specifications for amoxicillin trihydrate and clavulanate potassium tablets for human and veterinary use. The moisture content limit for the veterinary tablets is being increased from not more than 7 percent to not more than 10 percent so that it will be consistent with the limit for human tablets which have the same concentration ratio between the two drug components.

EFFECTIVE DATE: February 13, 1986.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Beecham Laboratories, Division of Beecham, Inc.,

Bristol, TN 37620, is the sponsor of approved NADA 55–099 which provides for the use of amoxicillin trihydrate and clavulanate potassium tablets in treating dogs for certain skin infections. In the **Federal Register** of November 16, 1984 (49 FR 45420), the approval of the NADA was published along with a regulation (21 CFR 540.103g) which contains a moisture content specification for the tablets of not more than 7 percent. The moisture content is significantly influenced by the amoxicillin trihydrate component. Therefore, in the regulation for the human use tablets (21 CFR 440.103d(a)(1)), the moisture content specification is not more than 7 percent when the milligrams of amoxicillin (as the trihydrate) to milligrams of clavulanic acid ratio is 2 to 1, respectively, but is not more than 10 percent when the ratio is 4 to 1. All of the veterinary use tablets in § 540.103g (4 drug concentration levels) contain an amoxicillin to clavulanic acid ratio of 4 to 1. Therefore, the sponsor should have specified a moisture content limit of not more than 10 percent, but the sponsor inadvertently specified not more than 7 percent. Consequently, the firm filed a supplemental NADA requesting correction of the discrepancy. The supplement is approved and the regulations are amended accordingly. The freedom of information summary for original NADA 55–099, which published in the November 16, 1984, **Federal Register**, also applies to this approval.

List of Subjects in 21 CFR Part 540

Animal drugs, Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 540 is amended as follows:

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR Part 540 continues to read as follows:

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

§ 540.103g [Amended]

2. Section 540.103g *Amoxicillin trihydrate and clavulanate potassium film-coated tablets* is amended in paragraph (a)(1) by revising the fifth full sentence "Its moisture content is not more than 7 percent." to read "Its moisture content is not more than 10 percent."

Dated: February 3, 1986.

Marvin H. Norcross,

Acting Associate Director for New Animal Drug Evaluation.

[FR Doc. 86–3148 Filed 2–12–86; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Amoxicillin Trihydrate and Clavulanate Potassium Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Beecham Laboratories, providing for use of amoxicillin trihydrate and clavulanate potassium tablets in cats. The drug is labeled for the treatment of certain skin, soft tissue, and urinary tract infections.

EFFECTIVE DATE: February 13, 1986.

FOR FURTHER INFORMATION CONTACT: Sandra Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Beecham Laboratories, Division of Beecham, Inc., Bristol, TN 37620, filed NADA 55–102 for amoxicilin trihydrate and clavulanate potassium tablets for use in cats. The drug is for the treatment of skin and soft tissue infections due to susceptible strains of beta-lactamase (penicillinase) producing *Staphylococcus aureus*, non-beta-lactamase *Staphylococcus aureus*, *Staphylococcus* spp., *Streptococcus* spp., *E. coli*, and *Pasteurella* spp. The drug is also for the treatment of urinary tract infections due to susceptible strains of *E. coli*. The firm presently holds an approval for use of the product in dogs. The application is approved and the regulations amended accordingly. The basis for approval is discussed in the freedom of information summary.

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

The agency has 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 statement 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 Environmental 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 abbreviated environmental assessment under 21 CFR 25.31a(b)(4).

List of Subjects in 21 CFR Part 540

Animal drugs, Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 540 is amended as follows:

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR Part 540 continues to read as follows:

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

2. Section 540.103g is amended by adding new paragraph (c)(3)(ii) to read as follows:

§ 540.103g Amoxicillin trihydrate and clavulanate potassium film-coated tablets.

* * * * *

(c) * * *

(3) * * *

(ii) *Cats*—(*a*) *Amount.* 62.5 milligrams twice daily (50 milligrams amoxicillin and 12.5 milligrams clavulanic acid).

(*b*) *Indications for use.* It is used in the treatment of skin and soft tissue infections such as wounds, abscesses and cellulitis/dermatitis due to susceptible strains of beta-lactamase (penicillinase) producing *Staphylococcus aureus*, non-beta-lactamase producing *Staphylococcus aureus*, *Staphylococcus* spp., *Streptococcus* spp., *E. coli*, and *Pasteurella* spp. It is also used in the treatment of urinary tract infections (cystitis) due to susceptible strains of *E. coli*.

(*c*) *Limitations.* Skin and soft tissue infections: abscesses, cellulitis/dermatitis should be treated for 5 to 7 days or for 48 hours after all signs have subsided. If no response is seen after 3 days of treatment, therapy should be discontinued and the case reevaluated. Urinary tract infections may require

treatment for 10 to 14 days or longer. The maximum duration of treatment should not exceed 30 days. Safety of use in pregnant or breeding animals has not been established. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: January 29, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-3151 Filed 2-12-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1311, 1312 and 1316

Nomenclature and Other Changes

AGENCY: Drug Enforcement Administration.

ACTION: Final rule.

SUMMARY: This action updates Parts 1301 through 1316 of Title 21 of the Code of Federal Regulations. It contains no substantive changes in any regulation. Therefore, no comments have been solicited and the action is being issued as a final rule.

EFFECTIVE DATE: February 13, 1986.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, Chief, Diversion Operations Section, Office of Diversion Control, Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537, telephone: (202) 633-1216.

SUPPLEMENTARY INFORMATION: This action changes certain office designations and titles which are currently listed in Parts 1301 through 1316 of Title 21 of the Code of Federal Regulations in order to accurately reflect the internal organization of the Drug Enforcement Administration. It also corrects several internal references, deletes sections no longer valid, reinserts a word deleted in a previous amendment, removes references to obsolete forms, and corrects the authority citations.

List of Subjects in 21 CFR Parts 1301-1316

Administrative practice and procedure, Drug Enforcement Administration, Drug traffic control, Security measures, Exports, Imports, Labeling, Packaging and containers, Reporting requirements, Prescription drugs, Narcotics, Research, seizures and forfeitures.

Therefore, pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b) as delegated by 28 CFR 0.100 to the Administrator of the Drug Enforcement Administration, the Administrator of DEA hereby orders that Parts 1301-1316 of Title 21 of the Code of Federal Regulations be amended as follows:

1. The authority citations for Parts 1302, 1303, 1306, 1311, 1312, and 1316 are revised to read as follows:

Part 1302

Authority: 21 U.S.C. 821, 825, 871(b), 958(e).

Part 1303

Authority: 21 U.S.C. 821, 826, 871(b).

Part 1306

Authority: 21 U.S.C. 821, 829, 871(b).

Part 1311

Authority: 21 U.S.C. 952, 956, 957, 958.

Part 1312

Authority: 21 U.S.C. 952, 953, 954, 958.

Part 1316

Subpart A

Authority: 21 U.S.C. 822(f), 871(b), 880, 958(f), 965.

Subpart B

Authority: 21 U.S.C. 871(b), 872(c), 872(d).

Subpart C

Authority: 21 U.S.C. 871(b), 883.

Subpart D

Authority: 21 U.S.C. 811, 812, 871(b), 875, 958(d), 965.

Subpart E

Authority: 21 U.S.C. 871(b), 881, 965.

2. The authority citations for Parts 1301, 1304, 1305, 1307, and 1308 continue to read as follows:

Part 1301

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877.

Part 1304

Authority: 21 U.S.C. 821, 827, 871(b), 958(e), 965.

Part 1305

Authority: 21 U.S.C. 821, 828, 871(b).

Part 1307

Authority: 21 U.S.C. 821, 822(d), 871(b).

Part 1308

Authority: 21 U.S.C. 811, 812, 871(b).

§§ 1301.03, 1301.32, 1301.33, 1301.34, 1301.61, 1305.05, 1305.12, 1307.14, 1311.03, 1311.32 and 1311.61 [Amended]

3. 21 CFR 1301.03, 1301.32(c), 1301.32(f), 1301.33(c), 1301.34(a), 1301.61, 1305.05(b), 1305.05(d), 1305.12(b), 1307.14(a), 1311.03, 1311.32(c), 1311.32(f), and 1311.61 are amended by removing the words "Registration Branch" and replacing them with the words "Registration Unit."

§ 1301.24 [Amended]

4. 21 CFR 1301.24(b) is amended by removing the phrase "(For example, a pharmacist employed by a pharmacy need not be registered individually to fill a prescription for controlled substances if a pharmacy is so registered.)" and replacing it with the phrase, "(For example, a staff physician employed by a hospital need not be registered individually to administer and dispense, other than by prescribing, controlled substances within the hospital.)"

5. 21 CFR 1301.26(e), 1301.71(d), 1312.12(a), 1312.14(a), 1312.16(b) 1312.18(b), 1312.19(a), 1312.19(b) 1312.22(a), 1312.24(a), 1312.25, 1312.27(a), 1312.28(c), 1312.28(d), 1312.31(b), 1312.32(a) are amended by removing the words "Compliance Division" and replacing them with the words "Diversion Operations Section."

§ 1301.32 and § 1316.03 [Amended]

6. 21 CFR 1301.32(a)(7) and 1316.03(d) are amended by removing the words "BND Form" and replacing them with the words "DEA Form."

§ 1301.32 and § 1311.32 [Amended]

7. 21 CFR 1301.32(f) and 1311.32(f) are amended by deleting the phrase "on DEA (or BND) Form 231(a)."

§ 1301.64 [Removed]

8. 21 CFR 1301.64 is removed.

§§ 1303.12, 1303.22, 1303.27, 1304.35, 1304.41 and § 1308.24 [Amended]

9. 21 CFR 1303.12(b), 1303.12(d), 1303.22, 1303.27, 1304.35(a), 1304.41(a), 1308.24(d) are amended by removing the words "Regulatory Control Division" and replacing them with the words "Drug Control Section."

§§ 1304.31, 1304.32 and § 1304.36 [Amended]

10. Sections 1304.31, 1304.32 and 1304.36 (a) and (b) are removed.

§§ 1304.33, 1304.34 and 1304.35 [Redesignated as 1304.31, 1304.32 and 1304.33]

11. Sections 1304.33, 1304.34 and 1304.35 are redesignated as 1304.31, 1304.32 and 1304.33, respectively.

§§ 1304.37–1304.41 [Redesignated as §§ 1304.34–1304.38]

§ 1304.36 [Amended]

12. Sections 1304.37, 1304.38, 1304.39, 1304.40, and 1304.41 are redesignated as §§ 1304.34, 1304.35, 1304.36, 1304.37, 1304.38 and 1304.36(c) is redesignated as section 1304.34(c).

§ 1304.34 [Amended]

13. New section (as redesignated in 12 above) 1304.34 is amended by replacing the phrase "§§ 1304.38–1304.41" with the phrase §§ 1304.35–1304.38."

§ 1304.03 [Amended]

14. 21 CFR 1304.03(d) is amended by removing the citation "21 U.S.C. 335(i)" and replacing it with the citation "21 U.S.C. 355(i)".

§ 1304.04 [Amended]

15. Section 1304.04(f) is amended by adding the word "exporter" between the words "importer" and "narcotic treatment program."

16. Section 1304.04(g) is amended by removing the phrase "paragraph (b) of this section" and replacing it with the phrase "paragraph (f) of this section."

§ 1304.31 and § 1304.32 [Amended]

17. New sections 21 CFR 1304.31(a) and 1304.32(a) are amended by removing the words "Distribution Audit Branch" and replacing them with the words "Drug Control Section."

§ 1305.03 [Amended]

18. The internal reference in 21 CFR 1305.03(c) currently reading "1316.04(d)" is deleted and replaced by "1301.26(b)."

§ 1306.15 and § 1306.25 [Amended]

19. The internal reference in 21 CFR 1306.15 and 1306.25 currently given as "1304.04(d)" is deleted and replaced by "1304.04(h)."

§ 1306.23 [Amended]

20. 21 CFR 1306.23 is amended by removing the phrase "Schedule III, IV or V" and inserting in its place the phrase "Schedule III or IV."

§ 1306.31 [Amended]

21. 21 CFR 1306.31(a) is amended by removing the internal references to "1306.23" and "1306.24" and replacing them with "1306.24" and "1306.25", respectively.

§ 1308.04 [Amended]

22. 21 CFR 1308.04(a) is amended by removing the phrase "Regulatory Support Division" and replacing it with the phrase "Regulatory Support Section."

§ 1308.11 [Amended]

23. 21 CFR 1308.11(b)(16) is amended by removing the number "9618" and replacing it with the number "9168."

§ 1308.13 [Amended]

24. 21 CFR 1308.13(e)(3) and 1308.13(e)(4) are amended by adding the word "(hydrocodone)" after the word dihydrocodeinone.

§ 1311.32 [Amended]

25. 21 CFR 1311.32(b) and 1311.32(c) are amended by removing the number "227" and inserting in its place the number "225a."

§ 1311.64 [Removed]

26. 21 CFR 1311.64 is deleted.

§ 1312.02 [Amended]

27. 21 CFR 1312.02(b) is amended by removing the number "1002" and inserting in its place the number "102."

§ 1312.12 [Amended]

28. 21 CFR 1312.12(a) is amended by removing the phrase "(or BND) Form 85" and inserting in its place the phrase "Form 357."

It has been determined that this is an internal management matter not requiring consultation with the Office of Management and Budget (OMB). The Administrator of DEA hereby certifies that these matters will have no significant negative impact upon small businesses within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

Dated: February 7, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86–2903 Filed 2–12–86; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8075]

Income Taxes; Treatment of Certain Hospital Services

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the treatment of certain hospital services furnished by one tax-exempt hospital to other such hospitals. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations affect those tax-exempt hospitals that furnish the services, and would provide the furnishing hospitals with the guidance needed to determine their unrelated business taxable income.

DATES: The regulations apply to taxable years beginning after December 31, 1953, and are effective after December 31, 1953.

FOR FURTHER INFORMATION CONTACT: Calder L. Robertson, Jr., of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, (Attention: CC:LR:T:EE–46–78) (202–566–3544) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 13, 1982, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 513(e) of the Internal Revenue Code of 1954 (47 FR 55696). These proposed amendments conform the regulations to section 1311 of the Tax Reform Act of 1976 (90 Stat. 3526). The regulations are issued under the authority contained in section 513(e) and in section 7805(b) of the Internal Revenue Code of 1954 (90 Stat. 3526, 68A Stat. 917; 26 U.S.C. 513(e), 7805). There was only one request for a public hearing. No public hearing was held because the request was withdrawn. After consideration of all written comments received, the regulations are adopted with minor clarification by this Treasury decision.

Effective Date

The regulations are effective for all taxable years beginning after December 31, 1953.

Non-Applicability of Executive Order 12291

The Commissioner has determined that this Treasury decision is not subject to review under Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

Regulatory Flexibility Act

Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of this regulation is Charles K. Kerby, III, of the Employee Plans and Exempt Organizations 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 these regulations, both on matters of substance and style.

Public Comments

The public comments pertained to issues that were considered by the Internal Revenue Service prior to the publication of the notice of proposed rulemaking.

The majority of public comments concerned the 100 inpatient limitation of section 513(e). It was suggested that the limitation was arbitrary, and should be increased or eliminated. The final regulations do not adopt this suggestion because the statute explicitly requires the limitation.

Many commentators sought to temper the rules under section 513(e) which treat a particular service as an unrelated trade or business if the service is provided at a fee above actual cost to even one hospital, or is provided to one hospital with facilities to serve more than 100 inpatients. The approaches suggested involved treating only the excess of fees over actual cost, or the fees from the services provided to hospitals with more than 100 inpatient facilities, as derived from an unrelated trade or business. The final regulations do not adopt these approaches. Treatment of only the services provided to more than 100 inpatient hospitals as an unrelated trade or business was deemed to contradict the wording of the statute under section 513(e)(1) which requires that services be provided "solely" to hospitals that have facilities to serve no more than 100 inpatients. Similarly, treatment of the excess of fees above actual costs as unrelated trade or business income was rejected because section 513(e)(3) specifically requires that services be provided at a fee not in excess of actual costs to escape treatment as an unrelated trade or business under section 513(e). We note that section 513 deals with the characterization of a service as an unrelated or related trade or business. The statute does not directly deal with the characterization income, and does not address the fragmentation of income suggested. Therefore, if a service fails to meet the requirements of section 513(e)(3), the service is characterized under section 513(e) and the resulting treatment of income derived is governed by section 512.

Many commentators suggested that the regulations' reference to the reasonable cost and rate of return formulations prescribed by 42 U.S.C. 1395x(v)(1)(A) and (B) and the underlying regulations (permitting reimbursement to health care providers for reasonable costs including a reasonable return on equity capital in the Medicare program) was unwarranted. Some commenters felt that a "reasonable cost" fee standard, however determined, should not be adopted. Moreover, several commentators were concerned that many indirect costs of providing services would not be allowed in the Medicare determination of reasonable costs. These commentators generally felt the regulations should be silent on standards for determining fee levels.

After consideration of these comments, it was decided to retain the regulations' reference to the Medicare formulations as a safe harbor for use in complying with section 513(e). The wording of the statute in section 513(e)(3) requires that the services be provided at a fee or cost that *does not exceed* the actual cost of services, not provided *at* actual costs. The statute does not require actual cost fees. The nature of the fees subject to the actual cost limit is left unclear by the statute. The brief legislative history suggests strongly that Congress intended that section 513(e) operate to encourage cost savings to hospitals and their patients which implies a reasonable cost fee standard. S. Rep. No. 94–938, Part 2, 94th Cong., 2d Sess. 95 (1976). Further, the subsequent language of section 513(e)(3) which incorporates into actual costs reasonable allocations for depreciation (determined by the straight-line method) and a return on capital goods used (a reasonable rate of return) reinforces the reasonable cost fee standard adopted in the final regulations.

In addition, it was felt that a uniform standard for determining the fees or costs of services to be charged was necessary in the final regulations. Moreover, after examination of the Medicare regulations and consultation with Social Security Administration officials, it was determined that most direct and indirect costs are included in the determination of reasonable cost of services under the Medicare regulations. Further, it was determined that the cost records kept under the reimbursement method of repayment for Medicare providers would still be necessary under the new prospective payment method for Medicare providers. Thus, no additional recordkeeping would be required to demonstrate compliance with section 513(e).

Although the proposed regulations referred to the rate of return for equity capital in the Medicare regulations, it was not clear that the rate for section 513(e) purposes should change with any corresponding change in rate prescribed in the Medicare regulations. Therefore, the regulations are clarified to indicate that the safe harbor rate of return on equity capital is the rate prescribed in the regulations under 42 U.S.C. 1395x(v)(1)(A) and (B). The rate of return was lowered for periods after April 20, 1983, by a change to the Medicare regulations in October 1984. Concern was expressed over the fairness of applying the lower rate of return for periods before the publication of the final regulations. Therefore, the regulations are also clarified to make the lower rate applicable only for taxable years beginning 90 days after publication of the final regulations.

Several commentators suggested that the final regulations clarify that the failure of a hospital service under section 513(e) to qualify for the exception from treatment as an unrelated trade or business does not preclude a showing based on all the facts and circumstances that the service provided to one or more hospitals is substantially related to the providing hospital's exempt purpose. Treas. Reg. § 1.513–1(d). Nothing in the final regulations precludes a hospital from making the requisite showing under § 1.513–1(d) based on all the facts and circumstances. However, the Service has generally taken the position that the provision of commercially available services by an exempt hospital to other unrelated exempt hospitals is an unrelated trade or business. *See* Rev. Rul. 69–633, 1969–2 C.B. 121. Thus, absent a showing of special facts that indicate the provision of such a service to other unrelated hospitals is substantially related to the providing hospital's exempt purpose (other than through the production of needed income), the provision of such services to other unrelated hospitals will generally be deemed an unrelated trade or business. For these reasons, it was decided to reject any revision of the final regulations that implied as a general and practical matter a contrary result. As noted before, nothing in the final regulations precludes a special showing under § 1.513–1(d).

List of Subjects in 26 CFR 1.501(a)–1—1.528–10

Income taxes, Exempt organizations, Unrelated trade or business.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Part 1 are hereby adopted as clarified by this Treasury decision.

Amendments to the Regulations

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

Authority: 26 U.S.C. 7805 * * *.

2. 26 CFR Part 1 is amended by adding the following new § 513.6 in the appropriate place:

PART 1—[AMENDED]

§ 1.513 Certain hospital services not unrelated trade or business.

(a) *In general.* Under section 513(e), the furnishing of a service listed in section 501(e)(1)(A) by a hospital to one or more other hospitals will not constitute unrelated trade or business if—

(1) The service is provided solely to hospitals that have facilities to serve not more than 100 inpatients,

(2) The service would, if performed by the recipient hospital, constitute an activity consistent with that hospital's exempt purposes, and

(3) The service is provided at a fee not in excess of actual cost, including straight line depreciation and a reasonable rate of return on the capital goods used to provide the service. For purposes of this section, a rate of return on capital goods will be considered "reasonable" provided that it does not exceed, on an annual basis, the percentage described below which is based on the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for each of the months included in the taxable year of the hospital during which the captial goods are used in providing the service. Determinations as to the cost of services and the applicable rate of return should be made as prescribed by 42 U.S.C. 1395x(v)(1) (A) and (B) and the regulations thereunder (permitting a health care facility to be reimbursed under the Medicare program for the "reasonable cost of (its) services," including, in the case of certain proprietary facilities, a "reasonable return on equity capital"). For taxable years beginning on or before May 14, 1986, the rate of return shall be one and one-half times the average of the rates of interest on public debt obligations described above which were in effect on or before April 20, 1983.

(b) *Hospital defined.* As used in this section the word "hospital" means a hospital described in section 170(b)(1)(A)(iii).

(c) *Example.* The provisions of this section are illustrated by the following example:

Example. A large metropolitan hospital provides various services to other hospitals. The hospital furnishes a purchasing service to hosptials N and O, a data processing service to hospitals R and S, and a food service to hospitals X and Y. All the hospitals are described in section 170(b)(1)(A)(iii). All the hospitals have facilities to serve not more than 100 inpatients except hospitals N. The services are furnished at cost to all hospitals except that hospital R is charged a fee in excess of cost for its use of the data processing service. The purchasing service constitutes unrelated trade or business because it is not provided solely to hospitals having facilities to serve not more than 100 inpatients.

The data processing service constitutes unrelated trade or business because it is provided at a fee in excess of cost. The food service satisfies all three requirements of paragraph (a) of this section and does not constitute unrelated trade or business.

(d) *Effective date.* Section (513(e) and this section apply to taxable years beginning after December 31, 1953.

This Treasury Decision is issued under the authority contained in sections 513(e) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1729, 68A Stat. 917; 26 U.S.C. 513(e), 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 21, 1986.

J. Roger Mentz,

Acting Assistant Secretary of the Treasury.

[FR Doc. 86–3107 Filed 2–12–86; 8:45 am]

BILLING CODE 4830–01–M

---

26 CFR Parts 1, 20, 25 and 602

[T.D. 8069]

Income Taxes; Qualified Conservation Contributions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document contains corrections to Treasury Decision 8069, which was published in the **Federal Register** on January 14, 1986 (51 FR 1496). T.D. 8069 issued final regulations relating to contributions not in trust of partial interests in property for conservation purposes.

EFFECTIVE DATE: The regulations that are the subject of these corrections are effective on December 18, 1980. These corrections are also effective on December 18, 1980.

FOR FURTHER INFORMATION CONTACT: Ada S. Rousso of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone 202–566–3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 14, 1986, the **Federal Register** published final regulations relating to contributions not in trust of partial interests in property for conservation purposes. The provisions set forth in those regulations reflected changes made by the Tax Reform Act of 1984 and the Temporary Tax Provisions, Extension.

Need for Correction

As published, Treasury Decision 8069 contains an incorrect internal citation in § 1.170A–14(b)(2); omits the word "of" in § 1.170A–14(f), *Example (5)*; contains an incorrect location reference in the amendatory language of subparagraph b of Par. 6; and uses the words "bequest" and "decedent's" instead of "gift" and "donor's", respectively, in the revised language for paragraph (c)(2)(i) of § 25.2522(c)–3.

Correction of Publication

Accordingly, the publication of Treasury Decision 8069, which was the subject of FR Doc. 86–727 (51 FR 1496), is corrected as follows:

§ 1.170A–14 [Corrected]

Paragraph 1. On page 1499, second column, in § 1.170A–14, paragraph (b)(2), line 17, the language "this paragraph (b)(3)" is removed and the language "this paragraph (b)(2)" is added in its place.

Par. 2. On page 1503, third column, in § 1.170A–14, paragraph (f), *Example (5)*, the conclusion of the fifth sentence, which now reads "worthy protection.", is revised to read "worthy of protection.".

Par. 3. On page 1507, second column, in the amendatory paragraph that is designated Par. 6, subparagraph b, line 1, thereof, the language "The eight sentence" is removed and the language "The seventh sentence" is added in its place.

Par. 4. On page 1507, third column, the amendatory paragraph that is designated Par. 8, subparagraph b thereof, in the revised language, the words "bequest" and "decedents's" are removed and the words "gift" and "donor's" are added in their respective places.

Paul A. Francis,

Acting Director, Legislation and Regulations Division.

[FR Doc. 86-3106 Filed 2-12-86; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T. D. ATF-223; Re: Notice No. 567]

Lodi Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is establishing an American viticultural area located in Sacramento and San Joaquin counties, California, to be known as "Lodi." This final rule is the result of a petition submitted by a representative of the Lodi District Vintners Association. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify wines they purchase.

EFFECTIVE DATE: This final rule is effective March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Lori Weins, Technical Aide, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

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 definite 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.

Petition

In August 1982 ATF received the petition for the establishment of the "Lodi" viticultural area. The Lodi viticultural area is bounded on the east by the Sacramento and San Joaquin County lines, on the south by the Calaveras River and Eightmile Road, and on the west by Interstate Highway 5, Hood-Franklin Road, and Franklin Boulevard. The northern boundary includes the section line running due east from Franklin Boulevard and connecting to the western end of Sheldon Road, the Central California Traction Co. Railroad, Grant Line Road, California State Highway 16, and Deer Creek. The area of close to 458,000 acres includes approximately 39,000 acres of vineyards and 15 bonded wine cellars.

Public Comments

ATF received no comments in response to Notice No. 567. Therefore, after analyzing and evaluating all of the related evidence the viticultural area is adopted as proposed.

Viticultural Area Name

The name "Lodi" was well established in the petition. The petitioner submitted many newspaper articles dating from 1956 which show that this area has been known as Lodi for many years. Wine writers such as Leon D. Adams, in his book, *The Wines of America*, (McGraw-Hill Book Company, New York, NY, 1978, Second Edition) describe the wines and climate of the Lodi region. Hugh Johnson's, *The World Atlas of Wine*, (Simon and Schuster, New York, 1971), refers to Lodi as the heart of the northern Central Valley vineyards benefiting from the cooling effects of air from San Francisco Bay. Alexis Lichine, in his *New Encyclopedia of Wines and Spirits* (Alfred A. Knopf, New York, NY, 1978), described the Sacramento Valley as a region somewhat affected by the moderating influence of San Francisco Bay air, with the Lodi-Sacramento district as the dominant wine-growing area. All these authors, plus many more in various other books, wine-related magazines, and news columns have long recognized the Lodi wine district.

Geographical/Viticultural Features

The Lodi viticultural area is an inland area that is comprised mainly of alluvial fan, flood plain lands, and lower and higher terrace lands.

Although the land both north and south of the area has some similar soil structures, it is the combination of these soils with the climatically moderating effect of air from San Francisco Bay that makes this area distinctive. Any northern boundary for the Lodi viticultural area located significantly closer to Sacramento, and any other southern boundary located significantly closer to Stockton, would include land which experiences annual degree days more comparable to Sacramento and Stockton than to Lodi. To quote the United States Department of Agriculture (USDA) 1937 Soil Survey of the Lodi Area, "Owing to its location opposite the wind gap leading inland from the Golden Gate, the range in temperature is narrower than in more northerly and southerly parts of the great valley. Summer fogs are more common." Temperature data covering the period 1973 through 1982 compiled by the University of California Agricultural Extension Station at Sacramento, and the United States Department of Interior, Stockton, show a mean of 3570 degree days for Lodi, 4185 for Sacramento, and 4386 for Stockton.

The primary difference on the eastern boundary is the change into the Sierra-Nevada foothills and the more upland soils. Also, an increase of rainfall is associated with an increase in elevation. To quote the same USDA 1937 Soil Survey, "Lodi, representative of valley

plain, has 18.26 inches (of annual rainfall); and Valley Springs, about eight miles east of the area, and more or less representative of the foothill country, has 24.03 inches."

The area west of Interstate Highway 5 and Franklin Boulevard is flood-prone, poorly drained, delta land consisting of Ryde soils and peat. The segment of Highway 5 that is part of the western boundary is primarily located on the first firm soil east of the Sacramento River system.

Soils in the Lodi viticultural area are primarily Hanford, Delhi, or Dinuba in the alluvial fan soils; or San Joaquin, Madera, Romona, or Redding in the lower and upper terrace soils as shown in, "Soils of San Joaquin County, California" and "Soils of Sacramento County, California," University of California, Berkely, California, 1952 and 1954.

Boundaries

The eastern terminus of the southern boundary is its point of intersection with the eastern boundary of San Joaquin County. A small segment of southwestern Calaveras County has been omitted from the proposed viticultural area in consideration of the total absence of current viticultural activity, and in the belief any future viticulturalists in the segment would not desire to be identified with Lodi.

The western boundary has used part of Interstate Highway 5, which is roughly parallel to Thornton Road, and runs from one-quarter to, at most, two miles west of Thornton Road. ATF believes that this is a well defined border. At the intersection of Interstate Highway 5 and Hood-Franklin Road the boundary jogs to the east approximately one-half mile to the intersection with Franklin Boulevard which it follows northeast to the meeting point with the section line running east which extends to Sheldon Road.

The northern boundary starts from the point where Franklin Boulevard meets the section line extending due east to the western end of Sheldon Road, then continuing east along Sheldon Road to its intersection with the Central California Traction Co. Railroad then southeast along the Central California Traction Co. Railroad to its intersection with Grant Line Road, and then extending northeast along Grant Line Road parallel to the Cosumnes River. At the point where Grant Line Road intersects California State Highway 16 the boundary follows Highway 16 southeast to Deer Creek, where it proceeds east along Deer Creek until it intersects the eastern boundary of Sacramento County.

The eastern boundary excludes a small area of southwest Calaveras County including the principal community, Valley Springs. The boundary follows the eastern boundaries for Sacramento and San Joaquin Counties from Deer Creek in the north to the Calaveras River in the south.

Miscellaneous

ATF does not wish to give the impression by approving Lodi as a viticultural area that it is endorsing the quality of the wine from this area. ATF is approving this area as being distinct and not better than other areas. By approving this area, Lodi wine producers would be allowed to claim a distinction on labels and in advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Lodi wines.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" since it will not result in:

(a) An annual effect on the economy 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.

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 final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule 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 final rule will not have a significant economic impact on a substantial number of small entities.

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 final rule because no requirement to collect information is proposed.

Drafting Information

The principal author of this document is Lori D. Weins, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

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:

PART 9—[AMENDED]

Par. 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.107 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.107 Lodi.

Par. 3. Subpart C is amended to add § 9.107 as follows:

§ 9.107 Lodi.

(a) *Name.* The name of the viticultural area described in this section is "Lodi."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Lodi viticultural area are 20 U.S.G.S. 7.5 minute series maps, and are titled as follows:

(1) "Valley Springs SW, Calif." (1962, photoinspected 1973);

(2) "Linden, Calif." (1968);

(3) "Waterloo, Calif." (1968, photoinspected 1978);

(4) "Lodi South, Calif." (1968, photorevised 1976);

(5) "Terminous, Calif." (1978);

(6) "Thornton, Calif." (1978);

(7) "Bruceville, Calif." (1968, photorevised 1980);

(8) "Florin, Calif." (1968, photorevised 1980);

(9) "Elk Grove, Calif." (1968, photorevised 1979);

(10) "Sloughouse, Calif." (1968, photorevised 1980);

(11) "Buffalo Creek, Calif." (1967, photorevised 1980);

(12) "Folsom SE, Calif." (1954, photorevised 1980);
(13) "Carbondale, Calif." (1968, photorevised 1980);
(14) "Goose Creek, Calif." (1968, photorevised 1980);
(15) "Clements, Calif." (1968);
(16) "Wallace, Calif." (1962);
(17) "Lodi North, Calif." (1968);
(18) "Galt, Calif." (1968, photoinspected 1978);
(19) "Clay, Calif." (1968); and
(20) "Lockeford, Calif." (1968, photoinspected 1973);

(c) *Boundaries.* The Lodi viticultural area is located in California in the counties of Sacramento and San Joaquin. The beginning point is located in the southeast corner of the viticultural area where the Calaveras River intersects the eastern boundary of San Joaquin County ("Valley Springs, SW" U.S.G.S. map).

(1) The boundary proceeds west along the Calaveras River to the point of intersection with Eightmile Road (Beginning in the "Valley Springs, SW" map, passing through the "Linden" map and ending in the "Waterloo" map);

(2) Thence west along Eightmile Road to the point of intersection with Interstate Highway 5 (beginning in the "Waterloo map and ending in the "Lodi South" map);

(3) Thence north and then northwest along Interstate Highway 5 to its intersection with an unnamed road (known locally as Hood-Franklin Road) (beginning on the "Lodi South" map passing through the "Terminous," and "Thornton," maps and ending in the "Bruceville" map);

(4) Thence east along Hood-Franklin Road to its intersection with Franklin Boulevard (beginning in the "Bruceville" map and ending to the "Florin" map);

(5) Thence northeast along Franklin Boulevard to its meeting point with the section line running due east and connecting to the western end of Sheldon Road ("Florin" map);

(6) Thence due east along the section line connecting to the western end of Sheldon Road ("Florin" map);

(7) Thence east along Sheldon Road to its intersection with the Central California Traction Co. Railroad (beginning in the "Florin" map and ending in the "Elk Grove" map);

(8) Thence southeast along the Central California Traction Co. Railroad to its point of intersection with Grant Line Road ("Elk Grove" map);

(9) Thence northeast along Grant Line Road to the point of intersection with California State Highway 16 (beginning in the "Elk Grove" map, passing through the "Sloughhouse" map and ending in the "Buffalo Creek" map);

(10) Thence southeast along California State Highway 16 to the point of intersection with Deer Creek (beginning in the "Buffalo Creek" map and ending in the "Folsom, SE" map);

(11) Thence northeast along Deer Creek to the point of intersection with the eastern boundary of Sacramento County ("Folsom, SE" map);

(12) Thence southeast along the eastern boundary of Sacramento County and then along the eastern boundary of San Joaquin County to the point of intersection with the Calaveras River, the point of beginning (beginning in the "Folsom, SE" map, passing through the "Carbondale," "Goose Creek," "Clements," and "Wallace" maps and ending in the "Valley Springs, SW map).

Signed: January 14, 1986.

Stephen E. Higgins,

Director.

Approved: January 29, 1986.

Edward T. Stevenson,

Deputy Assistant Secretary (Operations).

[FR Doc. 86-3082 Filed 2-12-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 86-01]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule revocation.

SUMMARY: This amendment revokes the regulations for the Rickenbacker Causeway Bridge, mile 1091.6 at Miami because the bridge has been replaced by a fixed bridge.

EFFECTIVE DATE: This revocation is effective on February 13, 1986.

FOR FURTHER INFORMATION CONTRACT: Mr. Walt Paskowsky, (305) 536-4103.

SUPPLEMENTARY INFORMATION: This rule was not preceded by a notice of proposed rulemaking because it deletes a provision that is of no force. Therefore notice and public procedure thereon are unnecessary.

Drafting Information

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

Economic Assessment and Certification

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

The economic impact of this rule is expected to be so minimal that further evaluation in unnecessary. We conclude this because the rule merely deletes an inoperative provision from the regulations. Accordingly, the Coast Guard certifies that this action will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

§ 117.261 [Amended]

2. Section 117.261 is amended by removing paragraph (qq).

Dated: January 17, 1986.

G.S. Duca,

Captain, U.S. Coast guard; Acting Commander, Seventh Coast Guard District.

[FR Doc. 86-2087 Filed 2-12-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP San Diego Reg. 86-03]

Security Zone Regulations; San Diego Bay, CA, Pacific Ocean

AGENCY: Coast Guard, DOT.

ACTION: Emergency Rule.

SUMMARY: The Coast Guard is establishing a security zone in San Diego Bay, California, consisting of the water area within the area 200 yards (183 meters) immediately southeast of the previously-established security zone at Naval Air Station North Island Cruiser (J-K) and Carrier (L-P) Piers (SDC 85-17). This security zone is a temporary extension of that zone and is established only during the time three aircraft carriers are moored at Naval Air Station North Island. This security zone is established at the request of the United States Navy and is needed to safeguard U.S. Naval vessels and

property from sabotage or other subversive acts, accidents, criminal actions or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port.

DATES: This regulation is effective on February 4, 1986. It terminates on May 30, 1986.

FOR FURTHER INFORMATION CONTACT: LCDR Steven P. Mojonnier, USCG, C/O U.S. Coast Guard, Captain of the Port, 2710 N. Harbor Drive, San Diego, CA 92101-1064, telephone (619) 293-5860.

SUPPLEMENTARY INFORMATION: .

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to secure the interests of the United States.

Drafting Information

The drafters of this regulation are LCDR Steven P. Mojonnier, project officer for the Captain of the Port, and LT Joseph R. McFaul, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will occur from 4 February 1986 to 30 May 1986. During this period of time, three aircraft carriers will be moored at Naval Air Station North Island Carrier (L-P) Piers. These aircraft carriers extend beyond the quay wall which forms these piers, and out of the existing security zone. This temporary extension of the zone is intended to provide the same level of protection to these vessels when three carriers are moored at this location. The security zone is needed to protect persons and property from sabotage or other subversive acts, accidents criminal actions, or other causes of a similar nature, and secure the interests of the United States.

This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—[AMENDED]

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

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

2. In Part 165, a new S165.T1113 is added to read as follows:

§ 165.T1113 Security Zone: San Diego Bay, California.

(a) *Location:* This security zone consists of the water area described as follows:

Commencing at a point on the shoreline of Naval Air Station North Island, Coronado, California at latitude 32°42'13.O" N., longitude 117°10'48.O" W. (Point A), for a place of beginning; thence northerly (approximately 020°T) to latitude 32°42'21.3" N., longitude 117°10'44.2" W. (Point B); thence easterly (approximately 110°T) to latitude 32°42'19.2" N., longitude 117°10'37.5" W. (Point C); thence southerly (approximately 200°T) to latitude 32°42'11.0" N., longitude 117°10'41.3" W. (Point D); thence westerly (approximately 290°T) to the place of beginning (Point A) on the shoreline of the Naval Air Station.

(b) *Effective Dates:* This security zone is effective on February 4, 1986. It terminates on May 30, 1986.

(c) *Regulations:* In accordance with the general regulations in § 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port. Section 165.33 also contains other general requirements.

Dated: February 4, 1986.

E.A. Harmes,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

[FR Doc. 86-3213 Filed 2-12-86; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 265

Organization and Administration; Modification of Fees for Record Retrieval by Computer

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule modifies the fees charged for furnishing Postal Service records retrieved by computer to members of the public. The modified fees inplement existing policy to recover the actual cost incurred by the Postal Service for the retrieval and represent no change in policy concepts.

EFFECTIVE DATE: March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Betty Sheriff, (202) 268-5158.

SUPPLEMENTARY INFORMATION: On November 14, 1985 the Postal Service published in the **Federal Register** for comment (50 FR 47068) proposed modifications of 39 CFR Part 265 that would revise the fees for retrieving data by computer to reflect current labor and administrative costs. Existing fees were established in 1984 and do not reflect current direct costs.

No comments on the proposed modifications were received. Accordingly, part 265 of title 39 CFR is amended as follows:

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

List of Subjects in 39 CFR Part 265

Release of information, Postal Service.

PART 265—RELEASE OF INFORMATION

1. The authority citation for Part 265 is revised to read as follows:

Authority: 39 U.S.C. 401; 5 U.S.C. 552.

§ 265.8 [Amended]

2. In § 265.8, paragraph (b)(3) is amended by striking out "1984" and inserting "1986" in lieu thereof.

3. Appendix A to Part 265 is revised to read as follows:

Appendix A—Information Services Price List in Effect January 1, 1986

Whenever an individual requests information which must be retrieved by computer, standard charges will be incurred based upon resources required to furnish this information. Estimates are provided to the requester in advance and are based on the following standard price list.

Description of services	Price	Unit
A. System utilization services:		
Central processor unit (CPU).		Hour.
3033N (RA)	$888.00	
3033U (RA)	1,134.00	
Amdahl 5860 (NA NB)	2,608.00	
3081K (RA)	2,722.00	
Amdahl 5870 (MB MC SA SB).	4,158.00	
3084QX (SL ST)	5,198.00	
3090-200	5,708.00	
3090-400	10,849.00	
Disk usage (selector) channel.	366.25	Hour.
Multiplexor (Byte) channel	17.50	Hour.
Tape usage (block MPX) channel.	6.50	Hour.
Volume mounts	.50	Mount.
Minimum job charges, flushed.	1.00	Job.
Executed	2.00	Job.
3800 printing	1.10	1,000 lines.
Dedicated use of 370/135	13,023.00	Per A/P.
B. System occupancy chargers:		
Tape occupancy	34.00	Hour.

Description of services	Price	Unit
Unit record occupancy		Hour.
WDSS 1288 OCR	137.00	
Printers	1.10	1,000 lines.
Teleprocessing/graphics occupany.	5.00	Hour.
C. System spooling charges:		
Cards read, local	6.35	1,000 cards.
Cards read, remote	.65	1,000 cards.
Lines printed, local	1.10	1,000 lines.
Lines printed, remote	.20	1,000 lines.
Cards punched, local	34.00	1,000 cards.
Cards punched, remote	3.40	1,000 cards.
D. Peripheral charges:		
Keypunching	10.00	100 cards.
Key-to-tape	17.60	Hour.
Xeroxing offline	3.80	100 pages.
Magnetic tape purchase	13.50	Reel.
Microfilm processing, offline	.01	Frame.
Microfiche processing	.01	Frame.
Microfiche duplicating	.05	Sheet.
Programmer support	33.60	Hour.
Programmer support, overtime.	50.40	Hour.
Systems analysis support	39.40	Hour.
Systems analysis support, overtime.	59.10	Hour.
Inspection service processing.	2,960.00	Per A/P
Wilkes-Barre Nucleus processing.	7.34	1,000 transact.
St. Louis nucleus processing.	7.34	1,000 transact.

[FR Doc. 86-3197 Filed 2-12-86; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 271

[SW-FRL-2968-1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is amending the regulations on hazardous waste management under the Resource Conservation and Recovery Act (RCRA) by listing as hazardous three wastes generated during the production of ethylene dibromide (EDB). The effect of this regulation is that all of these wastes will be subject to regulation as hazardous wastes under 40 CFR Parts 262–266, and Parts 270, 271, and 124.

DATES: Effective date: This regulation becomes effective on August 13, 1986.

Compliance Dates: *Notification*—The Agency has decided not to require persons who generate, transport, treat, store, or dispose of these hazardous wastes to notify the Agency within 90 days of promulgation that they are managing these wastes. The Agency views the notification requirement to be unnecessary in this case since we believe that most, if not all, persons who manage these wastes have already notified EPA and received an EPA identification number. In the event that any person who generates, transports, treats, stores, or disposes of these wastes has not previously notified and received an identification number, that person must get an identification number pursuant to 40 CFR 262.12 before he can generate, transport, treat, store, or dispose of these wastes.

Interim Status—All existing hazardous waste management facilities (as defined in 40 CFR 270.2) that treat, store, or dispose of hazardous wastes covered by today's rule, and that are currently operating pursuant to interim status under section 3005(e) of RCRA, must file with EPA an amended Part A permit application by [insert date six months from publication]. In addition, facilities which currently treat, store, or dispose of the wastes subject to this rule, but which have not received a permit pursuant to section 3005 and are not operating pursuant to interim status may also be eligible for interim status under the Hazardous and Solid Waste Amendments of 1984. See section 3005(e)(1)(A)(ii) of RCRA, as amended. In order to operate pursuant to interim status, such facilities must get an identification number pursuant to 40 CFR 262.12 and submit a Part A permit application by August 13, 1986. Land disposal facilities which qualify for interim status under section 3005(e)(1)(A)(ii) must also apply for a final determination regarding the issuance of a permit and certify that the facility is in compliance with all applicable ground-water monitoring and financial responsibility requirements within twelve months of becoming subject to such permit requirements. See RCRA section 3005(e)(3). If not, interim status will terminate on that date.

A hazardous waste management facility which has received a permit pursuant to section 3005, however, may not treat, store, or dispose of the wastes covered by today's rule until it submits an amended permit application pursuant to 40 CFR 124.5, and the permit has been modified pursuant to 40 CFR 270.41 to allow it to treat, store, or dispose of these wastes.

ADDRESSES: The official public docket for this rulemaking is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9446 or at (202) 382-3000. For technical information contact Wanda LeBleu-Biswas, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-7392.

SUPPLEMENTARY INFORMATION:

I. Background

On November 8, 1984, EPA proposed to amend the regulations for hazardous waste management under RCRA by listing as hazardous two wastes generated during the production of EDB.[1] See 49 FR 44718–44721. The Agency also stated that one more waste, still bottoms from purification of EDB, would be included in the final listing if the Agency determined that it is being generated. The Agency has now determined that still bottoms are being generated, or are likely to be generated, and, therefore, they are being listed as hazardous wastes (EPA Hazardous Waste No. K136) in this final rule (see 49 FR 44718, footnote 1). The hazardous constituent in these wastes, EDB, is carcinogenic, mutagenic, teratogenic, causes reproductive effects, and is otherwise chronically toxic. Moreover, it typically is present in each waste at significant concentrations; in addition, EDB is mobile and persistent and can reach environmental receptors in harmful concentrations if these wastes are mismanaged. (See the preamble to the proposed rule at 49 FR 44718 and the listing background document for a more detailed explanation of our basis for listing these wastes.) After evaluating these wastes against the criteria for listing hazardous wastes (40 CFR 261.11(a)(3)), EPA had determined that these wastes are hazardous because they are capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

The Agency recevied comments on these proposed waste listings from two commenters. We have evaluated these comments carefully, and have responded to them accordingly. This notice makes final the regulation proposed on November 8, 1984, and outlines EPA's response to the comments received on that proposal.

[1] It should be noted that the Hazardous and Solid Waste Amendments of 1984 require the Agency to make a determination as to whether wastes from organobromine manufacturing should be listed as hazardous; this listing would satisfy, in part, that requirement.

II. Response to Comments

This section presents the comments received on the proposed rule, as well as the Agency's response.

A. Clarification of the Scope of Waste K117—Wastewater From the Reactor Vent Gas Scrubber in the Production of Ethylene Dibromide via Bromination of Ethene

One commenter, a producer of EDB, agreed that waste K117, wastewater from the reactor vent gas scrubber in the production of EDB via the bromination of ethene, may pose a substantial present or potential hazard to human health or the environment if allowed to exit the EDB production facility untreated. The commenter stated that this waste, however, is typically treated within the EDB process to the point that the waste stream ultimately exiting the facility has EDB levels significantly below the levels of concern noted in the proposed rule (*i.e.*, orders of magnitude below cited concentration range 0.01–0.22%). They claim that this treatment is an integral part of the process that recovers EDB. The commenter stated that the waste stream following this treatment does not pose a substantial hazard and, therefore, the definition of waste K117 should be amended to include only "untreated" wastewaters from a facility having a reactor vent gas scrubber.

The Agency disagrees with the commenter. The Agency has information that waste K117, as defined, is not always treated in the process as described by the commenter. More importantly, however, the Agency does not believe that treatment necessarily will render the waste non-hazardous. Treatment, as defined in the statute, includes methods, techniques, or processes that may be used solely to neutralize waste, or to recover energy or material resources, or to render such waste less hazardous, or to accomplish other goals, as well as to render waste non-hazardous. So, even if treatment does take place, it may not render the waste non-hazardous. Furthermore, no information was provided by the commenter to support their claim that the wastewater, after treatment, would contain insignificant levels of EDB. Waste K117, therefore, will continue to be listed as proposed. If any current or future producer of EDB believes that his particular waste does not meet the criteria for listing in 40 CFR 261.11(a)(3), however, he can petition the Agency to delist his waste (see §§ 260.20 and 260.22).

Any facility wishing to have its wastes delisted still would have to demonstrate, among other things, that the hazardous constituent cited as the basis for listing the waste is not present, or is present at a concentration that would not present a substantial hazard to human health or the environment, or although present in the waste in high concentrations, would not migrate from the waste into the environment (see 40 CFR 260.22(d)). Also, based on the Hazardous and Solid Waste Amendments of 1984, petitioners would have to provide sufficient information for the Agency to determine whether other factors (including additional constituents) reasonably may cause the waste to be hazardous still.

B. Impact of Federal Regulation of Waste K117

The same commenter stated that the impact from Waste K117 is local and not national in scale, since there are only four facilities producing EDB. Moreover, the commenter indicates that state agencies are currently regulating these facilities. Based on these factors, the commenter concludes that regulation of these EDB wastes should be left to the states.

In listing, the Agency looks primarily to the properties of the waste, such as toxicity, mobility, and persistence, although state and local regulation may be relevant under the criteria for listing a waste. The Agency is concerned, however, that waste K117 (or wastes such as sludges derived from K117) could be transported interstate. This is particularly true due to changes in the requirements for disposal of wastes resulting from the Hazardous and Solid Waste Amendments of 1984. Those requirements have already affected, and will continue to affect, the decisions made by the regulated community in how they manage waste. Many generators are reassessing existing practices for waste disposal. Given this environment, it is particularly difficult to conclude that this EDB waste will continue to be disposed of in the states in which the waste is generated. Accordingly, EPA did not give substantial weight to the existence of state regulatory controls over EDB wastes in making the listing decisions.

The commenter further appears to be asking for an exemption for certain downstream units receiving those wastes (*e.g.*, pipelines, vessels, reinjection brinewells). They also argue that the waste should not be regulated if it is subject to a state water permit.

The Agency notes that once a waste is regulated, residues of that waste downstream are also regulated. The commenter has provided no data or rationale for a blanket exemption. The only apparent rationale is that when a waste is subject to a state water permit, it would be duplicative to regulate that waste under RCRA as well. Although the commenter has not been clear, EPA assumes that the "state water permit" referred to is the state analog to the NPDES permit required under the Clean Water Act (CWA). RCRA does exempt discharges which are point sources subject to permits under Section 402 of the CWA. 42 U.S.C. 6903(27); 40 CFR 261.4. These water permits look primarily at the actual point-source discharge. The exclusion from RCRA coverage does not cover wastewaters while they are being collected, stored, or treated before discharge, or sludges generated by wastewater treatment. See comment following 40 CFR 261.4(a)(2); 45 FR 33120, May 19, 1980. The commenter has not indicated whether the "state water permit" referred to covers the multimedia impacts (*e.g.*, ground water, air) that may occur prior to the point of discharge. Given the absence of such an analysis, EPA sees no basis for excluding these units from regulatory controls.

C. Listing of Any Waste Containing EDB

One other commenter was concerned about EPA's apparent establishment of a precedent that the presence of any EDB in an undescribed process waste at an undefined concentration level could result in that process waste being labeled as a hazardous waste.

No such precedent has been established. A process waste is a hazardous solid waste only if it exhibits any of the characteristics of a hazardous waste identified in 40 CFR 261.21 to 261.24, or if it is listed as a hazardous waste. A waste will be listed if it meets the criteria of an acutely hazardous waste (40 CFR 261.11(a)(2)) or, when evaluated against the criteria for listing toxic wastes (40 CFR 261.11(a)(3)), EPA determines that the waste is hazardous because it is capable of causing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed. The concentration of a constituent in a waste is only one of eleven factors against which the Agency evaluates the waste. The waste need not meet all the criteria for listing in 40 CFR 261.11(a)(3), but a combination of these factors is considered sufficient for listing a waste as hazardous.

In evaluating these wastes, we believe the concentration of EDB is significant. A 70 kg person daily consuming 2 liters of water containing 0.000003 mg EDB per liter throughtout his lifetime incurs an

additional risk of developing cancer of one in a million.[2] The lowest concentration of EDB in the wastes we are listing is 0.01%, or 100 mg/l, which is approximately 3 million times that of the 10^{-6} cancer risk level. See 49 FR 44719, November 8, 1984. Accordingly, we are listing these wastes as hazardous.

III. Addition of Waste K136, Still Bottoms From the Purification of Ethylene Dibromide in the Production of Ethylene Dibromide via Bromination of Ethene

In the November 8, 1984 proposal, in footnote 1 (49 FR 44718), we specifically requested comments on the generation of still bottoms, and stated that if the Agency determined that they are being generated, or are likely to be generated, we would include still bottoms from the production of EDB in the final listing.

Based on industry-supplied data, we find that still bottoms are being generated, and that, as in the other two wastes listed here, EDB is the hazardous constituent present. Although the actual concentration of EDB in the still bottoms waste stream is confidential business information, it is on the same order of magnitude as in the spent adsorbent solids waste stream. Furthermore, EDB is mobile and persistent, and can reach environmental receptors in harmful concentrations if this waste is mismanaged. We, therefore, are listing still bottoms from the purification of EDB as EPA Hazardous Waste No. K136.

IV. Test Methods for New Appendix VII Compounds

On October 1, 1984, the Agency proposed, among other things, a number of test methods to be used in evaluating solid waste, and designated their use in analyzing for certain substances. Method Numbers 8010 and 8240 are designated to be used for EDB. Since there were no public comments received on the use of these specific methods for analyzing for EDB, EPA today is making final those proposed designations.

Persons wishing to submit delisting petitions are to use the methods identified in Appendix III to demonstrate the concentration of EDB in the waste.[3] See 40 CFR 260.22(d)(1). As part of their petitions, petitioners should submit quality control data demonstrating that the methods they have used yield acceptable recovery (*i.e.*, >50% recovery at concentrations above 1 μg/g) on spiked aliquots of their waste.

The above methods are in "Test Methods for Evaluating Solid Waste: Physical/Chemical Methods," SW–846, 2nd ed., July 1982, as amended, which is available from: Superintendent of Documents, Government Printing Office, Washington, DC 20402, (202) 783–3238, Document Number: 055–002–81001–2.

V. CERCLA Impacts

All hazardous wastes designated by today's rule will, upon the effective date, automatically become hazardous substances under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Section 103(a) of CERCLA requires that persons in charge of vessels or facilities from which a hazardous substance has been released in a quantity equal to or greater than the reportable quantity (RQ) for that substance immediately notify the National Response Center (at (800) 424–8802 or (202) 426–2675) of the release.

Except as noted below, all hazardous wastes newly designated under RCRA will have a statutorily imposed RQ under section 102 of CERCLA until adjusted by regulation. If, however, a newly listed F or K hazardous waste stream has only one constituent of concern, the waste will have the same RQ as that of the constituent. (The RQ to be considered for this purpose would be the RQ of the constituent as promulgated in 50 FR 13456 (April 4, 1985), whether statutorily imposed or adjusted by regulation.) Since in the case of waste streams K117, K118, and K136, EDB is identified as the only hazardous constituent, and EDB currently retains its statutory RQ of 1000 pounds (see 50 FR 13487, April 4, 1985), these wastes also will have RQ's of 1000 pounds. The RQ methodology for carcinogens is currently being assessed, however, and EDB's RQ is subject to change when the Agency completes this assessment and proposes final RQ's for carcinogens. Thus, the RQ's of these wastes also may change if EDB's RQ is adjusted.

Although this rule is not changing Table 302.4 of 40 CFR 302.4, the RQ's stated here are effective upon the effective date of today's action, pursuant to the statutory requirements of CERCLA section 102(b). These listed wastes and their RQ's will be added to Table 302.4 of § 302.4 at the time of its next **Federal Register** publication, subject to change as noted above.

VI. State Authority

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3008, 7003, and 3013 of RCRA, although authorized States have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final authorization administered its hazardous waste program entirely in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in the State that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified timeframes. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under newly enacted section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time that they take effect in non-authorized States. EPA is directed to implement those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA applies in authorized States in the interim.

Today's rule is promulgated pursuant to section 3001(e)(2) of RCRA, a provision added by HSWA. Therefore, it is being added to Table 1 in § 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to the HSWA, and that take effect in all States, regardless of their authorization status. States may apply for either interim or final authorization for the HSWA provisions identified in Table 1, as discussed in the following section of this preamble.

---

[2] Average daily dose = 3×10^{-6} mg EDB/l water × 2 l water/day × 1/70 kg/body weight = 8.6×10^{-8} mg/kg/day. Upper limit estimate of excess lifetime cancer risk = average daily dose × cancer potency = 8.6×10^{-8} mg/kg/day × 41/mg/day = 3.5×10^{-6}.

[3] Petitioners may use other test methods to analyze for EDB if, among other things, they demonstrate the equivalency of these methods by submitting their quality control and assurance information along with their analysis data. See 40 CFR 260.21.

B. Effect on State Authorizations

As noted above, EPA will implement today's rule in authorized States until they modify their programs to adopt these rules, and the modification is approved by EPA. Because the rule is promulgated pursuant to the HSWA, a State submitting a program modification may apply to receive either interim or final authorization under section 3006(g)(2) or 3006(b), respectively, on the basis of regulations that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State program modifications under section 3006(b) are described in 40 CFR 271.21. The same procedures should be followed for section 3006(g)(2).

Applying § 271.21(e)(2), States that have final authorization must modify their programs within a year of promulgation of EPA's regulations if only regulatory changes are necessary, or within two years of promulgation if statutory changes are necessary. These deadlines can be extended in exceptional cases (40 CFR 271.21(e)(3)).

States with authorized RCRA programs already may have regulations similar to those in today's rule. These State regulations have not been assessed against the Federal regulations being promulgated today to determine whether they meet the tests for authorization. Thus, a State is not authorized to implement these listings in lieu of EPA until the State program modification is approved. Of course, States with existing listings may continue to administer and enforce their regulations as a matter of State law. In implementing the Federal program, EPA will work with States under cooperative agreements to minimize duplication of efforts. In many cases, EPA will be able to defer to the States in their efforts to implement their programs, rather than take separate actions under Federal authority.

States that submit official applications for final authorization less than 12 months after promulgation of EPA's regulations may be approved without including regulations equivalent to those promulgated. Once authorized, however, a State must modify its program to include regulations substantially equivalent or equivalent to EPA's within the time periods discussed above.

VII. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. In the proposal, EPA addressed this issue by citing the results of an economic analysis; the total annual additional cost to industry was less than $10,000. The Agency received no comments on this figure.

Since EPA does not expect that the amendments promulgated here will have an annual effect on the economy of $100 million or more, result in a measurable increase in cost or prices, or have an adverse impact on the ability of U.S.-based enterprises to compete in either domestic or foreign markets, these amendments are not considered to constitute a major action. As such, a Regulatory Impact Analysis is not required.

VIII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency in required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the agency certifies that the rule will not have a significant impact on a substantial number of small entities.

The hazardous wastes listed here are not generated by small entities (as defined by the Regulatory Flexibility Act), and the Agency received no comments that small entities will dispose of them in significant quantities. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

IX. Paperwork Reduction Act

This rule does not contain any information collection requirement subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

X. List of Subjects

40 CFR Part 261

Hazardous waste, Recycling.

40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: February 3, 1985.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 261—INDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

§ 261.32 [Amended]

2. In § 261.32, add the following waste streams to the subgroup 'Organic Chemicals':

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
K117	Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene.	(T)
K118	Spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.	(T)
K136	Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.	(T)

Appendix III—[Amended]

3. Add the following compound and analysis methods in alphabetical order to Table 1 of Appendix III of Part 261:

Compound	Method No.
Ethylene dibromide	8010, 8240

Appendix VII—[Amended]

4. Add the following entries in numerical order to Appendix VII of Part 261:

EPA hazardous waste No.	Hazardous constituents for which listed
K117	Ethylene dibromide.
K118	Ethylene dibromide.
K136	Ethylene dibromide.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

5. The authority citation for Part 271 continues to read as follows:

Authority: Sec. 1006, 2002(a), and 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6926).

§ 271.1 [Amended]

6. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication:

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Date	Title of regulation
. . . . .	
February 13, 1986	Listing wastes from the production of ethylene dibromide.
. . . . .	

[FR Doc. 86-2946 Filed 2-12-86; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3110

Noncompetitive leases; Consideration of Request To Withdraw Simultaneous Oil and Gas Lease Applications and Offers

AGENCY: Bureau of Land Management, Interior.

ACTION: Consideration of Requests to Withdraw simultaneous Oil and Gas Lease Applications and Offers.

SUMMARY: In those instances where the Department of the Interior has suspended action on the application for a simultaneous oil and gas lease on a parcel for at least one year after a random selection has occurred, the Department has determined it would be in the public interest to accept and consider a request to allow the specific priority applicant for such parcel to withdraw said pending application or offer, and if allowed, to refund the first-year's rental to the priority applicant.

EFFECTIVE DATE: Feburary 13, 1986.

ADDRESS: Requests for withdrawal of the above described simultaneous oil and gas lease applications or offers should be filed with the Bureau of Land Management State Office where the results of the random selection process have been posted. The addresses for the State Offices are set forth in 43 FR 1821.2-1 .

FOR FURTHER INFORMATION CONTACT: Gloria J. Austin, (202) 653-2190.

SUPPLEMENTARY INFORMATION: As a result of a review of the procedures for issuing oil and gas leases on certain public domain lands and acquired lands, the Department of the Interior suspended action on the issuance of noncompetitive oil and gas leases involving such lands. This suspension has resulted in the United States retaining the first-year's rental for simultaneous oil and gas lease applications and offers, in some cases, for as long as two years. Even though 43 CFR 3110.2 prohibits the withdrawal of any simultaneous oil and gas application or offer, the Department has determined that the public interest would be served by offering those priority applicants whose applications or offers have been suspended for more than one year subsequent to their being selected through the random selection process the opportunity to request the withdrawal of said applications or offers. The opportunity to request a withdrawal is being made by the Department because it does not wish to create a situation where the narrow enforcement of an existing regulatory provision harms the public unnecessarily. Therefore, the Department has determined that it will provide a priority applicant affected by a suspension of a simultaneous oil and gas lease parcel for more than one year after the date of the selection of the winner of that parcel through the random selection process an opportunity to request a withdrawal of the application or offer. If the request for withdrawal is granted, the first-year's rental will be refunded to such priority applicant. In addition, the Department is considering amending 43 CFR 3110.2 through the rulemaking process, at which time the public will be given an opportunity to comment on this change.

The Department of the Interior has determined that a 30-day comment period is unnecessary on this notice because it is not required under 5 U.S.C. 553(b)(B). This opportunity to request a withdrawal of an application or offer does not adversely affect anyone and relieves a restriction that results from the Department's failure to act on a simultaneous oil and gas lease application or offer for more than one year subsequent to the selection of a winner through the random selection process. Therefore, this notice is effective immediately, without a 30-day wait, because it relieves a burdensome restriction and is consistent with 5 U.S.C. 553(d)(1).

Dated: February 7, 1986.

J. Steven Griles,

Assistant Secretary of the Interior.

[FR Doc. 86-3158 Filed 2-12-86; 8:45 am]
BILLING CODE 4310-84-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 533, and 536

[APD 2800.12 CHGE 23]

General Services Administration Acquisition Regulation; Protests to the GAO and Charges for Bidding Documents

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5 is amended by amending Part 501 to prescribe a format for determinations to award a contract or continue contract performance pending a decision on a protest filed with GAO and to indicate the signatory authority for such determinations; by amending Part 533 to incorporate the substance of Acquisition Circular AC-85-4 which temporarily implemented Federal Acquisition Circular (FAC) 84-9, and by amending Part 536 to remove the restriction on charging for bid documents or using bid deposits for negotiated construction contracts. Miscellaneous and other minor editorial changes are made in Parts 501, 533, and 536 for clarity. Acquisition Circular AC-85-4 is canceled. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: January 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. John Joyner, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-4764.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1985, the General Services Administration (GSA) published in the **Federal Register** (50 FR 26998) Acquisition Circular AC-85-4 which temporarily amended Section 533.104 (b) and (c) of the GSAR to implement Federal Acquisition Circular 84-9 and invited comments from interested parties. No public comments were received. The comments received from various GSA offices have been reviewed, reconciled and incorporated, when appropriate, into this final rule.

Impact

This is not a major rule as defined in Executive Order 12291. Therefore, preparation of a regulatory impact analysis was not necessary. The GSA 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.). This rule implements the Federal Acquisition Regulation by providing internal agency procedures for making determinations regarding suspending the award or performance of contracts. Accordingly, no regulatory flexibility analysis has been prepared. This rule does not contain information collection requirements which require approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Parts 501, 533, and 536

Government procurement.

1. The authority citation for 48 CFR Parts 501, 533, and 536, continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 501.704–70 is amended to add a new paragraph (e) to read as follows:

§ 501.704–70 Sample formats.

* * * * *

(e) *Determinations pending decision on protest to GAO.*

(1) *Protest filed before award.* The following format is prescribed for determinations and findings required by FAR 33.104(b):

General Services Administration
Determination and Findings

Authority To Proceed With Award Pending a Decision by GAO on Bid Protest

Findings

I hereby find that:

(1) The (Services/Office title) proposes to procure (describe work to be performed or product to be delivered). The estimated cost is ———.

(2) Solicitation (identify solicitation) was issued on ——— and bids/proposals were received on ———.

(3) On ——— (insert date GAO received protest) (identify protestor by name) submitted a protest to GAO concerning the solicitation (identify solicitation).

(4) (Set forth urgent and compelling circumstances which significantly affect the interests of the United States and will not permit waiting for the decision of GAO on the protest.)

(5) Award is anticipated within 30 calendar days from the date this determination and findings is signed.

(6) These findings are made pursuant to 31 U.S.C. 3553(c)(2) and FAR 33.104(b)(1).

Determination

I hereby determine that:

On the basis of the above findings, urgent and compelling circumstances will not permit waiting for the decision of the GAO on the protest filed by (identify protestor and solicitation).

Date ———

(Signature) ———

(2) *Protest filed after award.* The following format is prescribed for determinations and findings required by FAR 33.104(c):

General Services Administration
Determination and Findings

Authority To Continue Contract Performance Pending a GAO Decision on Protest Filed After Award

Findings

I hereby find that:

(1) The (Services/Office title) awarded a contract to (name contractor) on ——— for furnishing of (identify product, service or work to be performed). The contract is valued at ——— and resulted from solicitation ———.

(2) On ——— (insert date GAO received protest) (identify protestor by name) submitted a protest to GAO concerning contract number ——.

(3) (Set forth the facts and circumstances which indicate that: (a) continued contract performance will be in the best interest of the United States; or (b) urgent and compelling circumstances exist that significantly affect the interest of the United States and will not permit waiting for the GAO's decision.)

(4) These findings are made pursuant to 31 U.S.C. 3553(d)(2) and FAR 33.104(c)(2).

Determination

I hereby determine that:

On the basis of the above findings, (either (a) continued contract performance will be in the best interest of the United States, or (b) urgent and compelling circumstances exist which will not permit waiting for the GAO's decision) and that accordingly contract performance under contract ——— may continue pending GAO's decision on the protest.

Date ———

(Signature) ———

3. Section 501.707 is amended to revise the first sentence of the introductory paragraph; to revise the text of paragraph (a) in the signatory authority column of Table 501–1; to revise the text of paragraphs (b) and (c) of Table 501–1; to revise the first sentence of the text of paragraphs (e), (f), (g) and (h) in the signatory authority column of Table 501–1; to revise the text of paragraphs (i) and (j) in the signatory authority of Table 501–1; to revise the text of paragraph (k) in the D&F requirement column of Table 501–1; to revise the text of paragraph (m) in the signatory authority column of Table 501–1; and to add paragraph (n) to read as follows:

501.707 Signatory authority.

When a determination and findings is required, it must be signed by the appropriate official in accordance with Table 501–1 of this regulation. * * *

TABLE 501–1.—SIGNATORY AUTHORITY

D&F requirement	Signatory authority
a. * * *	Individual D&F's may be signed by the head of the contracting activity, as defined in GSAR 502.1, or a designee. Class D&F's must be signed by the head of the contracting activity.
* * *	
b. Determinations that the use of a cost, cost-plus-a-fixed-fee contract or an incentive contract is likely to cost less than other methods, or that it is impractical to secure property or services of the kind and quality required without using one of those types of contracts. (See 41 U.S.C. 254(b) and FAR 16.301–3, 16.302, 16.303, 16.304, 16.305, 16.403, and 16.404.).	Class D&F's must be signed by the head of the contracting activity.
c. Determinations to use a time-and-material or labor-hour contract. (See FAR 16.601 and 16.602.).	Individual D&F's must be signed by the contracting officer. Class D&F's must be signed by the head of the contracting activity.
d. * * *	* * *
e. * * *	Individual D&F's must be signed by the head of the contracting activity.
* * *	
f. * * *	Individual D&F's must be signed by the Administrator. This authority may not be redelegated.
* * *	
g. * * *	D&F's must be signed by the head of the contracting activity.
* * *	
h. * * *	Individual D&F's must be signed by the head of the contracting activity.
* * *	
i. * * *	Individual D&F's may be signed by the head of the contracting activity or a designee.
j. * * *	Individual D&F's must be signed by the Administrator with the concurrence of the Comptroller General or a designee.
* * *	
k. Determinations regarding the exceptions to the restrictions of the Buy American Act. (See FAR Subpart 25.1 and 25.2).	
* * *	
l. * * *	
m. * * *	Individual D&F's must be signed by the head of the contracting activity in accordance with GSAR 525.402–71.
n. Determinations to proceed with an award or to continue contract performance pending a GAO decision on a protest. (See FAR 33.104 (b)(c).).	Individual D&F's must be signed by the head of the contracting activity. Class D&F's are not permitted

4. Section 501.770 is amended to revise the last sentence of the introductory paragraph and to revise paragraphs (a), (b), (c), (e), (f), (g), (i), (j), and (k) to read as follows:

501.770 Determination and findings required.

* * * It lists the most commonly required D&F's.

(a) The determination required by section 304(b) of the Federal Property and Administrative Services Act (referred to in this section as "the act") (41 U.S.C. 254(b)) as to estimated cost of, and fees to be paid under, cost-plus-a-fixed-fee contract. (See FAR 16.306).

(b) The determination required by section 304(b) of the act that the use of a cost, a cost-plus-a-fixed-fee contract, or an incentive contract is likely to be less costly than other methods or that it is impractical to secure property or services of the kind or quality required without the use of a cost, cost-plus-a-fixed-fee contract, or an incentive contract. (See FAR 16.301–3, 16.302, 16.303, 16.304, 16.305, 16.403, and 16.404).

(c) The determination to use a time-and-material or labor-hour contract. (See FAR 16.601 and 16.602).

* * * * *

(e) The determination required by section 303(b)(1) of the act (41 U.S.C. 253(b)(1)) to exclude a particular source from a contract action in order to establish or maintain an alternate source or sources for supplies or services. (See FAR 6.202).

(f) The determination required by section 303(c)(7) of the act (41 U.S.C. 253(c)(7)) that it is not in the public interest to use full and open competition. (See FAR 6.302–7).

(g) The determination required by section 305(c) of the act (41 U.S.C. 255(c)) that the making of advance payments would be in the public interest. (See FAR 32.410).

* * * * *

(i) The determination required by section 304(c) of the act (41 U.S.C. 254(c)) with respect to omitting the clause specified in FAR 52.215–1, Examination of Records by Comptroller General, from contracts with foreign contractors or subcontractors regarding the rights of the Comptroller General of the United States to examine the contractor's records when it is determined (1) that the omission will serve the best interests of the United States, or (2) that the public interest will be served by the omission. (See FAR 15.106–1 and 25.904).

(j) Exceptions to the restrictions of the Buy American Act (41 U.S.C. 10(a–d)), determinations under the Balance of Payments program, and waivers under section 302(b)(2) of the Trade Agreements Act. (See FAR subparts 25.1, 25.2, 25.3 and 25.4).

(k) The determinations required to proceed with an award or to continue contract performance pending a GAO decision on a protest. (See FAR 33.104 (b) and (c) and GSAR 533.104 (b) and (c).)

5. Section 533.104 is amended to revise paragraph (a)(3) (v) and (vi), (a)(4), the third and fourth paragraphs of the format in (a)(5), paragraph (b), paragraph (c), and to add paragraph (d) to read as follows:

§ 533.104 Protests to GAO.

(a) * * *

(3) * * *

(v) The Regional Counsel's legal position, when requested, and the contracting officer's statement of fact and position, must be transmitted to the appropriate Assistant General Counsel, in triplicate. If other interested parties are involved, additional copies may be requested. The statement is due in the Office of the Assistant General Counsel no later than 10 workdays after the date on which the contracting officer originally received the protest. This time may be reduced if GAO invokes the express option. If a contracting officer is unable to prepare a statement of fact and position within 10 workdays, the appropriate Assistant General Counsel shall be notified promptly, by telephone, of the reasons for the delay and of the additional time needed. Additional time may be granted if the specific circumstances of the protest require a longer time. A request for an extension is proper only if the facts or legal issues affecting the resolution of a protest are so complicated that an adequate report cannot be prepared on time; the need to coordinate the report with other agencies, or with offices in distant locations, makes it impossible to prepare the report on time; or other compelling circumstances prevent preparing the report on time. Upon request of the Assistant General Counsel, the contracting officer shall confirm any oral request for extensions in writing. The contracting director shall concur in the request and send a copy to the HCA. A request for an extension, which will delay submission of the agency's report to GAO beyond 25 workdays from the date GSA originally received the protest, may be granted only by the GAO. The Assistant General Counsel will notify the Central Office contracting activity or Regional Counsel of the GAO's decision.

(vi) After submitting the statement to the Assistant General Counsel, the contracting officer or Regional Counsel shall advise the Assistant General Counsel of all later developments that may affect the case.

* * * * *

(4) The Office of General Counsel (OGC) shall furnish the GAO with the name, title, and telephone number of one or more officials whom the GAO may contact regarding protests. The OGC is responsible for promptly advising the GAO of any change in the designated officials.

(5) * * *

Copies of the protest may be obtained for this office.

You may submit your views and relevant information regarding the protest directly to the General Accounting Office within 7 calendar days of receiving this notice. A copy of any submission to the GAO should be provided to this office.

* * * * *

(b) *Protests before award.* Under FAR 33.104(b), the HCA may determine in writing that urgent and compelling circumstances significantly affecting the interests of the United States do not permit waiting for the decision of GAO and award is likely to occur within 30 calendar days. The written determinations and findings (D&F), in the format shown at GSAR 501.704–70(e)(1), should be prepared by the contracting officer for the signature of the HCA. The D&F must be concurred in by the Regional Counsel (on regional procurements), and the appropriate Assistant General Counsel. After the D&F is approved, it must be returned to the appropriate Assistant General Counsel who notifies GAO of the agency's findings and intended action before the award is made.

(c) *Protests after award.* The procedures in paragraph (a) apply to the handling of protests after award. If the protest is received within 10 calendar days after an award, contract performance must be suspended under FAR 33.104(c) unless the HCA determines in writing that contract performance is in the best interests of the United States or that urgent and compelling circumstances that significantly affect the interests of the United States do not permit waiting for the GAO's decision. The written determinations and findings (D&F), in the format shown at GSAR 501.704–70(e)(2), should be prepared by the contracting officer for signature of the HCA. The D&F must be concurred in by the Regional Counsel (on regional procurements), and the appropriate Assistant General Counsel. After the D&F is approved, it must be returned to the Assistant General Counsel who notifies GAO of the agency's findings and intended action before contract performance is authorized.

(d) *Notice to GAO.* The head of the contracting activity responsible for the solicitation, proposed award, or award of the contract shall report to the Comptroller General through the OGC within 60 calendar days of receipt of the GAO's recommendation if the agency

has decided not to comply with the recommendation. The report shall explain the reasons why the GAO's recommendation will not be followed.

(6) Section 533.105 is amended to revise paragraph (a)(1) introductory text, (a)(1)(ii), the fourth paragraph in the format in (a)(1)(iii), paragraph (b) introductory text, and paragraphs (c) and (d)(3) to read as follows:

533.105 Protests by GSBCA.

(a) * * *

(1) All firms solicited, or those who have submitted sealed bids or offers if the protest is filed after the closing date of the solicitation, and the appropriate delegating official in the Information Resources Management Service. When giving such notification, the contracting officer should follow these procedures:

* * * * *

(ii) Use appropriate electronic means to ensure delivery to all the firms by the workday after the date of filing with the GSBCA. The Standard Form 14, Telegraphic Message, is to be used when sending notices through the GSA Communications Center. When preparing the Standard Form 14, the text should be doubled spaced, typed in uppercase letters, and the priority "Immediate" assigned. Each address on the mailing list must contain a street address and a zip code. If available, a facsimile, teletype, or TWX number should also be included as the first line of each address.

(iii) * * *

Copies of the protest may be obtained from the Office of the Clerk of the GSBCA, 18th & F Streets NW., Washington, DC 20405, or from the contracting officer.

* * * * *

(b) *Protest file.* To ensure timely submission, the contracting officer should begin assembly of the protest file by the second workday after receiving the protest. The protest file must be forwarded to LC by overnight delivery not later than the 8th workday after the protest is filed with the GSBCA. LC will distribute the copies to the GSBCA, the protester, and retain one copy for itself. If additional copies are needed, LC will advise the contracting officer. The following rules govern the assembly of protest files:

* * * * *

(c) *Protest conference.* Within 6 working days of filing a protest, a conference may be convened by the Board to establish further proceedings for the protest. Although the protest file and answer will most likely not have been filed, the Government must be prepared to discuss the issues in the protest, whether a record submission or hearing is desired, and other matters raised by the Board or any other interested party. The Government must also be prepared, if required, to object to the scope of discovery in any protest action.

(d) *Procedure following decision of the GSA Board of Contract Appeals.*

* * * * *

(3) If the Board revokes, suspends, or revises procurement authority after the award of a contract for ADP resources, the contracting officer shall consider the contract valid as to all goods or services delivered and accepted before the Board's decision (40 U.S.C. 759(h)(6)(B)).

7. Section 536.302–70 is amended to revise paragraphs (c), (c)(1) and (c)(2) to read as follows:

536.302–70 Charges and deposits for bidding documents.

* * * * *

(c) If the contracting officer determines before issuance of the solicitation that an insufficient number of sets of bid documents were returned on previous projects, a refundable bid document deposit may be required. Under extraordinary circumstances, a nonrefundable charge may be required for bid documents if approved by the head of the contracting activity.

(1) The amount of deposit for bid documents should be determined on the basis of the actual printing costs of the documents. The following table is for guidance only, and the contracting officer may require amounts higher or lower than those shown. Deposits should not be so high as to discourage bidder participation. Refundable bid document charges are intended to ensure the return of bid documents to the Government for use by the successful contractor and Government personnel, and thus minimize the need for duplication of additional sets. When the administrative cost of processing bid document deposits and returning bid documents is greater than the value of returned documents, the contracting officer should not require deposits.

Estimated project cost range	Guide for refundable bid document deposit
Up to $1,000,000	None
$1,000,000 to $5,000,000	$30
$5,000,000 to $10,000,000	40
$10,000,000 and over	50

(2) When a bid document deposit is required, the presolicitation notice shall require that the deposit be made by certified check, cashier's check, or money order payable to the General Services Administration. If a deposit is not submitted as specified, a reasonable attempt must be made to obtain the deposit in the proper form without delay. A record of the attempt must be placed in the contract file. The document deposit will be refunded if bid documents are returned in good condition, without marks, notes, or mutilations, within 20 calendar days after bid opening. Refunds will not be made for bid documents returned more than 20 days after bid opening.

(8.) Section 536.303 is revised to read as follows:

536.303 Invitations for bids.

The invitation for bids must include the following, when applicable:

(a) Special instructions concerning bids and awards of contracts that include base bid, alternatives, and/or options (see GSAR 536.570–4).

(b) Instructions concerning the pre-bid conference (see FAR 14.207, Pre-bid Conference).

9. Section 536.303–70 is revised to read as follows:

536.303–70 Bids that include alternates.

(a) The base bid must include all features that are essential to a sound and adequate building design. However, if it appears that funds available for a project may be insufficient to include all desired features in the base bid, the contracting officer may issue a solicitation for a base bid and include one or more alternates in the order of priority. Alternates may be used only when they are clearly justified and should involve substantial amounts of work in relation to the base bid. Their use must be limited and should involve only "add" alternates.

(b) The language used in soliciting alternates must be approved in writing by counsel.

(c) All solicitations requiring a base bid and alternates must include the Alternate II provision at GSAR 552.236–73, Basis of Award—Construction Contract, which prescribes the method for evaluating bids.

(d) Before opening bids that include alternates, the contracting officer shall determine and record in the contract file the amount of funds available for the project. The amount recorded must be announced at the beginning of the bid opening and must be the controlling factor in determining the low bidder. This amount may be increased later when determining the alternate items to be awarded to the low bidder, provided that the award amount of the base bid plus the combination of alternate items do not exceed the amount offered by any other responsible bidder whose bid

conforms to the solicitation for the base bid and the same combination of alternate items.

Dated: January 29, 1986.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 86-3164 Filed 2-12-86; 8:45 am]

BILLING CODE 6820-61-M

48 CFR Part 552

[GSAR AC-85-1, Supplement 2]

Payment Due Date; Construction Contracts

ACTION: Temporary Regulation.

SUMMARY: This supplement to the General Services Administration Acquisition Regulation Acquisition Circular AC-85-1 extends the expiration date to June 28, 1986. The intended effect is to extend the policies and procedures as established in AC-85-1, which revised the Payment Due Date clause for construction contracts at GSAR 552.232-70(f).

DATES: *Effective Date:* January 28, 1986.

Expiration Date: This circular expires June 28, 1986, unless extended or canceled.

FOR FURTHER INFORMATION CONTACT: Ms. Marjorie Ashby, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-3822.

Regulatory Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted agency procurement regulations from Executive Order 12291. The exemption applies to this rule. When AC-85-1 was originally issued, the General Services Administration certified under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) that the document would not have a significant economic effect on a substantial number of small entities. Therefore, no regulatory analysis was prepared. The rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.).

List of Subjects in 48 CFR Part 552

Government procurement.

1. The authority citation for 48 CFR Part 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. 48 CFR Part 552 is amended by the following supplement to Acquisition Circular AC-85-1:

General Services Administration Acquisition Regulation Acquisition Circular AC-85-1; Supplement 2

To: All GSA contracting activities.

Subject: Payment Due Date—Construction Contracts.

1. *Purpose.* This supplement extends the expiration date of General Services Administration Acquisition Regulation Acquisition Circular AC-85-1.

2. *Effective.* January 28, 1986.

3. *Expiration date.* The General Services Administration Acquisition Regulation Acquisition Circular AC-85-1 and this supplement will expire on June 28, 1986, unless canceled earlier.

Richard H. Hopf III,

Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 86-3165 Filed 2-12-86; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-09; Notice 18]

Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule amends Standard No. 213, *Child Restraint Systems*, by requiring all child restraints equipped with tether straps (other than child harnesses, booster seats, and restraints designed for use by physically handicapped children) to pass the 30 miles per hour (mph) test with the tether strap unattached. This change is being made because survey results consistently show that, in the vast majority of instances, child restraints with tether straps are used by the public without attaching the tether strap to the vehicle. This amendment will ensure that children riding in child restraints with unattached tethers will be afforded crash protection equivalent to that afforded to children riding in child restraints designed without a tether.

This rule also eliminates the requirement that those child restraints pass a 20 mph test with the tether unattached. Since those restraints will now be required to pass the 30 mph test under the same test conditions, it is unnecessary for those restraints to also be tested at a lower speed.

Finally, this rule clarifies two items of information required to be included in the instructions accompanying child restraints. These clarifications do not alter the amount of information that must be included in the instructions; they simply explain what the agency intended to require.

DATES: *Effective Date:* This rule becomes effective August 12, 1986.

Petitions for Reconsiderations: Any petitions for reconsideration of this rule must be received by NHTSA not later than March 17, 1986.

ADDRESS: Any petitions for reconsideration of this rule should be addressed to: Administrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that 10 copies of the petition be submitted.

FOR FURTHER INFORMATION CONTACT: Mr. Vladislav Radovich, Office of Vehicle Safety Standards, NRM-12, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: Standard No. 213, *Child Restraint Systems* (49 CFR 571.213) currently provides two different test configurations applicable to child restraint systems. First, a 30 mph frontal crash test is conducted for all child restraints. In that test, the restraints are installed according to the child restraint manufacturer's instructions. This test is referred to as Test Configuration I in section S6.1.2.1.1 of Standard No. 213.

Second, a 20 mph test is conducted for two types of child restraint systems. One type is a child restraint equipped with an anchorage belt. Anchorage belts, more commonly referred to as tether straps, are supplemental belts used to attach the child restraint to the vehicle. The other type of restraint subject to the 20 mph crash test is a child restraint with a fixed or movable surface which helps to restrain the child's forward movement in the event of a crash. This type of child restraint provides protection by the use of its own belt system and a surface which can be used independently of the belt system. Both of these types of child restraints are tested with only the vehicle lap belt holding the child restraint to the standard test seat and, in the case of restraints with a fixed or movable surface forward of the child, without attaching the restraint's belt system to hold the test dummy in place. This test, referred to as Test Configuration II in section S6.1.2.1.2. in Standard No. 213, is intended to take account of the possibility that the tether strap or the restraint's belt system will either be misused or not used at all by parents. If this happens, Test Configuration II should ensure that these types of

restraints will offer minimal protection even when they are not properly used.

This rulemaking action addresses only the question or restraints with tether straps, and does not affect restraints with fixed or movable surfaces forward of the child. Tether straps have presented a difficult question for the agency since at least 1979. When a tether strap is properly attached, a child restraint equipped with a tether strap will generally offer the best protection for child occupants, particularly those riding in the front seat or involved in side impact crashes.

However, the results of surveys have continually shown that tether straps are not attached by the vast majority of the public. The most recent study available to the agency on this topic (Cynecki and Goryl, "The Incidence and Factors Associated with Child Safety Seat Misuse"; December 1984, DOT HS–806 676) found that nearly 85 percent of child restraints with tether straps were used without properly attaching the tether strap. The Cynecki and Goryl study recommended that the best solution for this problem would be to redesign the restraints to eliminate the need for tether straps.

This same suggestion has been made previously by several commenters in connection with the final rule substantially upgrading the performance requirements of Standard No. 213; 44 FR 72131, December 13, 1979. At the time of that rulemaking action, however, restraints with tethers comprised more than 70 percent of all sales of child restraints. The agency decided that it would be inappropriate to issue a rule which would have the effect of requiring a major redesign of most child restraint systems then on the market, especially when the public was just beginning to appreciate the importance of using child restraints. Further, NHTSA expected that proper usage of restraints with tethers would grow as public awareness and knowledge of child restraints grew.

When NHTSA reexamined this decision in light of the Cynecki and Goryl report, the reasoning no longer seemed valid. First, at this time, approximately one-fifth of all new child restraints, including booster seats, are equipped with a tether strap necessary for the protection of the child occupant. Thus, a rule which would have the effect of requiring a redesign of these restraints would have a substantially smaller impact on the child restraint market now than it would have had in 1979.

Second, and most significant, the expectation of increased proper use of tether straps has not been realized. Perhaps the most troubling fact in the Cynecki and Goryl report cited above was that 78 percent of the persons not using the tether strap to attach the child restraint to the vehicle *knew that its use was necessary*. This indicates that, while public awareness and knowledge of child restraints has grown significantly since 1979, that awareness and knowledge has not resulted in increased proper use of tether straps.

Because of its concern for the safety of children riding in motor vehicles, NHTSA tentatively decided that it was no longer reasonable to allow restraints with tethers to be tested in only a 20 mph crash in the way they will be used by the public, that is, without attaching the tether strap. The agency believed that those restraints, like restraints without tethers, should be tested in a 30 mph crash in the way they will be used by the public. This would ensure that all child restraints afforded equivalent protection to children riding therein.

Accordingly, NHTSA published a notice of proposed rulemaking (NPRM) on July 5, 1985; 50 FR 27633, proposing that all child restraints other than child harnesses be tested in the 30 mph crash test when attached to the test seat only by means of the lap belt. This proposal was intended to ensure that restraints with tethers afford the same level of protection to child restraint occupants as do restraints without tethers when tested in the manner both will be used by the public.

That NPRM also proposed some less significant changes to Standard No. 213. These were as follows:

(1) The standard currently specifies that the child restraint be installed in the center seating position during the testing. However, many new vehicles are produced without a front or rear seating position. This trend raised the concern that the tests were growing less representative of the conditions which would be encountered by the child restraint when it was in use. Accordingly, the NPRM proposed to amend Standard No. 213 to require that child restraints be tested in one of the two outboard seating positions. An anticipated added benefit of this change would be that it would reduce testing costs for the child restraint manufacturers, because two child restraints could be evaluated in the same test.

(2) Standard No. 213 requires that all child restraints equipped with a tether strap be permanently labeled with a notice that the tether strap must be properly secured as specified in the manufacturer's instructions. The NPRM proposed that the phrase "For extra protection in frontal and side impacts" be added in front of that notice. This change would convey the fact that the tether strap was a supplementary safety device, as proposed in the NPRM, while also affirming that additional safety protection is afforded when the tether strap is properly attached.

(3) Two changes were proposed to clarify what was meant in the requirements concerning the installation instructions to be provided along with the child restraint by the restraint's manufacturer. These were:

(a) The installation instructions are currently required to state that, in most vehicles, the rear center seating position is the safest seating position for installing a child restraint. This statement in the instructions has resulted in numerous inquiries to the agency by consumers wanting to know the safest seating position for vehicles with only two rear outboard seating positions. To eliminate this confusion on the part of the public, the NPRM proposed that the installation instructions be modified to state that, for maximum safety protection, the child restraint should be installed in a rear seating position in vehicles with two rear seating positions and in the center rear seating position in vehicles with three rear seating positions.

(b) The installation instructions in Standard No. 213 also require the child restraint manufacturer to "specify in general terms the types of vehicles, seating positions, and vehicle lap belts with which the system can or cannot be used." This requirement has frequently been erroneously interpreted to mean that child restraint manufacturers are required to state the specific vehicles, specific seating positions, and the specific vehicle lap belts with which a child restraint can or cannot be used. The NPRM proposed an amendment to make clear the agency's intent that the instructions specify the *types* of vehicles (e.g., passenger cars, pickup trucks, vans, buses, etc.), the *types* of seating positions (e.g., front, rear, bench, bucket, side facing, rear facing, folding, etc.) and the *types* of vehicle safety belts (e.g., diagonal, lap-shoulder, emergency locking, etc.) with which the restraint system can or cannot be used.

A total of 15 comments were received on the NPRM. The commenters included vehicle manufacturers, child restraint manufacturers, the National Transportation Safety Board, researchers from two state universities, child safety advocates, and individual consumers. Each of these comments was considered and the most significant ones are addressed below.

Attaching Tether Straps During the 30 MPH Test and the Need for the 20 MPH Test

Before discussing the comments received on this issue, the most significant one raised in the NPRM, NHTSA believes it would be useful to explain the differences between the different types of child restraints.

1. *Child seats.* A child seat is a child restraint that uses a plastic shell as a frame around the child, and has a shield, belts, or the like attached to the shell to restrain the child in the event of a crash. All but one of the currently produced models of child seats do not need to have an attached tether strap to pass the 30 mph test. However, two of the models which do not need a tether strap to pass the 30 mph test offer a tether strap as an option for extra protection of the child restraint's occupant.

2. *Booster seats.* A booster seat is a platform used to elevate a child in a vehicle. It does not have a frame or any other structural protection behind the child's back or head. Booster seats are designed to be used by older children who have outgrown child seats. By elevating these children, the booster seat allows the child to see out of the vehicle and to use the belt system in the vehicle. About half the current production of booster seats uses a special harness system attached to the vehicle by a tether strap to provide upper torso restraint for the booster seat occupant. The other half of current production of booster seats uses a small shield in front of the child to provide upper torso restraint.

3. *Child harnesses.* A child harness consists of a web of belts which are placed around the child, and is then anchored to the vehicle by a tether strap. Only one model of child harness is currently in production. Child harnesses are tested only in the 30 mph test with the tether attached according to the manufacturer's instructions, and are not subjected to the 20 mph test. The reason for this differing treatment for child harnesses as compared to other child restraints is the agency's opinion that child harness tethers are in fact properly used by the public, due to the nature of the device—i.e., if the tether strap is not attached, it would be obvious that the child would be completely unrestrained in the event of a crash.

4. *Restraints for use by physically handicapped children.* These restraints are essentially wheelchairs, some of which fold so that the wheelchair can be positioned in the rear seat of passenger cars. Other restraints are simply devices to tie down a wheelchair while the child is traveling in a van, bus, or similar vehicle. All currently produced child restraints for use by physically handicapped children use their own belt system and tether straps to provide the necessary upper torso restraint. The NPRM did not propose any exemption for these restraints from the proposed requirement that they pass the 30 mph test without attaching any tether straps. Thus, if the NPRM were adopted as proposed, all of these restraints would have to be redesigned.

This final rule establishes the following requirements for the different types of child restraints. Child seats will not be allowed to have any tether straps attached during the 30 mph test required by Standard No. 213. They will also no longer be required to be tested in the 20 mph test. However, child harnesses, booster seats, and restraints for use by physically handicapped children will be allowed to continue to have tether straps attached during the 30 mph test. The reasoning supporting these decisions is set forth below.

Child Seats

Almost all of the commenters addressing the agency's proposal to require child seats equipped with tether straps to pass the 30 mph test without attaching the tether supported the requirement. The only commenter which opposed this requirement was a child restraint manufacturer, arguing that a change at this time would "cause confusion of dealers and consumers with units that required tethers". The manufacturer further argued that if this change were made, "the Federal government must give child restraint manufacturers some sort of security blanket to protect them from lawsuits and recall of existing units."

NHTSA does not believe it is very likely that either dealers or consumers will be confused by the requirement that child seats with tethers pass the 30 mph test with the tether strap unattached. The new requirement would apply only to child seats manufactured after the effective date of this rule. Child seats manufactured before the effective date of this rule may be sold even if their tether strap must be attached to pass the 30 mph test. Hence, the agency does not see any reason for child seat dealers to be confused by this rule. Moreover, the public will receive the manufacturer's instructions with the child seat explaining how it is to be used. Thus, there does not appear to be any reason for the public to be confused by this rule.

NHTSA does not have any authority to give child restraint manufacturers a "security blanket" to protect them from lawsuits or recalls of child seats with tethers. Even if NHTSA believed it was appropriate to protect a manufacturer from lawsuits in a particular instance, only Congress has authority to do so. A recall of child seats must be based on a determination that the seats either do not comply with the requirements of Standard No. 213 in effect on the date of manufacture of the seat or that the seat contains a safety-related defect, as specified in sections 151 and 152 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1411 and 1412). If either determination were made, the manufacturer is required by section 154 of the Safety Act (15 U.S.C. 1415) to remedy the noncompliance or defect.

For the reasons set forth at length in the NPRM and briefly reiterated at the beginning of this preamble, and because only one child seat model is being produced that requires the tether strap to be attached, NHTSA is adopting the proposed requirement that all child seats pass the 30 mph test without any tether straps attached. This requirement applies to all child seats manufactured after the effective date of this rule.

As an adjunct to this rulemaking, child seats equipped with a tether strap will no longer be subject to the requirement that they also pass a 20 mph test with the tether unattached. Since these child seats will now be subject to the 30 mph test with the tether unattached, no purpose would be served by requiring the seats to be tested in a less severe manner under the same conditions.

Booster Seats

The commenters split on the issue of whether booster seats should be required to pass the 30 mph crash test with the tether strap unattached. The Insurance Institute for Highway Safety, Chrysler Corporation, the National Transportation Safety Board, and two individuals supported the proposed requirements for the reasons explained in the NPRM. However, the National Child Passenger Safety Association, Physicians for Automotive Safety, the University of Michigan, and researchers associated with the University of North Carolina opposed the proposed requirement. The gist of these opposing comments was as follows: The only means currently available for providing the needed upper torso restraint to booster seat occupants is with either a tether strap and harness or with a short shield in front of the child. A requirement to pass the 30 mph test without an attached tether strap would force manufacturers to equip all booster seats with a short shield. These

commenters were concerned about the adequacy of the safety protection afforded to booster seat occupants by these short shields.

The University of Michigan commented that it is currently engaged in a research program to develop an abdominal penetration sensor for the 3-year-old dummy currently used in Standard No. 213 testing. They stated that they have undertaken this research because of their concern about the abdominal loading to which the short shield exposes the child during the 30 mph crash test. The University of Michigan concluded its comment by stating that its preliminary tests with a prototype of its abdominal penetration sensor suggests that children are in fact exposed to high abdominal loading by the short shields used on booster seats without tethers. The researchers associated with the University of North Carolina concurred with the University of Michigan on the need to examine the abdominal loading associated with booster seats without tethers before mandating that all booster seats be capable of passing the 30 mph test without an attached tether.

The agency is also aware of other concerns which have been expressed by child safety researchers in connection with the short shields used in booster seats without tethers. For example, there is concern that older children could be seriously injured by having their head and neck wrap around the shield, since the shield is not large enough to restrain those parts of the body in a crash situation. This concern was raised in the comments submitted by the National Child Passenger Safety Association. Another concern is that the short shield booster seats do not provide any crotch restraint. It is possible that small children could submarine under the short shields on booster seats, leaving these children completely unrestrained in the event of a crash.

NHTSA wishes to emphasize that booster seats without tethers comply with all current requirements of Standard No. 213 using the 3-year old dummy. Nevertheless, the issues raised by the commenters regarding the effectiveness of short shields on booster seats are matters of concern to the agency. Since the short shields used on booster seats without tethers represent the only current alternative to the use of tether straps on booster seats, NHTSA has concluded that it would be an unwise policy to essentially require the use of short shields on booster seats (by adopting the proposed requirements) before the agency has investigated the validity of the above-mentioned safety concerns. If testing showed that short shields did not provide adequate safety protection to children after the agency had essentially required the use of such shields on all booster seats, this rulemaking would not achieve the agency's goal of improving the protection offered to child restraint occupants. Therefore, it is premature to adopt the proposed requirements as they apply to booster seats.

The agency will investigate the allegations that have been made about the short shields on booster seats. The agency investigation, together with the University of Michigan testing on the abdominal loading imposed by these short shields, should help resolve the stated concerns.

There is also an important distinction between child seats with tethers and booster seats with tethers, which suggests that it is not as imperative to require the booster seats not be permitted to have an attached tether strap during the 30 mph test. Booster seats equipped with tethers are designed to be used *either* with the tether strap attached to the vehicle *or* with a lap-shoulder belt. When a lap-shoulder belt is available, booster seats with tethers are designed to use the shoulder belt in a vehicle so that it will provide the necessary upper torso support. When upper torso support is provided by a vehicle shoulder belt, it is not necessary to attach the tether strap to provide the necessary upper torso support.

This feature resulted in observed correct usage of booster seats equipped with tethers in 38.0 percent of the total cases in the Cynecki and Goryl report cited above. The tether strap was properly attached in 8.5 percent of the cases, and the lap-shoulder belt was correctly used with the booster seat in 29.5 percent of the observed cases. This 38.0 percent correct usage of booster seats with tethers compares favorably with the 41.2 percent correct usage of child seats not equipped with tethers, and both stand in sharp contrast to the 7.0 percent correct usage of child seats equipped with tethers.

The reason explained in the NPRM for proposing that tether straps not be attached during the 30 mph test was because of the overwhelming incorrect usage of child restraints with tethers by the public. However, the data available to the agency suggest that booster seats equipped with tethers are used correctly almost as often as child seats without tethers.

Child Harnesses

The NPRM did not propose to change the current treatment for child harnesses in the Standard No. 213 testing. The surveys and data available to the agency have not examined the extent to which child harness tethers are misused by the public. Moreover, NHTSA believes it would be obvious to users of child harnesses that the failure to attach the tether strap would leave the child completely unrestrained in a crash. The absence of data indicating misuse of child harness tether straps, together will the obvious need to attach these tether straps, resulted in the agency's position that the NPRM should not propose any changes to Standard No. 213 in this regard; that is, child harnesses would be permitted to have their tether straps attached during the 30 mph test and not be subject to the 20 mph test. No commenters addressed this area of the proposal, and the final rule does not make any changes to the current requirements for child harnesses for the reasons explained above.

Child Restraints for Physically Handicapped Children

A number of commenters urged the agency to exempt child restraints designed for handicapped children from the proposal that all child restraints, except child harnesses, pass the 30 mph test in Standard No. 213 without any tether strap attached. A manufacturer of child restraints for physically handicapped children commented: "Now that safe transportation for the handicapped child has become a reality through the use of restraint harnesses, tether systems, and wheelchairs engineered to meet Standard No. 213, it seems counterproductive for the handicapped population and manufacturers to start over again."

NHTSA did not intend to require any changes to these restraints, and a statement proposing the continuation of current testing requirements for restraints for physically handicapped children was inadvertently omitted from the NPRM. The agency thus will allow these child restraints to have tethers attached during the 30 mph test and will not require these restraints to be subjected to the 20 mph test without the tether attached. NHTSA has no data showing that these restraints are frequently misused by the public. Additionally, there is no alternative at present to the use of tether straps to provide the necessary upper torso support for physically handicapped children. Hence, any requirement to eliminate the use of tether straps on restraints for physically handicapped children would lessen the protection available for those children. This was not the agency's intent in the NPRM.

Other Issues

The NPRM proposed that child restraints be installed at one of the two outboard seating positions on the standard seat during the testing. As explained above, this was proposed to ensure that the testing would be representative of the way in which child restraints would be used by the public. It was also proposed to enable child restraint manufacturers to reduce testing costs by evaluating two child restraint systems in a single test.

The commenters that addressed this proposed change generally opposed it. The University of Michigan commented that there was no basis for the concern expressed in the NPRM that testing in the center seating position might not be representative of the way in which child restraints are used by the public. The University stated: "We know from field experience that those restraints that meet the 30 mph test in the center seating position also effectively protect children in most crashes." Stated differently, child restraints that pass the 30 mph crash test in the center seating position have performed well when installed in the outboard seating positions of vehicles in use. The available data on the performance of child restraint systems indicate that the Standard No. 213 test procedures are representative of the condition encountered by restraint systems when in use.

Further, one child restraint manufacturer and the University of Michigan stated that the agency's proposed change might increase testing costs, instead of achieving the agency's stated intent of reducing those costs. This could happen because child restraints would be subjected to slightly differing forces produced by asymmetrical lap belt anchorages at the outboard seating positions. Further, it was stated that all child restraints are not symmetrical, and their test performance might be affected by a twist in one direction, but not the other. These facts would mean that all existing models of child restraints would have to be retested to ensure that the restraints would pass the Standard No. 213 requirements when installed at the outboard seating positions. In addition, the child restraints would have to be tested at both the left and right outboard seating positions, because of the different forces presented at these different seating locations.

The proposed change to the required seating position for testing child restraints is not adopted in this final rule, because of the reasons set forth in the comments.

The NPRM also proposed that manufacturers be required to insert the phrase "For extra protection in frontal and side impacts" before the notice on the label that tether straps must be attached in accordance with the manufacturer's instructions. This change was proposed in connection with the proposal to require all child restraints equipped with tethers to pass the 30 mph test without attaching the tethers. The change in the label language was intended to inform the public that the tether strap would offer supplementary safety protection when attached, but that it was not necessary to attach the tether for adequate protection.

BMW commented that the proposed change would have the unintended effect of implying that it was not necessary to use tether straps, and this implication would decrease the already low use of tether straps. The agency believes that the BMW comment has merit. The possibility of decreasing tether usage, combined with the fact that child harnesses, booster seats, and restraints for physically handicapped children may include tether straps, the attachment of which is necessary for adequate protection of the child, have led the agency to conclude that the proposed change to the label language should not be adopted in this final rule.

The other proposed changes were clarifications to the instructions which must accompany each child restraint. No commenters addressed these clarifications, and they are adopted for the reasons explained in the NPRM.

Costs and Other Impacts

NHTSA has analyzed this final rule and determined that it is not "major" within the meaning of Executive Order 12291. It is, however, "significant" within the meaning of the Department of Transportation regulatory policies and procedures, because of the high level of public and Congressional interest.

The requirement that child seats be tested at 30 mph without attaching the tether will result in the elimination or redesign of the one model which is current on the market and that NHTSA believes will not meet this requirement. This model has limited sales. Thus, both the costs and the safety benefits of this final rule will be limited. The rule will also ensure that other child seats that cannot pass the 30 mph test without attaching a tether cannot be offered for sale to the public. A final regulatory evaluation explaining these impacts has been prepared and placed in Docket No. 74-09; Notice 18. A copy of this evaluation may be obtained by any interested person by writing to: Docket Section, NHTSA, Room 5108, 400 Seventh Street, SW., Washington, DC 20590, or by calling the Docket Section at (202) 426-2768.

NHTSA also considerd the impacts of this final rule on small entities, as required by the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. The only manufacturer that will have to redesign or halt production of a child seat is not considered a small entity. Small organizations and small governmental jurisdictions are purchasers of child restraints. However, they will be minimally affected by the provisions of this rule.

Finally, the NHTSA has considered the environmental implications of this rule in accordance with the National Environmental Policy Act, and determined that it will not significantly effect the human environment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR 571.213 is amended as follows:

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.213 [Amended]

2. S4 is amended by adding the following definition immediately before the definition of "car bed":

S4. *Definitions.*

"Booster seat" means a child restraint which consists of only a seating platform that does not extend up to provide a cushion for the child's back or head.

* * * * *

3. S5.6.1 is revised to read as follows:

S5.6.1 The instructions shall state that, for maximum safety protection, child restraint systems should be installed in a rear seating position in vehicles with two rear seating positions and in the center rear seating position in vehicles with such a seating position.

4. S5.6.2 is revised to read as follows:

S5.6.2 The instructions shall specify in general terms the types of vehicles, the types of seating positions, and the types of vehicle safety belts with which the system can or cannot be used.

5. S6.1.2.1 is revised to read as follows:

S6.1.2.1 *Test configuration.*

S6.1.2.1.1 *Test configuration I.* In the case of each child restraint system other

than a child harness, a booster seat with a top anchorage strap, or restraint designed for use by physically handicapped children, install a new child restraint system at the center seating position of the standard seat assembly in accordance with the manufacturer's instructions provided with the system pursuant to S5.6, except that the restraint shall be secured to the standard vehicle seat using only the standard vehicle lap belt. A child harness, booster seat with a top anchorage strap, or a restraint designed for use by physically handicapped children shall be installed at the center seating position of the standard seat assembly in accordance with the manufacturer's instructions provided with the system pursuant to S5.6.

S6.1.2.1.2 *Test configuration II.* In the case of each child restraint system which is equipped with a fixed or movable surface described in S5.2.2.2, or a booster seat with a top anchorage strap, install a new child restraint system at the center seating position of the standard seat assembly using only the standard seat lap belt to secure the system to the standard seat.

Issued on February 10, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86-3234 Filed 2-12-86; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 51, No. 30
Thursday, February 13, 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 AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 417

[Doc. No. 3026S]

Sugarcane Crop Insurance Regulations.

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Sugarcane Crop Insurance Regulations (7 CFR Part 417), effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Change to a mandatory "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for cancellation for not furnishing records; (2) clarify that acreage will not be insured when planted with another crop; (3) change the method of calculating the insureds share of any indemnity on crops transferred before harvest; (4) add a provision to insure acreage cut for seed by written agreement; (5) add a provision to insure by written agreement acreage grown for a third or succeeding year from stubble; (6) change the method of computing indemnities when acreage, share, or practice is underreported; (7) provide continuous protection for stubble cane; (8) change the notice of loss provision to make it more applicable to seed cane; (9) shorten the length of time an insured has to give notice when claiming an indemnity; (10) change the unit of measure for sugarcane; (11) clarify the method of appraising stubble acreage; (12) add definitions of "ASCS" and "Loss ratio"; (13) change the filing date for contract changes; (14) redefine "County" to clarify when land located outside the county is included in the county; and (15) delete the definition for "Standard sugarcane." The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: Comment date: Written comments, data, and opinions on this proposed rule must be submitted not later than April 14, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectivenes of these regulations under these procedures. The sunset review date established for these regulations is December 1, 1990.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. -based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businessses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the sugarcane policy are:

1. *Section 2.*—Add a clause to change the method of calculating the insured's share of an indemnity on crops transferred before harvest. This change prevents the practice of collecting an indemnity on a crop in which the insured no longer has an interest.

Specify that insurance will apply on seed cane cut for seed, if FCIC agrees, in writing, to insure such acreage.

Add a provision that acreage grown for a third or succeeding year from stubble is not insured unless FCIC agrees in writing.

Specify that acreage will not be insured when planted with another crop. This change is made to be consistent with other crop policies.

2. *Section 5.*—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis, and coverages will, therefore, reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they may retain a discount under the present schedule through the 1991 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

Remove the provisions for the transfer of insurance experience and for premium computation when participation has not been continous. Deletion of the Premium Adjustment Table eliminates the need for these provisions.

3. *Section 7.*—Add a provision to provide continous protection for stubble cane.

4. *Section 8.*—Change the "notice of probable loss" provision to make it more applicable to seed cane.

Shorten from 30 days to 10 days the time an insured has to give notice of loss when claiming an indemnity. This will allow FCIC to determine indemnities in a more timely fashion.

5. *Section 9.*—When acres are underreported, the production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are

underreported and will reduce the complexity of calculations.

Change the unit of measure from "tons" to "pounds" to more closely conform to industry practice.

6. *Section 15.*—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the proposed change to mandatory APH.

7. *Section 16.*—Change the date for filing contract changes from May 31 to June 30.

8. *Section 17.*—Add definitions for "ASCS" and "Loss ratio."

Amend the "County" definition to clarify when land located outside the county is deemed to be in the county.

Delete the "Standard sugarcrane" definition since it is no longer used in subsection 9.e.(2).

FCIC is soliciting public comment on this proposed rule for 60 days after publication in the **Federal Register.** Written comments will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 417

Crop insurance, Sugarcane.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Sugarcane Crop Insurance Regulations (7 CFR Part 417), effective for the 1987 and succeeding crop years, to read as follows:

PART 417—SUGARCANE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

417.1 Availability of sugarcane crop insurance.
417.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
417.3 OMB control numbers.
417.4 Creditors.
417.5 Good faith reliance on misrepresentation.
417.6 The contract.
417.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1987 and Succeeding Crop Years

§ 417.1 Availability of sugarcane crop insurance.

Insurance shall be offered under the provisions of this subpart on sugarcane in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 417.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for sugarcane which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 417.3 OMB control numbers.

The OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 417.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 417.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the sugarcane crop insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 417.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the sugarcane crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 417.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the sugarcane crop as landlord, owner-operator, or tenant. The applicant shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a sugarcane contract issued under such

prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Sugarcane Crop Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Sugarcane—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches;

unless those causes are excepted, excluded, or limited by the actuarial table or subsection 9e(7).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good surgarcane farming practices;

(3) The failure or breakdown of irrigation equipment or facilities;

(4) The failure to follow recognized good sugarcane irrigation practices;

(5) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(6) Any cause not specified in subsection 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be sugarcane grown for processing for sugar, grown on insured acreage, and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be plant and stubble cane grown on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured sugarcane at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or

(2) The beginning of harvest.

d. We do not insure any acreage:

(1) Cut for seed unless we agree, in writing, to insure such acreage;

(2) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed, it is practical to replant to sugarcane, and such acreage is not replanted;

(5) Initially planted after the final planting date contained in the actuarial table;

(6) Planted to a type or variety of sugarcane not established as adapted to the area or excluded by the actuarial table; or

(7) Planted with another crop.

e. If insurance is provided for an irrigated practice, you must report as irrigated only the acreage for which you have adequate facilities and water, at the time insurance attaches, to carry out a good sugarcane irrigation practice.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree, in writing, to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. Report of acreage, share, and practice.

You must report on our form:

a. All the acreage of sugarcane in the county in which you have a share;

b. The practice; and

c. Your share at the time insurance attaches.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any sugarcane in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on the report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the sales closing date as established by the actuarial table for submitting applications for the crop year.

5. Annual premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times you share at the time insurance attaches.

b. Interest wil accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1985 crop year under the terms of the experience table contained in the sugarcane policy in effect for the 1986 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1991 crop year;

(2) The premium reductions will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1986 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches on:

(1) Plant cane at the time of planting unless otherwise provided for by the actuarial table; and

(2) Stubble cane on the first day following harvest for the first or second crop year cane from stubble on the unit, except when stubble has been damaged by conditions occurring before harvest in the previous crop year and we notify you, in writing, by:

(a) January 31 following harvest in Louisiana; or

(b) April 30 following harvest in all other States.

b. Insurance ends at the earliest of:

(1) Total destruction of the sugarcane;

(2) Harvest;

(3) Final adjustment of a loss; or

(4) The following dates immediately following the normal starting of harvest.

(a) Louisiana..... January 31;

(b) All other states.....April 30.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the sugarcane on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the sugarcane and given written consent. You must notify use when such acreage is put another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest:

(a) If you anticipate a loss on any unit; and

(b) For any acreage which is insured as seed cane.

(3) If probable loss is determined within 15 days of or during harvest, immediate notice must be given and a representative sample of the unharvested sugarcane (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earliest of:

(a) Total destruction of the sugarcane on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destory any of the sugarcane which is not be harvested.

c. If an indemnity is to be claimed on any unit, you must leave intact the stalks on unharvested acreage and the stubble on harvested acreage until inspected by us.

d. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the sugarcane on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of sugar on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of sugar to be counted (see subsection 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (in pounds of sugar) to be counted for a unit will include all harvested and appraised production.

(1) Sugar production to count from acreage damaged by freeze within the insurance period which adversely affects the boiling house operation and cannot be processed for sugar will be determined by dividing the dollar amount received from the mill for the damaged sugarcane by the price per pound of raw sugar.

The applicable price for raw sugar will be the local market price on the earlier of:

(a) The day the loss is adjusted; or

(b) The day such sugar is sold.

(2) Appraised production to be counted will include:

(a) Any appraisal under subsection 9.e.(3) and 9.e.(4);

(b) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good sugarcane farming practices;

(c) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(d) Any appraised production on unharvested acreage.

Appraisals and harvested production not processed for sugar will be given in pounds of sugar.

(3) We may make an appraisal of not less than the production guarantee per acre on any harvested acreage on which the stubble is destroyed prior to our inspection.

(4) Except for acreage on which insurance attached the first day following harvest of the previous crop, an appraisal for inadequate stand will be made on any stubble acreage, at the time of inspection, if the product of the number of plants per acre multiplied by 2, multiplied by the factor (percentage of sugar) shown by the actuarial table does not equal the per acre guarantee. The per acre appraisal for inadequate stand will be the difference between the appraised production and the production guarantee.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production to count unless such acreage is:

(a) Not put to another use before harvest of sugarcane becomes general in the county and reappraised by us;

(b) further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(6) The amount of production of any unharvested sugarcane may be determined on the basis of field appraisals conducted after the end of the insurance period.

(7) If you elect to exclude hail and fire as insured causes of loss and the sugarcane is damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

f. You must not abandon any acreage to us.

g. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

h. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claims. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the Federal Register semiannually on or about January 1, and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

j. If you have other fire insurance, first damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all sugar produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. Prior to the cancellation date you must:

(1) Furnish to us, satisfactory production records for the crop year or the contract will be canceled for next crop year; or

(2) Show to our satisfaction that the records are not available because of conditions beyond your control, such as fire, flood or other natural disaster. (If this subsection (2) applies, the Field Actuarial Office may assign a yield for the year for which the records are unavailable.)

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are September 30.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by June 30 preceding the cancellation date. Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of sugarcane crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding sugarcane insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "County" means:

(1) The county shown on the application;

(2) Additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(3) Land identified by the same ASCS farm serial number for the county but physically located in another county within the state.

d. "Crop year" means the period from planting for plant cane and the day following harvest for stubble cane until the end of the insurance period and will be designated by the calendar year in which the sugarcane harvest normally begins in the county.

e. "Harvest" means the cutting and removing of sugarcane from the field.

F. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Loss ratio" means the ratio of indemnity to premium.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Plant cane" (see definition of sugarcane).

k. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

l. "Stubble cane" (see definition of sugarcane).

m. "Sugarcane" means either:

(1) Sugarcane the initial year planted (plant cane);

(2) Sugarcane growing from the stubble left to produce another crop from previously harvested sugarcane (stubble cane).

n. "Tenant" means a person who rents land from another person for an share of the sugarcane or a share of the proceeds therefrom.

o. "Unit" means all insurable acreage of sugarcane in the county on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sugarcane on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC on December 9, 1985.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-3156 Filed 2-12-86; 8:45 am]

BILLING CODE 3410-08-M

---

7 CFR Part 444

[Doc. No. 3002S]

Fresh Tomato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Fresh Tomato Crop Insurance Regulations (7 CFR Part 444),

effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Add excessive rain as an insurable cause of loss; (2) change the method of calculating the insured's share of an indemnity on crops transferred before harvest; (3) clarify that acreage will not be insured when planted with another crop; (4) allow insurance on tomatoes not grown on plastic mulch; (5) remove the Premium Adjustment Table; (6) change the method of crediting the replanting payment; (7) add a provision to specify that coverage terminates when tomatoes are damaged after a specified period; (8) increase the time an insured has to give notice when claiming an indemnity; (9) add a provision that notice of loss is to be given within 72 hours after a specific period; (10) change the method of computing indemnities when acreage, share, or practice is underreported; (11) change the method for calculating production to count on harvested and appraised production; (12) establish the minimum value for harvested and appraised production; (13) increase the amount of acreage which must be replanted to obtain replanting payments; (14) add definitions for "ASCS", "Excessive rain", "Freeze", "Frost", "Loss ratio", "Potential production", and "Tropical depression"; and (15) redefine "County" to clarify when land located outside the county is included in the county. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: Comment date: Written comments, data, and opinions on this proposed rule must be submitted not later than March 17, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 1, 1990.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (1) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the fresh tomato policy are:

1. *Section 1.*—Add excessive rain as an insurable cause of loss. This provides for coverage for rain damage when more than 10 inches of rain falls in a twenty-four hour period.

2. *Section 2.*—Add a clause to change the method of calculating the insured's share of an indemnity on crops transferred before harvest. This limits indemnities to the insurable interest at the time of loss. Add a provision to allow FCIC to insure tomatoes in other areas which are not grown on plastic mulch. Good cultural practices to grow tomatoes does not require plastic mulch.

Specify that acreage will not be insured when planted with another crop. This change is made to be consistent with other policies.

3. *Section 5.*—Remove the Premium Adjustment Table. The Premium Adjustment Table was removed for actuarial purposes. The Federal Crop Insurance Act requires that premiums be established to pay anticipated losses and establish a reasonable reserve. Discounting premiums established in accordance with the Act is not a sound actuarial practice and FCIC proposes to discontinue the practice.

Remove the provisions for the transfer of insurance experience and for premium computation when participation has not been continuous. Deletion of the Premium Adjustment Table eliminates the need for these provisions.

4. *Section 6.*—Specify that the replanting payment will only be applied to payment of the premium if the billing date has passed. In cases when the billing date for a crop has passed on the date replanting payment is made, the replanting payment will be applied to payment of the billed premium. In other cases it will be paid to the insured. This changes the current practice of applying the replanting payment to the outstanding premium in all cases.

5. *Section 7.*—Add a provision to specify that coverage terminates and will not pay for damage occurring 140 days after the date of direct seeding, transplanting or replanting. Tomatoes should be harvested within 140 days of establishment. Damage occurring after that date will not be covered. Since tomatoes should be harvested by the end of the 140 day period, this change eliminates coverage for any damage occurring after that determinable date.

6. *Section 8.*—Increase from 48 to 72 hours the length of time an insured has to give notice of loss when claiming an indemnity. This change allows the insured to give timely notice when damage occurs over weekends and during periods of intense activity.

Add a provision for notice of loss after the end of the 140 day insurance period terminating coverage at a determinable date when all tomatoes should be harvested. This change allows for an inspection to determine potential production remaining on plants not harvested.

7. *Section 9.*—When acres are underreported, the production from all acres will count against the reported acres in calculating indemnities. This change will reduce the amount of indemnities when acres are underreported and will reduce the complexity of calculations.

Change the method of computing the total value of production to be counted for a unit on harvested and appraised production when claiming an indemnity.

Add a provision to establish that the value of any appraised production will not be less than the dollar amount obtained by multiplying the number of 25-pound cartons of tomatoes appraised by $3.00.

Indemnities have been paid after an insurable cause of loss occurred, when

production was normal, but the prices were low. Also, marketing of production, part of which proves rotten and is destroyed, has resulted in a minus value after deduction of allowable costs from the price received. The result has been a total devaluation of the production actually marketed and an inflated indemnity.

Establishing a minimum price for marketed and appraised production returns the coverage to a production guarantee program and reduces the possibility that FCIC may pay indemnity when production is normal. It also removes the tendency to insure market prices.

Since the price of a normal crop when harested ordinarily exceeds the insurance amount, the $3.00 amount represents the point at which the dollar amount of insurance on appraised production of a given number of units would zero out.

This change also simplifies the method of determining value and informs the insured of the minimal value of appraised production.

Increase from 10 acres or 10 percent to 20 acres or 20 percent the acreage required to be replanted to qualify for a replant payment. Clarify that the percentage to be replanted is computed on the acreage initially planted on the unit as of the final planting date. Delete the requirement that the payment be considered an indemnity except for minor coverage requirements. This reduces the number of inspections by eliminating small replant payments and paperwork.

8. *Section 17.*—Add definitions of "ASCS", "Excessive rain", "Freeze", "Frost", "Loss ratio", "Potential production", and "Tropical depression."

Amend the "County" definition to clarify when land located outside the county is deemed to be in the county.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register.** Written comments will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 444

Crop insurance; Fresh tomato.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Fresh Tomato Crop Insurance Regulations (7 CFR Part 444), effective for the 1987 and succeeding crop years, to read as follows:

PART 444—FRESH TOMATO CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

444.1 Availability of fresh tomato crop insurance.
444.2 Premium rates, coverage levels, and amounts of insurance.
444.3 OMB control numbers.
444.4 Creditors.
444.5 Good faith reliance on misrepresentation.
444.6 The contract.
444.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1987 and Succeeding Crop Years

§ 444.1 Availability of fresh tomato crop insurance.

Insurance shall be offered under the provisions of this subpart on fresh tomatoes in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 444.2 Premium rates, coverage levels, and amounts of insurance.

(a) The Manager shall establish premium rates, coverage levels, and amounts of insurance for fresh tomatoes which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect an amount of insurance per acre and a coverage level from among those levels and amounts shown on the actuarial table for the crop year.

§ 444.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 444.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 444.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the fresh tomato crop insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000 finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 444.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the fresh tomato crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 444.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the fresh tomato crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the

insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a fresh tomato insurance contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Fresh Tomato Crop Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Fresh Market Tomato—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Excessive rain;

(2) Frost;

(3) Freeze;

(4) Hail;

(5) Fire;

(6) Tornado;

(7) Tropical depression; or

(8) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(5).

b. We will not insure against any loss of production due to:

(1) Disease or insect infestation;

(2) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(3) The failure to follow recognized good tomato farming practices;

(4) The impoundment of water by any governmental, public, or private dam or reservoir project;

(5) The failure or breakdown of irrigation equipment or facilities;

(6) The failure to follow recognized good tomato irrigation practice; or

(7) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be tomatoes (excluding cherry-type tomatoes) planted for harvest as fresh market tomatoes, grown on insured acreage, and for which an amount of insurance and premium rate are set by the actuarial table.

b. The acreage insured for each crop year will be tomatoes planted on irrigated acreage as designated insurable by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured tomatoes at the time of each planting period. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or

(2) The beginning of harvest.

d. We do not insure any acreage of tomatoes grown by any person if the person had not previously:

(1) Grown tomatoes for commercial sales; or

(2) Participated in the management of the tomato farming operation.

e. We do not insure any acreage:

(1) Of tomatoes grown for direct consumer marketing;

(2) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is not irrigated;

(4) On which tomatoes are not grown on plastic mulch unless provided for by the actuarial table;

(5) On which tomatoes, peppers, eggplants or tobacco have been grown and the soil was not fumigated or otherwise properly treated before planting tomatoes;

(6) Which was planted to tomatoes the preceding planting period, unless the tomato plants of the preceding planting period were destroyed less than:

(a) 30 days after the date of transplanting; or

(b) 60 days after the date of direct seeding;

(7) Which is destroyed, it is practical to replant to tomatoes, and such acreage was not replanted, (The unavailability of plants is not a valid reason for failure to replant);

(8) Initially planted after the final planting date set by the actuarial table;

(9) Of volunteer tomatoes;

(10) Planted to a type or variety of tomatoes not established as adapted to the area or excluded by the actuarial table;

(11) Planted for experimental purposes; or

(12) Planted with another crop.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You must report at the time of each planting period on our form:

a. All the acreage of fall, winter, and spring-planted tomatoes in the county in which you have a share;

b. The practice, including the bed size; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any tomato plantings in the county. This report must be submitted for each planting period on or before the reporting date established by the actuarial table for each planting period. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, for each planting period the insured acreage, share, and practice or we may deny liability on any unit for any planting. Any report submitted by you may be revised only upon our approval.

4. Coverage levels and amounts of insurance.

a. The coverage levels and amounts of insurance are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and amount of insurance on or before the sales closing date set by the actuarial table for submitting applications for the crop year.

5. Annual pemium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance times the premium rate, times the insured acreage, times your share at the time of each planting.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from a replanting payment if the billing date has passed on the date you claim the replanting payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the tomatoes are planted in each planting period and ends at the earliest of:

a. Total destruction of the tomatoes on the unit;

b. Discontinuance of harvest of tomatoes on the unit;

c. The date harvest should have started on the unit on any acreage which will not be harvested;

d. 140 days after the date of direct seeding, transplanting or replanting;

e. Final harvest; or

f. Final adjustment of a loss.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant tomatoes damaged due to any insured cause (see subsection 9f);

(b) During the period before harvest, the tomatoes on any unit are damaged and you decide not to further care for or harvest any part of them;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the tomatoes and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is determined within 15 days prior to or during harvest and you are going to claim an indemnity on any unit, you must give us notice not later than 72 hours:

(a) After total destruction of the tomatoes on the unit;

(b) After discontinuance of harvest of any acreage on the unit;

(c) Before harvest would normally start if any acreage on the unit is not to be harvested; or

(d) After the 140th date ending the insurance period in accordance with Section 7.

b. You may not destroy or replant any of the tomatoes on which a replanting payment will be claimed until we give written consent.

c. You must obtain written consent from us before you destroy any of the tomatoes which are not to be harvested.

d. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the tomatoes on the unit;

(2) Discontinuance of harvesting on the unit; or

(3) The date harvest should have started on the unit on any acreage which will not be harvested.

b. We will not pay any indemnity unless you:

(1) Establish the total production and the value received for all tomatoes on the unit and that any loss of production or value has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance times the percentage for the stage of production defined by the actuarial table;

(2) Subtracting therefrom the total value of production to be counted (see subsection 9.e.); and

(3) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the amount of insurance on the unit will be computed on the information reported, but the value of all production from insurable acreage, whether or not reported as insurable, will count against the amount of insurance.

e. The total value of production to be counted for a unit will include all harvested and appraised production.

(1) The total value of harvested production will be the greater of:

(a) The dollar amount obtained by multiplying the number of 25 pound cartons of tomatoes harvested on the unit by $3.00; or

(b) The dollar amount obtained by multiplying the number of 25-pound cartons of tomatoes sold by the price received minus allowable cost as set by the actuarial table. However, such price shall not be less than zero for any carton.

(2) The value of appraised production to be counted will include:

(a) The value of the potential production on any tomatoes that have not been harvested the third time and the value of unharvested production of mature green and riper tomatoes with classification size of 7X7 (2$\frac{3}{32}$ inch minimum diameter) or larger remaining after the third harvest;

(b) The value of the potential production lost due to uninsured causes; and

(c) Not less than the dollar amount of insurance per acre for any acreage abandoned or put to another use without prior written consent or which is damaged solely by an uninsured cause.

The value of any appraised production will not be less than the dollar amount obtained by multiplying the number of 25-pound cartons of tomatoes appraised by $3.00.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of tomatoes becomes general in the county for the planting period and reappraised by us;

(b) Further damaged by an insured cause and reappraised by use; or

(c) Harvested.

(4) The amount and value of production of any unharvested tomatoes may be determined on the basis of field appraisals conducted after the end of the insurance period.

(5) If you elect to exclude hail and fire as insured causes of loss and the tomatoes are damaged by hail or fire, appraisals will be made in accordance with Form FCI–78–A, "Request to Exclude Hail and Fire."

f. A replanting payment may be made on any insured tomatoes replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured acreage sustaining a loss in excess of 50 percent of the plant stand for the unit as determined on the final planting date for the planting period.

(1) No replanting payment will be made on acreage on which a replanting payment has been made during the current planting period for the crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but will not exceed the product obtained by multiplying $175.00 per acre by your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

g. You must not abandon any acreage to us.

h. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

i. An indemnity will not be paid unless you comply with all policy provisions.

j. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

k. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the tomatoes are planted for any crop year, any indemnity will be paid to the persons determined to be beneficiary entitled thereto.

l. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from your policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act of omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemntiy.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all tomatoes produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date proceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity, will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture, will be the date both such other payment and setoff are approved.

d. The cancellation and termination dates are July 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premuim is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance at which indemnities are computed is no longer offered, the actuarial table will provide the amount of insurance which you are deemed to have elected. All contract changes will be available at your service office by April 30 preceding the cancellation date. Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of tomato crop insurance:

a. "Acre" means 43,560 square feet of plastic mulch of not more than 6 foot widths (6-foot bed) on which at least 7,260 linear feet (rows) are planted.

b. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amount of insurance, coverage levels, premium rates, practices, insurable and uninsurable acreage, and related information regarding tomato insurance in the county.

c. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

d. "County" means:

(1) The county shown on the application;

(2) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(3) Any land identified by the same ASCS farm serial number for the county but physically located in another county within the state.

e. "Crop year" means the period within which the tomatoes are normally grown beginning August 1 and continuing through the harvesting of the spring-planted tomatoes and is designated by the calendar year in which the spring-planted tomatoes are normally harvested.

f. "Excessive rain" means more than 10 inches of rain fall upon the tomato field within a 24-hour period, after the tomatoes have been seeded or transplanted.

g. "Freeze" means the condition of air temperatures over a widespread area remaining sufficiently at or below 32 degrees Fahrenheit to cause crop damage.

h. "Frost" means the condition of air temperature around the plant falling to 32 degrees Fahrenheit or below.

i. "Harvest" means the picking of marketable tomatoes on the unit.

j. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

k. "Insured" means the person who submitted the application accepted by us.

l. "Loss ratio" means the ratio of indemnity to premium.

m. "Mature green tomato" means a tomato which:

(1) Has heightened gloss because of the waxy skin that cannot be torn by scraping;

(2) Has well formed jelly-like substance in the locules;

(3) Has seeds that are sufficiently hard so they are pushed aside and not cut by a sharp knife slicing; and

(4) Shows no red color.

n. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

o. "Planting" means transplanting the tomato plants into the field or direct seeding in the field.

p. "Planting Period" means tomatoes planted within the dates set by the actuarial table, as fall-planted, winter-planted or spring-planted.

q. "Plant Stand" means the number of live plants per acre before the plants were damaged due to insurable causes.

r. "Potential production" means the number of 25-pound cartons of mature green or ripe tomatoes with classification size of 7×7 or larger which the tomato plants would produce or would have produced, per acre, by the end of the insurance period.

s. "Replanting" means performing the cultural practices necessary to replant insured acreage to tomatoes.

t. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

u. "Tenant" means a person who rents land from another person for a share of the tomatoes or a share of the proceeds therefrom.

v. "Tomatoes grown for direct consumer marketing" means tomatoes grown for the purpose of selling directly to the consumer; and which are grown on acreage not subject to an agreement between producer and packer to pack the production (the producer-packer agreement must be made before you report your acreage).

w. "Tropical depression" means only a large-scale, atmospheric wind-and-pressure system characterized by low pressure at its center and counterclockwise circular wind motion which has been identified by the United States Weather Service in which the minimum sustained surface wind (1-minute mean) is 33 knots (38 miles per hour) or more at the U.S. Weather Service reporting station nearest to the crop damage at the time of the crop damage.

x. "Unit" means all insurable acreage of tomatoes for each planting period in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tomatoes on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable quidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable quidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC, on November 26, 1985.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-3157 Filed 2-12-86; 8:45 am]

BILLING CODE 3410-08-M

---

7 CFR Part 445

[Docket No. 2994S]

Pepper Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Pepper Crop Insurance Regulations (7 CFR Part 445), effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Add excessive rain as an insurable cause of loss; (2) change the method of calculating the insured's share of an indemnity on crops transferred before harvest; (3) clarify that acreage will not be insured when planted with another crop; (4) remove the Premium Adjustment Table; (5) change the method of crediting the replanting payment; (6) add a provision to specify that coverage terminates when peppers are damaged after a specified period; (7) increase the length of time an insured has to give notice of loss when claiming an indemnity; (8) add a provision that notice of loss is to be given within 72 hours after a specified period; (9) change the method of computing indemnities when acreage, share, or practice is underreported; (10) change the method for calculating production to count on harvested and appraised production; (11) establish the minimal value for harvested and appraised production; (12) increase the amount of acreage which must be replanted to obtain replanting payments; (13) add definitions of "ASCS", "Excessive rain", "Freeze", "Frost", "Loss ratio", "Potential production", and "Tropical depression"; and (14) redefine "County" to clarify when land located outside the county is included in the county. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: Written comments, data, and opinions on this proposed rule must be submitted not later than March 17, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity,and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 1, 1990.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprised to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the pepper policy are:

1. *Section 1.*—Add excessive rain as an insurable cause of loss. This provides for rain damage coverage when more than 10 inches of rain falls in a twenty-four hour period.

2. *Section 2.*—Add a clause to change the method of calculating the insured's share of an indemnity on crops transferred before harvest. This limits indemnities to the insurable interest at the time of loss.

Specify that acreage will not be insured when planted with another crop. This change is made to be consistent with other policies.

3. *Section 5.*—Remove the Premium Adjustment Table. The Premium Adjustment Table was removed for actuarial purposes. The Federal Crop Insurance Act requires that premiums be established to pay anticipated losses and establish a reasonable reserve. Discounting premiums established in accordance with the Act is not a sound actuarial practice and FCIC proposes to discontinue the practice.

Remove the provisions for the transfer of insurance experience and for premium computation when participation has not been continuous. Deletion of the Premium Adjustment Table eliminates the need for these provisions.

4. *Section 6.*—Specify that the replanting payment will only be applied

to payment of the premium if the billing date has passed. In cases when the billing date for a crop has passed on the date replanting payment is made, the replanting payment will be applied to payment of the billed premium. In other cases it will be paid to the insured. This changes the current practice of applying the replanting payment to the outstanding premium in all cases.

5. *Section 7.*—Add a provision to specify that coverage terminates and will not cover damage occurring 150 days after the date of direct seeding, transplanting or replanting. Peppers should be harvested within 150 days of establishment. Damage occurring after that date will not be covered. Since peppers should be harvested by the end of the 150 day period, this change eliminates coverage for any damage occurring after that determinable date.

6. *Section 8.*—Increase from 48 to 72 hours the length of time an insured has to give notice of loss when claiming an indemnity. This change allows the insured to give timely notice when damage occurs over a weekend and during periods of intense activity.

Add a provision for notice of loss after the end of the 150 day insurance period to terminate coverage at a determinable date when all peppers should be harvested. This change allows for an inspection to determine potential production remaining on plants not harvested.

7. *Section 9.*—When acres are underreported, the production from all acres will count against the reported acres in calculating indemnities. This change will reduce the amount of indemnities when acres are underreported and will reduce the complexity of calculations.

Change the method of computing the total value of production to be counted for a unit on harvested and appraised production when claiming an indemnity.

Add a provision to establish that the value of any appraised production will not be less than the dollar amount obtained by multiplying the number of 1⅙ bushels appraised by $4.00.

Indemnities have been paid after an insurable cause of loss occurred, when production was normal, but the prices were low. Also, marketing of production, part of which proves rotten and is destroyed, has resulted in a minus value after deduction of allowable costs from the price received. The result has been a total devaluation of the production actually marketed and an inflated indemnity.

Establishing a minimum price for marketed and appraised production returns the coverage to a production guarantee program and reduces the possibility that FCIC may pay indemnity when production is normal. It also removes the tendency to insure market prices.

Since the price on a normal crop when harvested ordinarily exceeds the insurance amount, the $4.00 amount represents the point at which the dollar amount of insurance on appraised production of a given number of units would zero out.

This change also simplifies the method of determining value and informs the insured of the minimal value of appraised production. Increase from 10 acres or 10 percent to 20 acres or 20 percent the acreage required to be replanted to qualify for a replant payment. Clarify that the percentage to be replanted is computed on the acreage initially planted on the unit as of the final planting date. Delete the requirement that the payment be considered an indemnity except for minor coverage requirements. This reduces the number of inspections by eliminating small replant payments and paperwork.

8. *Section 17.*—Add definitions of "ASCS", "Excessive rain", "Freeze", "Frost", "Loss ratio", "Potential production", and "Tropical depression."

Amend the "County" definition to clarify when land located outside the county is deemed to be in the county.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register**. Written comments will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 445

Crop insurance, Pepper.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Pepper Crop Insurance Regulations (7 CFR Part 445), effective for the 1987 and succeeding crop years, to read as follows:

PART 445—PEPPER CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

445.1 Availability of pepper crop insurance.
445.2 Premium rates, coverage levels, and amounts of insurance.
445.3 OMB control numbers.
445.4 Creditors.
445.5 Good faith reliance on misrepresentation.
445.6 The contract.
445.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1987 and Succeeding Crop Year

§ 445.1 Availability of pepper crop insurance.

Insurance shall be offered under the provisions of this subpart on peppers in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 445.2 Premium rates, coverage levels, and amounts of insurance.

(a) The Manager shall establish premium rates, coverage levels, and amounts of insurance for peppers which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect an amount of insurance per acre and a coverage level from among those levels and amounts shown on the actuarial table for the crop year.

§ 445.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 445.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 445.5 Good faith reliance on misrepresentation.

Notwithstanding any othert provision of the pepper crop insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance

contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00 finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 445.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the pepper crop as provided in the county actuarial table. Changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 445.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the pepper crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date ón file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any colunty upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a pepper insurance contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Pepper Crop Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Pepper—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

terms and conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Excessive rain;

(2) Frost;

(3) Freeze;

(4) Hail;

(5) Fire;

(6) Tornado;

(7) Tropical depression; or

(8) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We will not insure against any loss of production due to:

(1) Disease or insect infestation;

(2) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(3) The failure to follow recognized good pepper farming practices;

(4) The impoundment of water by any governmental, public, or private dam or reservoir project;

(5) The failure or breakdown of irrigation equipment or facilities;

(6) The failure to follow recognized good pepper irrigation practice; or

(7) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be peppers planted for harvest as fresh market peppers, grown on insured acreage, and for which an amount of insurance and premium rate are set by the actuarial table.

b. The acreage insured for each crop year will be peppers planted on irrigated acreage as designated insurable by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured peppers at the time of each planting period. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or

(2) The beginning of harvest.

d. We do not insure any acreage of peppers grown by any person if the person has not previously:

(1) Grown peppers for commerical sales; or

(2) Participated in the management of the pepper farming operation.

e. We do not insure any acreage:

(1) Of peppers grown for direct consumer marketing;

(2) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is not irrigated;

(4) On which peppers are not grown on plastic mulch unless provided for on the acturial table;

(5) On which tomatoes, peppers, eggplants or tobacco have been grown and the soil was not fumigated or otherwise properly treated before planting peppers;

(6) Which was planted to peppers the preceding planting period, unless the pepper plants of the preceding planting period were destroyed less than:

(a) 30 days after the date of planting; or

(b) 60 days after the date of direct seeding;

(7) Which is destroyed, it is practical to replant to peppers, and such acreage was not replanted (The unavailability of plants is not a valid reason for failing to replant);

(8) Initially planted after the final planting date set by the actuarial table;

(9) Of volunteer peppers;

(10) Planted to a type or variety of peppers not established as adapted to the area or excluded by the actuarial table;

(11) Planted for experimental purposes; or

(12) Planted with another crop.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You must report at the time of each planting period on our form:

a. All the acreage of fall, winter and spring-planted peppers in the county in which you have a share;

b. The practice, including the bed size; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any pepper plantings in the county. This report must be submitted for each planting period on or before the reporting date established by the actuarial table for each planting period. All

indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, for each planting period, the insured acreage, share, and practice or we may deny liability on any unit for any planting. Any report submitted by you may be revised only upon our approval.

4. Coverage levels and amounts of insurance.

a. The coverage levels and amounts of insurance are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and amount of insurance on or before the sales closing date set by the actuarial table for submitting applications for the crop year.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance, times the premium rate, times the insured acreage, times your share at the time of each planting.

b. Interest will accrue at the rate of one and one-half percent (1-½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from a replanting payment if the billing date has passed on the date you are paid the replanting payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the peppers are planted in each planting period and ends at the earliest of:

a. Total destruction of the peppers on the unit;

b. Discontinuance of harvest of peppers on the unit;

c. The date harvest should have started on the unit on any acreage which will not be harvested;

d. 150 days after the date of direct seeding, transplanting or replanting;

e. Final harvest; or

f. Final adjustment of a loss.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant peppers damaged due to any insured cause (see subsection 9.f.);

(b) During the period before harvest, the peppers or any unit are damaged and you decide not to further care for or harvest any part of them;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the peppers and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is determined within 15 days prior to or during harvest and you are going to claim an indemnity on any unit, you must give us notice not later than 72 hours:

(a) After total destruction of the peppers on the unit;

(b) After discontinuance of harvest of any acreage on the unit;

(c) Before harvest would normally start if any acreage on the unit is not to be harvested; or

(d) After the 150th day ending of the insurance period in accordance with section 7.

b. You may not destroy or replant any of the peppers on which a replanting payment will be claimed until we give written consent.

c. You must obtain written consent from us before you destroy any of the peppers which are not to be harvested.

d. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 6 days after the earliest of:

(1) Total destruction of the peppers on the unit;

(3) The date harvest should have started on the unit on any acreage which will not be harvested.

b. We will not pay any indemnity unless you:

(1) Establish the total production and the value received from all peppers on the unit and that any loss of production or value has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance times the percentage for the stage of production defined by the actuarial table;

(2) Subtracting therefrom the total value of production to be counted (see subsection 9.e.); and

(3) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the amount of insurance on the unit will be computed on the information reported, but the value of all production from insurable acreage, whether or not reported as insurable, will count against the amount of insurance.

e. The total value of production to be counted for a unit will include all harvested and appraised production.

(1) The total value of harvested production will be the greater of:

(a) The dollar amount obtained by multiplying the number of 1⅓ bushels of peppers harvested on the unit by $4.00; or

(b) The dollar amount obtained by multiplying the number of 1⅓ bushels of peppers sold by the price received for each of 1⅓ bushel of peppers minus allowable cost set by the actuarial table. However, such price shall not be less than zero for any 1⅓ bushel.

(2) The value of appraised production to be counted will include:

(a) The value of the potential production on any peppers that have not been harvested the third time and the value of unharvested mature green and red peppers;

(b) The value of the potential production lost due to uninsured causes; and

(c) Not less than the dollar amount of insurance per acre for any acreage abandoned or put to another use without our prior written consent or which is damaged solely by an uninsured cause.

The value of any appraised production will not be less than the dollar amount obtained by multiplying the number of 1⅓ bushels appraised by $4.00.

(3) Unharvested peppers damaged or defective due to insurable causes and which cannot be marketed will not be counted.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of peppers becomes general in the county for the planting period and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(5) The amount and value of production of any unharvested peppers may be determined on the basis of field appraisals conducted after the end of the insurance period.

(6) If you elect to exclude hail and fire as insured causes of loss and the peppers are damaged by hail or fire, appraisals will be made in accordance with Form FCI–78–A, "Request to Exclude Hail and Fire."

f. A replanting payment may be made on any insured peppers replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured acreage sustaining loss in excess of 50 percent of the plant stand for the unit, as determined on the final planting date for the planting period.

(1) No replanting payment will be made on acreage on which a replanting payment has been made during the current replanting period for the crop year.

(2) The replanting payment per acre will be your actrual cost per acre for replanting, but will not exceed the product obtained by multiplying $300.00 per acre by your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

g. You must not abandon any acreage to us.

h. Any suit against us for an indemnity must be brough in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

i. An indemnity will not be paid unless you comply with all policy provisions.

j. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees,

or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form. If the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1, and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

k. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the peppers are planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

l. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Becuase you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all peppers proudced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity, will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture, will be the date both such payment and setoff are approved.

d. The cancellation and termination dates are July 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise.

If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance at which indemnities are computed is no longer offered, the actuarial table will provide the amount of insurance which you are deemed to have elected. All contract changes will be available at your service office by April 30 preceding the cancellation date. Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of pepper crop insurance:

a. "Acre" means 43,560 square feet of plastic mulch of not more than 6 foot widths (6-foot bed) on which at least 7,260 linear feet (rows) are planted.

b. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amount of insurance, coverage levels, premium rates, practices, insurable and uninsurable acreage, and related information regarding pepper insurance in the county.

c. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

d. "County" means:

(1) The county shown on the application;

(2) Any additional land located in a local producing area bordering on the county as shown by the actuarial table; and

(3) Any land identified by the same ASCS farm serial number for the county but physically located in another county within the state.

e. "Crop year" means the period within which the peppers are normally grown beginning August 1 and continuing through the harvesting of the spring-planted peppers and is designated by the calendar year in which the spring-planted peppers are normally harvested.

f. "Excessive rain" means more than 10 inches of rain fall upon the pepper field within a 24-hour period after the peppers have been seeded or transplanted.

g. "Freeze" means the condition of air temperatures over a widespread area remaining sufficiently at or below 32 degrees Fahrenheit to cause crop damage.

h. "Frost" means the condition of air temperature around the plant falling to 32 degrees Fahrenheit or below.

i. "Harvest" means the final picking of marketable peppers on the unit.

j. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

k. "Insured" means the person who submitted the application accepted by us.

l. "Loss ratio" means the ratio of indemnity to premium.

m. "Mature green pepper" means a pepper which has reached the stage of development that will withstand normal handling and shipping.

n. "Peppers grown for direct consumer marketing" means peppers grown for the purpose of selling directly to the consumer; and which are grown on acreage not subject to an agreement between producer and packer to pack the production (the producer-packer agreement must be made before you report your acreage).

o. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

p. "Planting" means transplanting the peppr plant into the field or direct seeding in the field.

q. "Planting period" means the peppers planted within the dates set by the actuarial table, as fall-planted, winter-planted or spring-planted.

r. "Plant stand" means the number of live plants per acre before the plants were damaged due to insurable causes.

s. "Potential production" means the number of 1-⅑ bushels of mature green peppers which the pepper plants would produce or would have produced, per acre, by the end of the insurance period.

t. "Replanting" means performing the cultural practices necessary to replant insured acreage to peppers.

u. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

v. "Tenant" means a person who rents land from another person for a share of the peppers or a share of the proceeds therefrom.

w. "Tropical depression" means only a large-scale, atmospheric wind-and-pressure system characterized by low pressure at its center and counterclockwise circular wind motion which has been identified by the United States Weather Service in which the minimum sustained surface wind (1-minute mean) is 33 knots per hour (38 miles per hour) or more at the U.S. Weather Service reporting station nearest to the crop damage at the time of loss.

x. "Unit" means all insurable acreage of peppers for each planting period in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peppers on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC, on November 26, 1985.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-3154 Filed 2-12-86; 8:45 am]

BILLING CODE 3410-08-M

---

7 CFR Part 449

[Doc. No. 3027S]

Fresh Market Sweet Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Fresh Market Sweet Corn Crop Insurance Regulations (7 CFR 449), effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Change the method of calculating the insured's share of an indemnity on crops transferred before harvest; (2) clarify that acreage will not be insured when planted with another crop; (3) change the method of crediting the replanting payment; (4) change the method of computing indemnities when acreage, share, or practice is underreported; (5) establish the minimum value for harvested and appraised production; (6) provide that a replant payment is no longer considered an indemnity; (7) increase the length of time an insured has to give notice of loss when claiming an indemnity; (8) increase the amount of acreage which must be replanted to obtain replanting payments; (9) provide for paying interest on late paid indemnities; (10) change the cancellation and termination dates; and (11) add definitions of "ASCS" "Freeze", "Frost", "Loss ratio", "Potential production", and "Tropical depression"; and (12) redefine "County" to clarify when land located outside the county is included in the county. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATES: Comment Date: Written comments, data, and opinions on this proposed rule must be submitted not later than March 17, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 1, 1990.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The principal changes in the fresh market sweet corn policy are:

1. *Section 2.*—Add a clause to change the method of calculating the insured's share of an indemnity on crops transferred before harvest. This limits indemnities to the insurable interest at the time of loss.

Specify the acreage will not be insured when planted with another crop.

This change is made to be consistent with other crop policies.

2. *Section 6.*—Specify that the replanting payment will only be applied to payment of the premium if the billing date has passed. In cases when the billing date for a crop has passed on the date replanting payment is made, the replanting payment will be applied to payment of the billed premium. In other cases it will be paid to the insured. This changes the current practice of applying the replanting payment to the outstanding premium in all cases.

3. *Section 8.*—Increase from 48 to 72 hours the length of time an insured has to give notice of loss when claiming an indemnity. This change follows the insured to give timely notice when damage occurs over weekends and during periods of intense activity.

4. *Section 9.*—When acres are underreported, the production from all acres will count against the reported acres in calculating indemnities. This change will reduce the amount of indemnities when acres are underreported and will reduce the complexity of calculations.

Change the method of computing the total value of production to be counted for a unit on harvested and appraised production when claiming an indemnity.

Add a provision to establish that the value of any appraised production will not be less than the dollar amount obtained by multiplying the number of crates appraised by $2.00.

Indemnities have been paid after an insurable cause of loss occurred, when production was normal, but the prices were low. Also, marketing of production, part of which proves rotten and is destroyed, has resulted in a minus value after deduction of allowable costs from the price received. The result has been a total devaluation of the production actually marketed and an inflated indemnity.

Establishing a minimum price for marketed and appraised production returns the coverage to a production guarantee program and reduces the possibility the FCIC may pay indemnity when production is normal. It also removes the tendency to insure market prices.

Since the price on a normal crop when harvested ordinarily exceeds the insurance amount, the $2.00 amount represents the point at which the dollar amount of insurance on appraised production of a given number of units would zero out.

This change also simplifies the method of determining value and informs the insured of the minimal value of appraised production.

Increase from 10 acres or 10 percent to 20 acres or 20 percent the acreage required to be replanted to qualify for a replant payment. Clarify that the percentage to be replanted is computed on the acreage initially planted on the unit as of the final planting date. Delete the requirement that the payment be considered an indemnity except for minor coverage requirements. This reduces the number of inspections by eliminating small replant payments and paperwork.

Add a provision to pay interest whenever indemnities are not paid timely.

5. *Section 15.d.*—Change the cancellation and termination dates from July 1 to July 31 to be consistent with farming practices in the area.

6. *Section 17.*—Add definitions of "ASCS", "Freeze", "Frost", "Loss ratio", "Potential production", and "Tropical depression".

Amend the "County" definition to clarify when land located outside the county is deemed to be in the county.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register.** Written comments will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 449

Crop insurance, Fresh market sweet corn.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise and reissue the Fresh Market Sweet Corn Crop Insurance Regulations (7 CFR Part 449), effective for the 1987 and succeeding crop years, to read as follows:

PART 449—FRESH MARKET SWEET CORN CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

449.1 Availability of fresh market sweet corn insurance.
449.2 Premium rates, coverage levels, and amounts of insurance.
449.3 OMB control numbers.
449.4 Creditors.
449.5 Good faith reliance on misrepresentation.
449.6 The contract.
449.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1987 and succeeding crop years

§ 449.1 Availability of fresh market sweet corn insurance.

Insurance shall be offered under the provisions of this subpart on fresh market sweet corn in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 449.2 Premium rates, coverage levels, and amounts of insurance.

(a) The Manager shall establish premium rates, coverge levels, and amounts of insurance for fresh market sweet corn which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect an amount of insurance per acre and a coverage level from among those levels and amounts contained in the actuarial table for the crop year.

§ 449.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 449.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer, or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 449.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the fresh market sweet corn crop insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the

Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00 finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 449.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the fresh market sweet corn crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 449.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the fresh market sweet corn crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a fresh market sweet corn contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37; 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Fresh Market Sweet Corn Crop Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Fresh Market Sweet Corn—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.) AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period.

(1) Frost;
(2) Freeze;
(3) Hail;
(4) Fire;
(5) Tornado;
(6) Tropical depression; or
(7) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We will not insure against any loss of production due to:

(1) Disease or insect infestation;
(2) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;
(3) The failure to follow recognized good sweet corn farming practices;
(4) The impoundment of water by any governmental, public, or private dam or reservoir project;
(5) The failure or breakdown of irrigation equipment or facilities;
(6) The failure to follow recognized good sweet corn irrigation practices; or
(7) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be sweet corn planted for harvest as fresh market sweet corn, grown on insured acreage, and for which an amount of insurance and premium rate are set by the actuarial table.

b. The acreage insured for each crop year will be sweet corn planted on irrigated acreage as designated insurable by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

(c.) The insured share is your share as landlord, owner-operator, or tenant in the insured sweet corn at the time of each planting period. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or
(2) The beginning of harvest.

d. We do not insure any acreage of sweet corn grown by any person if the person had not previously:

(1) Grown sweet corn for commercial sales; or
(2) Participated in the management of the sweet corn farming operation.

(e.) We do not insure any acreage:

(1) Of sweet corn grown for direct consumer marketing;
(2) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;
(3) Which is not irrigated;
(4) Which is destroyed, it is practical to replant to sweet corn, and such acreage is not replanted;
(5) Initially planted after the final planting date set by the actuarial table;
(6) Of volunteer sweet corn;
(7) Planted to a type or variety of sweet corn not established as adapted to the area or excluded by the actuarial table;
(8) Planted for experimental purposes; or
(9) Planted with another crop.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice. You must report at the time of each planting period on our form:

a. All the acreage of fall, winter and spring-planted sweet corn in the county in which you have a share;
b. The practice; and
c. Your share.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any sweet corn plantings in the county. This report must be submitted for each planting period on or before the reporting date established by the actuarial table for each planting period. All indemnities may be determined on the table of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, for each planting period, the insured acreage, share, and practice or we may deny liability on any unit for any planting. Any report submitted by you may be revised only upon our approval.

4. Coverage levels and amounts of insurance.

a. The coverage levels and amounts of insurance are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and amount of insurance before the sales closing date set by the actuarial table for submitting applications for the crop year.

5. Annual Premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance, times the premium rate, times the insured acreage, times your share at the time of each planting.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from a replanting payment if the billing date has passed on the date you are paid the replanting payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the sweet corn is planted in each planting period and ends at the earliest of:

a. Total destruction of the sweet corn on the unit;

b. Discontinuance of harvest of sweet corn on the unit;

c. The date harvest should have started on the unit on any acreage which will not be harvested;

d. Final harvest; or

e. Final adjustment of a loss.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant sweet corn damaged due to any insured cause (See subsection 9f);

(b) During the period before harvest, the sweet corn on any unit is damaged and you decide not to further care for or harvest any part of the sweet corn;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the sweet corn and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is determined within 15 days prior to or during harvest and you are going to claim an indemnity on any unit, you must give us notice not later than 72 hours:

(a) After total destruction of the sweet corn on the unit;

(b) After discontinuance of harvest of any acreage on the unit; or

(c) Before harvest would normally start if any acreage on the unit is not to be harvested.

b. You may not destroy or replant any of the sweet corn on which a replanting payment will be claimed until we give written consent.

c. You must obtain written consent from us before you destroy any of the sweet corn which is not to be harvested.

d We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the sweet corn on the unit;

(2) Discontinuance of harvesting on the unit; or

(3) The date harvest should have started on the unit on any acreage which will not be harvested.

b. We will not pay any indemnity unless you:

(1) Establish the total production and the value received for all sweet corn on the unit and that any loss of production or value has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance times the percentage for the stage of production defined by the actuarial table;

(2) Subtracting therefrom the total value of production to be counted (see section 9e); and

(3) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the amount of insurance on the unit will be computed on the information reported, but the value of all production from insurable acreage, whether or not reported as insurable, will count against the amount of insurance.

e. The total value of production to be counted for a unit will include all harvested and appraised produciton.

(1) The total value of harvested production will be the greater of:

(a) The dollar amount obtained by multiplying the number of crates of sweet corn harvested on the unit by $2.00; or

(b) The dollar amount obtained by multiplying the number of crates of sweet corn sold by the price per crate received minus allowable cost set by the actuarial table; however, such price shall not be less than zero for any crate.

(2) The value of appraised production to be counted will include:

(a) The value of any potential production and unharvested mature sweet corn; and

(b) The value of unharvested production on harvested acreage and the value of the potential production lost due to uninsured causes; and

(c) Not less than the dollar amount of insurance per acre for any acreage abandoned or put to another use without prior written consent or which is damaged solely by an uninsured cause.

The value of any appraised production will not be less than the dollar amount obtained by multiplying the number of crates appraised by $2.00.

(3) Unharvested sweet corn damaged or defective due to insurable causes and which cannot be marketed will not be counted.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of sweet corn becomes general in the county for the planting period and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(5) The amount and value of production of any unharvested sweet corn may be determined on the basis of field appraisals conducted after the end of the insurance period.

(6) If you elect to exclude hail and fire as insured causes of loss and the sweet corn is damaged by hail or fire, appraisals will be made in accordance with Form FCI–78–A, "Request to Exclude Hail and Fire".

f. A replanting payment may be made on any insured sweet corn replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured acreage sustaining a loss in excess of 25 percent of the plant stand for the unit, as determined on the final planting date for the planting period.

(1) No replanting payment will be made on acreage on which a replanting payment has been made during the current planting period for the crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but will not exceed the product obtained by multiplying $40.00 per acre by your share.

If the information reported by you results in a lower premium then the actual premium determined to be due, the replanting payment will be reduced proportionately.

g. You must not abandon any acreage to us.

h. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

i. An indemnity will not be paid unless you comply with all policy provisions.

j. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity.

The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any

indemnity will vary with the rate announced by the Secretary of the Treasury.

k. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the sweet corn is planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

l. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer or right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all sweet corn produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at out option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and ternmination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity, will be the date you sign such claim; or

(2) Payment under another program administered by the United States Department of Agriculture, will be the date both such other payment and setoff are approved.

d. The cancellation and termination dates are July 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance at which indemnities are computed is no longer offered, the actuarial table will provide the amount of insurance which you are deemed to have elected. All contract changes will be available at your service office by April 30 preceding the cancellation date. Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of sweet corn crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amount of insurance coverage levels, premium rates, practices, insurable and uninsurable acreage, and related information regarding sweet corn insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "County" means:

(1) The county shown on the application;

(2) Any additional land located in a local producing area bordering on the county as shown by the actuarial table; and

(3) Any land identified by the same ASCS farm serial number for the county but physically located in another county within the state.

d. "Crop year" means the period within which the sweet corn is normally grown beginning July 15 and continuing through the harvesting of the spring-planted sweet corn and is designated by the calendar year in which the spring-planted sweet corn is normally harvested.

e. "Freeze" means the condition of air temperatures over a widespread area remaining sufficiently at or below 32 degrees Fahrenheit to cause crop damage.

f. "Frost" means the condition of air temperature around the plant falling to 32 degrees Fahrenheit or below.

g. "Harvest" means the final picking of marketable sweet corn on the unit.

h. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

i. "Insured" means the person who submitted the application accepted by us.

j. "Loss ratio" means the ratio of indemnity to premium.

k. "Marketable sweet corn" means the sweet corn has reached the stage of development that will withstand normal handling and shipping.

l. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

m. "Planting period" means the sweet corn planted within the dates set by the actuarial table, as fall-planted, winter-planted or spring-planted.

n. "Plant stand" means the number of live plants per acre before the plants were damaged due to insurable causes.

o. "Potential production" means the number of crates of sweet corn the sweet corn plants would produce or would have produced, per acre, by the end of the insurance period.

p. "Replanting" means performing the cultural practices necessary to replant insured acreage to sweet corn.

q. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

r. "Sweet corn" means a type of corn with kernels containing a high percentage of sugar and adapted for table use.

s. "Sweet corn grown for direct consumer marketing" means sweet corn grown for the purpose of selling directly to the consumer; and which is grown on acreage not subject to an agreement between producer and packer to pack the production (the producer-packer

agreement must be made before you report your acreage).

t. "Tenant" means a person who rents land from another person for a share of the sweet corn or a share of the proceeds therefrom.

u. "Tropical depression" means only a large-scale, atmospheric wind-and-pressure system characterized by low pressure at its center and counterclockwise circular wind motion which has been identified by the United States Weather Service in which the minimum sustained surface wind (1-minute mean) is 33 knots (38 miles per hour) or more at the U.S Weather Service reporting station nearest to the crop damage at the time of loss.

v. "Unit" means all insurable acreage of sweet corn for each planting period in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sweet corn or such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determining by the time of our receipt of the written notice.

Done in Washington, DC, on December 9, 1985.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-3155 Filed 2-12-86; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Parts 905 and 913

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; and Grapefruit Grown in the Interior District in Florida; Proposed Redistricting and Reapportionment of Grower Members

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on the redistricting of grower districts and the reapportionment of grower members on the Citrus Administrative Committee (CAC) and the Interior Grapefruit Marketing Committee (IGMC) under Marketing Order Nos. 905 and 913, respectively. The proposals are based on changes in the average percent of acreage, production, and shipments of regulated fruits during the preceding five-year period (1980–1985). The proposals were recommended at meetings of the CAC and IGMC on February 4, 1986.

DATE: Comments must be received by February 24, 1986.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2057 South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: George Kelhart Acting Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250. Telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities for their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 95 handlers of citrus under the Marketing Order for Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, and approximately 57 handlers of grapefruit under the Marketing Order for Grapefruit Grown in the Interior District in Florida will be subject to regulations during the course of the current season and that the great majority of these groups may be classified as small entities. While regulations issued under these orders impose some costs on affected handlers and the number of such firms may be substantial, the added burden imposed on small entities, if present at all, is not significant.

This proposed rule is issued under Marketing Order Nos. 905 and 913 regulating the handling of Oranges, Grepefruit, Tangerines, and Tangelos Grown in Florida and Grapefruit Grown in the Interior District in Florida, respectively. The Marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This proposed rule provides for a comment period less than 30 days. A longer comment period would be contrary to the public interest, as any comments on the rule need to be received prior to the issuance of the final rule, if issued, which must be made effective on or before March 1 as presecribed in the orders.

Section 905.13 of the order covering Florida oranges, grapefruit, tangerines and tangelos defines five citrus districts comprising the production area for purposes of grower representation on the CAC. The apportionment of grower members for each citrus district is described in § 905.23. Currently, each district is represented by two grower members and alternates except Citrus District Two, which has one grower member and alternate for a total of nine grower members of the CAC.

Section 905.14 of the order authorizes the CAC, with the approval of the Secretary, to redefine the districts into which the production area is divided or reapportion or otherwise change the grower membership of the districts, or both. The membership of the CAC must consist of at least eight but not more than nine grower members. The number

of members from each district and the grouping of the districts are based, insofar as practicable, upon the respective averages for the immediately preceding five fiscal periods of: (1) The volume of fruit shipped from each district; (2) the volume of fruit produced in each district; and (3) the total number of acres of citrus in each district. This section also requires any such redistricting and reapportionment to be announced on or before March 1.

During the five year period (1980–85) the combined average percentages used as a basis for this proposal for Marketing Order 905 are as follows: Citrus District One, 16.54 percent; Citrus District Two, 8.36 percent; Citrus District Three, 30.59 percent, Citrus District Four, 23.39 percent; and Citrus District Five, 21.12 percent. The average percent of Citrus District Two shows a decrease in acreage, production, and shipments for the five-year period. The proposal would: (1) Combine Citrus Districts One and Two to become Citrus District One with two grower members and alternates; (2) change Citrus District Five to Citrus District Two with two grower members and alternates; (3) change Citrus District Four to Citrus District Three with two grower members and alternates; and (4) change Citrus District Three to Citrus District Four with three grower members and alternates. The proposal would result in more proportionate averages as follows: Citrus District One, 24.90 percent; Citrus District Two, 21.12 percent, Citrus District Three, 23.39 percent; and Citrus District Four, 30.59 percent.

The reason for the proposal is to more accurately align the districts in accordance with the proportionate quantities of shipments, production, and acreage of Florida citrus.

For Florida Interior District grapefruit, § 913.13 of the order defines four grower districts for purposes of grower representation on the IGMC. The apportionment of grower members for each grower district is described in § 913.18 of the order. Currently, Grower Districts Two and Three are represented by one grower member and alternate; Grower District One has two grower members and alternates, and Grower District Four has three grower members and alternates for a total of seven grower members on the IGMC.

Section 913.14 authorizes the IGMC, with the approval of the Secretary, to redefine the districts into which the production area is divided or reapportion or otherwise change the grower membership of the districts, or both. The membership of the IGMC must consist of at least six but not more than seven grower members. The redistricting of grower districts and the reapportionment of grower members are based on the same criteria as contained in § 905.14 for Florida citrus.

The combined average percentages for M.O. 913 during the 1980–85 five-year period are: Grower District One, 21.09 percent; Grower District Two, 7.74 percent; Grower District Three, 26.48 percent; and Grower District Four, 44.69 percent. The proposal would: (1) Combine Grower Districts One and Two to become Grower District One with two grower members and alternatives; (2) change Grower District Four to Grower District Two with three grower members and alternates; and (3) change the representation from one grower member and alternate to two grower members and alternates in Grower District Three. The proposal would result in the following average percentages: Grower District One, 28.83 percent; Grower District Two, 44.69 percent; and Grower District Three, 26.48 percent.

The proposal would more accurately align the districts in accordance with the proportionate quantities of shipments, production, and acreage of Florida Interior District grapefruit.

List of Subjects in 7 CFR Parts 905 and 913

Marketing Agreements and Orders, Oranges, Grapefruit, Interior District, Tangerines, Tangelos, and Florida.

1. The authority citation for 7 CFR Parts 905 and 913 continues to read as follows:

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

PART 905—[AMENDED]

2. Section 905.114 is proposed to be added to Subpart—Rules and Regulations (7 CFR 905.120–905.152) to read as follows:

§ 905.114 Redistricting of citrus districts and reapportionment of grower members.

Pursuant to § 905.14, the citrus districts and membership allotted each district shall be as follows:

(a) "Citrus District One" shall include the Counties of Hillsborough, Pinellas, Pasco, Hernando, Citrus, Sumter, Lake, Osceola, Orange, Seminole, Alachua, Putnam, St. Johns, Flagler, Marion, Levy, Duval, Nassau, Baker, Union, Bradford, Columbia, Clay, Gilchrist, and Suwannee, and County Commissioner's Districts One, Two, and Three of Volusia County, and that part of the Counties of Indian River and Brevard not included in Regulation Area II. This district shall have two grower members and alternates.

(b) "Citrus District Two" shall include the County of Polk. This district shall have two grower members and alternates.

(c) "Citrus District Three" shall include the Counties of Manatee, Sarasota, Hardee, Highlands, Okeechobee, Glades, De Soto, Charlotte, Lee, Hendry, Collier, Monroe, Dade, Broward, and that part of the Counties of Palm Beach and Martin not included in Regulation Area II. This district shall have two grower members and alternates.

(d) "Citrus District Four" shall include the County of St. Lucie and that part of the Counties of Brevard, Indian River, Martin, and Palm Beach described as lying within Regulation Area II, and County Commissioner's Districts Four and Five of Volusia County. This district shall have three grower members and alternates.

PART 913—[AMENDED]

3. Section 913.114 is proposed to be added to Subpart—Rules and Regulations (7 CFR 913.120–913.160) read as follows:

§ 913.114 Redistricting of grower districts and reapportionment of grower members.

Pursuant to § 913.14, the grower districts and membership allotted each district shall be as follows:

(a) "Grower District One" shall include the Counties of Hillsborough, Pinellas, Pasco, Hernando, Citrus, Sumter, Lake, Osceola, Orange, Seminole, Alachua, Putnam, St. Johns, Flagler, Marion, Levy, Duval, Nassau, Baker, Union, Bradford, Columbia, Clay, Gilchrist, and Suwanee, and County Commissioner's Districts 1, 2, and 3 of Volusia County, and that part of the Counties of Indian River and Brevard which is included in the Interior District. This district shall have two grower members and alternates.

(b) "Grower District Two" shall include the County of Polk. This district shall have three grower members and alternates.

(c) "Grower District Three" shall include the Counties of Manatee, Sarasota, Hardee, Highlands, Okeechobee, Glades, De Soto, Charlotte, Lee, Hendry, Collier, Monroe, Dade, Broward, and the parts of the Counties of Palm Beach and Martin which are included in the Interior District. This district shall have two grower members and alternates.

Dated: February 11, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division.

[FR Doc. 86-3309 Filed 2-12-86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 1006, 1007, 1011, 1012, 1013, 1046, 1093, 1094, 1096, 1098 and 1099

[Docket Nos. AO-366-A25, et al.]

Milk in the Georgia and Certain Other Marketing Areas; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR Parts	Marketing area	Docket Nos.
1007	Georgia	AO-366-A27
1006	Upper Florida	AO-356-A25
1011	Tennessee Valley	AO-251-A30
1012	Tampa Bay	AO-347-A28
1013	Southeastern Florida	AO-286-A35
1046	Louisville-Lexington-Evansville.	AO-123-A56
1093	Alabama-West Florida	AO-386-A6
1094	New Orleans-Mississippi	AO-103-A48
1096	Greater Louisiana	AO-257-A35
1098	Nashville, TN	AO-184-A50
1099	Paducah, KY	AO-183-A42

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals by cooperative associations and dairy processors to amend 11 southeastern Federal milk marketing orders. Proponents indicate that the proposals are designed to change the location adjustment provisions in the 11 orders to conform with the Class I differentials mandated by the Food and Security Act of 1985.

Consideration will also be given to whether these provisions should be adopted on an expedited basis.

DATE: The hearing will convene at 9:30 a.m., local time, on February 25, 1986.

ADDRESS: The hearing will be held at the Ramada Inn Central, 1630 Peachtree Street, NW., Atlanta, Georgia 30367 (404/875-9711).

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Section 556 and 557 of Title 5 of the United States Code, and therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Ramada Inn Central, 1630 Peachtree Street, NW., Atlanta, Georgia 30367 (404/875-9711), beginning at 9:30 a.m., on February 25, 1986, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Georgia and certain other marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to the proposals.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their appliability to small businesses.

List of Subjects in 7 CFR Parts 1007, 1006, 1011, 1012, 1013, 1046, 1093, 1094, 1096, 1098 and 1099

Milk marketing orders, Milk, Dairy products.

The authority citation for Parts 1007, 1006, 1011, 1012, 1013, 1046, 1093, 1094, 1096, 1098 and 1099 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen, Inc.:

Proposal No. 1—Georgia, Part 1007:

A. Revise § 1007.52(a)(1) to read as follows:

(1) "Northern Zone" means all the territory in the following Georgia counties:

Bartow, Cherokee, Dawson, Floyd, Forsyth, Gilmer, Gordon, Habersham, Hall, Lumpkin, Pickens, Towns, Union, and White.

B. Revise § 1007.52(a)(2) to read as follows:

(2) "North Central Zone" means all the territory in the following Georgia counties:

Banks, Barrow, Butts, Carroll, Clarke, Clayton, Cobb, Coweta, DeKalb, Douglas, Elbert, Fayette, Franklin, Fulton, Greene, Gwinnett, Haralson, Hart, Heard, Henry, Jackson, Jasper, Lamar, Lincoln, Madison, Meriwether, Morgan, Newton, Oconee, Oglethorpe, Paulding, Pike, Polk, Putnam, Rockdale, Spalding, Stephens, Taliferro, Troup, Walton, and Wilkes.

C. Add new paragraphs (3) and (4) to § 1007.52(a) to read as follows:

(3) "South Central Zone" means all the territory in the following Georgia counties:

Baldwin, Bibb, Bleckley, Burke, Chattahoochee, Columbia, Crawford, Crisp, Dodge, Dooly, Emanuel, Glascock, Hancock, Harris, Houston, Jefferson, Jenkins, Johnson, Jones, Laurens, Macon, Marion, McDuffie, Monroe, Muscogee, Peach, Pulaski, Richmond, Schley, Stewart, Sumter, Talbot, Taylor, Treutlen, Twiggs, Upson, Warren, Washington, Webster, Wilcox, and Wilkinson.

(4) "Southern Zone" means all the territory within the marketing area not specified in subparagraph (1), (2), or (3) of this paragraph.

D. Revise § 1007.52(b) to read as follows:

(b) The Class I price for producer milk at a plant located outside the North Central Zone shall be adjusted as follows. Provided, That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order that is applicable at the location of the transferor plant:

(1) For producer milk at a plant located in the "Northern Zone" the Class I price shall be reduced by 15 cents;

(2) For producer milk at a plant located in the "South Central Zone" the Class I price shall be increased by 15 cents;

(3) For producer milk at a plant located in the "Southern Zone" the

Class I price shall be increased by 30 cents;

(4) For producer milk at a plant located in the State of North Carolina the Class I price shall be decreased by 11 cents;

(5) For producer milk at a plant located outside the marketing area and south of the southern boundary of the States of Tennessee and North Carolina the Class I price shall be the Class I price applicable at the nearer of the city halls in Augusta, Savannah, Lavonia, Waycross, Albany, Columbus, Atlanta, and Rome, Georgia; and

(6) For producer milk at a plant located outside the areas specified in subparagraph (1), (2), (3), (4) or (5) of this paragraph the Class I price shall be reduced 20 cents and an additional 2.5 cents for each 10 miles or fraction thereof in excess of 110 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) that such plant is from the city hall in Atlanta, Georgia.

Proposed by Independent Dairy Farmers' Association, Tampa Independent Dairy Farmers' Association, and Upper Florida Milk Producers Association:

Proposal No. 2—Upper Florida, Part 1006:

A. Amend the table contained in § 1006.52(a) to read as follows:

Location of plant	Rate per cwt.
Outside the State of Florida:	
In excess of 70 but not more than 85 miles.	Subtract 15 cents.
For each additional 10 miles or fraction thereof.	Subtract 2.0 cents.
Inside the State of Florida:	
South of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam and St. Johns, but outside the defined marketing area of Part 1013.	Add 30 cents.
In the defined marketing area of Part 1013.	Add 60 cents.
The remaining area within the State of Florida.	No adjustment.

Proposed by Cumberland Farms, Inc.:

Proposal No. 3—Upper Florida, Part 1006

A. In § 1006.52, plant location adjustments for handlers, revise paragraph (a) to reflect the following:

Location of plant	Rate per cwt.
Outside the State of Florida:	
In excess of 70 but not more than 85 miles.	Subtract 15 cents.
For each additional 10 miles or fraction thereof.	Subtract 2.3 cents.

Proposed by Dairymen, Inc.:

Proposal No. 4—Tennessee Valley, Part 1011:

A. Revise § 1011.52(a) Plant location adjustments for handlers to read as follows:

(a) For milk received from producers or from a handler described in Section 1011.9(c) or (d) at a plant and which is classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, the Class I price shall be adjusted as follows: Provided, That the resulting adjusted price for fluid milk products transferred from a pool plant regulated under another Federal order shall not be less than the Class I price under such other Federal order that is applicable at the location of the transferor plant:

(1) For such milk which is physically received at a plant located within the State of North Carolina, or south of the southern boundary of the States of North Carolina and Tennessee, the Class I price shall be increased by 20 cents;

(2) No adjustment shall be applicable on such milk which is physically received at a plant located within the marketing area, or in the State of Virginia;

(3) For such milk which is physically received at a plant located within the Kentucky counties of Adair, Bell, Breathitt, Casey, Clay, Clinton, Cumberland, Jackson, Lincoln, Harlan, Knott, Knox, Laurel, Leslie, Letcher, McCreary, Owsley, Perry, Pulaski, Rockcastle, Russell, Wayne and Whitley, the Class I price shall be decreased by 32 cents; and

(4) For such milk which is physically received at a plant located more than 90 miles by the shortest hard-surfaced highway distance as determined by the market administrator from the nearest of the city halls of Bristol, Chattanooga, and Knoxville, Tennessee, and outside the areas specified in subparagraph (1), (2), or (3) of this paragraph, the Class I price applicable at the nearer of the city halls in Bristol, Chattanooga, or Knoxville, Tennessee shall be reduced by 2.5 cents for each 10 miles or fraction thereof that such plant is from the nearest of the city halls in Bristol, Chattanooga, and Knoxville, Tennessee.

Proposed by Independent Dairy Farmers' Association, Tampa Independent Dairy Farmers' Association, and Upper Florida Milk Producers Association:

Proposal No. 5—Tampa Bay, Part 1012:

A. Amend the table contained in § 1012.52(a) to read as follows:

Location of plant	Rate per cwt.
Outside the State of Florida:	
For each 10 miles or fraction thereof from the city hall in Tampa, FL.	Subtract 2.0 cents.
Inside the State of Florida:	
In the defined marketing area of Part 1013.	Add 30 cents.
South of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam and St. Johns, but outside the defined marketing area of Part 1013.	No adjustment.
The remaining area within the State of Florida.	Minus 30 cents.

Proposed by Cumberland Farms, Inc.:

Proposal No. 6—Tampa Bay, Part 1012:

A. In § 1012.52, plant location adjustments for handlers, revise paragraph (a) to reflect the following:

Location of plant	Rate per cwt.
Outside the State of Florida:	
For each 10 miles or fraction thereof from the city hall in Tampa, FL.	Subtract 2.3 cents.

Proposed by Independent Dairy Farmers' Association, Tampa Independent Dairy Farmers' Association, and Upper Florida Milk Producers Association:

Proposal No. 7—Southeastern Florida, Part 1013:

A. Amend the table contained in paragraph 1013.52(a) to read as follows:

Location of plant	Rate per cwt.
Outside the State of Florida:	
For each 10 miles or fraction thereof from the U.S. Post Office in West Palm Beach, FL.	Subtract 2.0 cents.
Inside the State of Florida:	
South of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam and St. Johns, but outside the defined marketing area of this order.	Subtract 30 cents.
The remaining area within the State of Florida.	Subtract 60 cents.

Proposed by Cumberland Farms, Inc.:

Proposal No. 8—Southeastern Florida, Part 1013;

A. In § 1013.52, plant location adjustments for handlers, revise paragraph (a) to reflect the following:

Location of plant	Rate per cwt.
Outside the State of Florida:	
For each 10 miles or fraction thereof from the U.S. Post Office in West Palm Beach, FL.	Subtract 2.3 cents.

Proposed by Dairymen, Inc.:

Proposal No. 9—Louisville-Lexington-Evansville, Part 1046:

A. Revise § 1046.52(a) to read as follows:

(a) For milk received from producers or from a handler described in Section 1046.9(c) at a plant and which is classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, the Class I price shall be adjusted as follows: Provided, That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order that is applicable at the location of the transferor plant:

(1) For such milk that is physically received at plants located in the Kentucky counties of Adair, Bell, Breathitt, Casey, Clay, Clinton, Cumberland, Jackson, Lincoln, Harlan, Knott, Knox, Laurel, Leslie, Letcher, McCreary, Owsley, Perry, Pulaski, Rockcastle, Russell, Wayne and Whitley, the Class I price shall be increased by a location adjustment of 34 cents;

(2) For such milk that is physically received at plants located in the Kentucky counties of Allen, Barren, Bath, Bourbon, Boyle, Butler, Caldwell, Carter, Christian, Clark, Crittenden, Edmonson, Elliott, Estill, Fayette, Fleming, Garrard, Green, Hart, Hopkins, Jessamine, Lee, Logan, Lyon, Madison, Marion, Metcalfe, Menifee, Mercer, Monroe, Montgomery, Morgan, Muhlenberg, Nicholas, Powell, Rowan, Taylor, Todd, Trigg, Scott, Simpson, Washington, Warren, Wolfe, and Woodford, the Class I price shall be increased by a location adjustment of 15 cents;

(3) For such milk that is physically received at plants located within the defined marketing area of the Paducah, Kentucky, Federal Milk Marketing Order, Part 1099, excluding those counties specified in paragraph (2) of this section, the Class I price shall be increased by a location adjustment of 28 cents;

(4) For such milk that is physically received at plants located east of the Mississippi River and south of the northern boundary of Tennessee or the northern boundary of North Carolina, the Class I price shall be increased by a location adjustment of 41 cents;

(5) For such milk that is physically received at plants located in the marketing area or the state of Kentucky and outside the areas specified in paragraphs (1) (2), (3), or (4) of this section, no location adjustment shall apply; and

(6) For such milk that is physically received at plants located outside the areas specified in paragraphs (1), (2), (3), (4), or (5) of this section, and 85 miles or more from the City Halls in Louisville and Lexington, Kentucky, and Evansville, Indiana, by the shortest hard-surfaced highway distance as determined by the market administrator, the Class I price shall be reduced by a location adjustment of 2.5 cents for each 10 miles or fraction thereof that such plant is from the City Hall in Louisville, Lexington or Evansville, whichever is nearest.

Proposed by Southeastern Dairies, Inc.:

Proposal No. 10—Louisville-Lexington-Evansville, Part 1046:

A. Amend § 1046.75 to read as follows:

§ 1046.75 Plant location adjustments for producers and on nonpool milk.

(a) Subject to the conditions of paragraph (b) of this section—

(1) The uniform price for producer milk received at a plant shall be adjusted according to the location of the plant at the rates set forth in § 1046.52; and

(2) For purposes of computations pursuant to §§ 1046.71 and 1046.72 the weighted average price shall be adjusted at the rates set forth in § 1046.52 applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

(b) When milk of an individual producer is physically received at more than one location (including any nonpool plant) during the month, the location adjustment rate shall be the weighted average (rounded to the nearest one-half cent) of the amounts computed for the respective locations, except that if 75 percent or more of such producer's milk is delivered to a plant or plants at which the same rate is applicable, such rate shall be applicable to all deliveries of such producer during the month regardless of point of delivery.

Proposed by Dairymen, Inc.:

Proposal No. 11—Alabama-West Florida, Part 1093:

A. Revise § 1093.52(a) by adding the following proviso:

Provided, That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order that is applicable at the location of the transferor plant:

B. Revise the table in § 1093.52(a)(1) to read as follows:

Zone	Adjustment per cwt.
Zone 1	Minus 23 cents.
Zone 2	No adjustment.
Zone 3	Plus 27 cents.
Zone 4	Plus 57 cents.
Zone 4a	Plus 40 cents.

C. Revise the introductory text of § 1093.52 (a)(2) to read as follows:

(2) For a plant located in any of the Tennessee and Georgia counties listed below, the adjustment shall be minus 25 cents;

* * * * *

D. Revise the introductory text of § 1093.52(a)(3) to read as follows:

(3) For a plant located in any of the Tennessee and Kentucky counties listed below or in the Fort Campbell military reservation, the adjustment shall be minus 56 cents;

* * * * *

E. In § 1093.52(a)(4) replace the words "20 cents. Such minus adjustment shall be increased 1.5" with the words "23 cents. Such minus adjustment shall be increased 2.5".

F. Revise § 1093.52(a)(6) to read as follows:

(6) For a plant located outside the marketing area and in the State of Florida, the adjustment shall be a plus 50 cents.

Proposed by Beatrice Dairy Products:

Proposal No. 12—Alabama-West Florida, Part 1093:

A. In § 1093.52(a)(1), change the adjustment for Zone 1 from minus 20 cents per hundredweight to minus 26 cents per hundredweight.

Proposed by Dairy Fresh Corporation:

Proposal No. 13—Alabama-West Florida, Part 1093:

A. Make no adjustment to table in § 1093.52(a)(1).

Zone	Adjustment per cwt.
Zone 1	Minus 20 cents.
Zone 2	No adjustment.
Zone 3	Plus 15 cents.
Zone 4	Plus 37 cents.
Zone 4a	Plus 20 cents.

Proposed by Dairymen, Inc.;

Proposal No. 14—New Orleans—Mississippi; Part 1094:

A. Revise § 1094.2 New Orleans-Mississippi marketing area by creating a new Zone 2A and redefining Zone 3 as follows:

Zone 2A

Mississippi Counties

Amite, Covington, Forrest, Franklin, Greene, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthal, Wayne, and Wilkinson.

Zone 3

Mississippi Counties

Adams, Claiborne, Clarke, Copiah, Hinds, Issaquena, Jasper, Jefferson, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Rankin, Scott, Sharkey, Simpson, Smith, Warren, and Yazoo.

Zone 3A

Mississippi Counties

Attala, Holmes, Humphreys, Noxubee, Washington, and Winston.

Zone 4

Mississippi Counties

Bolivar, Carroll, Choctaw, Leflore, Lowndes, Montgomery, Oktibbeha, Sunflower, and Webster.

B. Revise § 1094.52(a) by adding the following proviso:

Provided, That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order that is applicable at the location of the transferor plant:

C. Revise the table in § 1094.52(a)(1) to read as follows:

Zone	Adjustment per cwt.
Zone 1	No adjustment.
Zone 2	Minus 20 cents.
Zone 2A	Minus 30 cents.
Zone 3	Minus 50 cents.
Zone 3A	Minus 65 cents.
Zone 4	Minus 75 cents.
Zone 5	Minus 80 cents.
Zone 6	Minus 95 cents.

D. Revise § 1094.52(a)(2) to read as follows:

1. In paragraph (i) replace the words "No Adjustment." with the words "Minus 7 cents.";

2. In paragraph (ii) replace the words "Minus 19 cents." with the words "Minus 30 cents."; and

3. In paragraph (iii) replace the words "Minus 38 cents." with the words "Minus 57 cents.".

E. Revise § 1094.52(a)(3) to read as follows:

(3) For a plant located in the State of Mississippi outside the marketing area the adjustment shall be minus 95 cents.

F. Revise § 1094.52(a)(5) by replacing the word "1.5" with the word "2.5".

Proposed by Barber Pure Milk Company, Tupelo, Mississippi:

Proposal No. 15—New Orleans-Mississippi, Part 1094:

A. Set the location differential in Zone VI in the New Orleans-Mississippi Federal order at $2.85 or at a level whereby it is no higher than the differential in Zone 1 in the Alabama-West Florida marketing area.

Proposed by Dairy Fresh Corporation:

Proposal No. 16—New Orleans-Mississippi, Part 1094:

A. Revise the table in § 1094.52(a)(1) to read as follows:

Zone	Adjustment per cwt.
Zone 1	No adjustment.
Zone 2	Minus 25 cents.
Zone 3	Minus 50 cents.
Zone 4	Minus 70 cents.
Zone 5	Minus 80 cents.
Zone 6	Minus 90 cents.

Proposed by Dairy Fresh Corporation:

Proposal No. 17—Greater Louisiana, Part 1096:

A. Make no adjustment to table contained in § 1096.52(a)(1).

Zone	Adjustment per cwt.
Zone 1	No adjustment.
Zone 2	Plus 19 cents.
Zone 3	Plus 38 cents.

Proposed by Dairymen, Inc.:

Proposal No. 18—Greater Louisiana, Part 1096:

A. Revise § 1096.52(a) by adding the following proviso:

Provided, That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order that is applicable at the location of the transferor plant:

B. Revise the table contained in § 1096.52(a)(1) to read as follows:

Zone	Adjustment per cwt.
Zone 1	No adjustment.
Zone 2	Plus 27 cents.
Zone 3	Plus 50 cents.

C. Revise § 1096.52(a)(2)(i) by replacing the word "38" with the word "57".

D. Revise § 1096.52(a)(2)(ii) by replacing the word "19" with the word "37".

E. Revise § 1096.52(a)(3)(i) by replacing the word "19" with the word "37".

F. Revise § 1096.52(a)(3)(ii) to read as follows:

(ii) Plus 27 cents.

Amite, Covington, Forrest, Franklin, Greene, Jefferson Davis, Jones, Lamar, Lawence, Lincoln, Marion, Perry, Pike, Walthal, Wayne, and Wilkinson.

G. Add a new § 1096.52(a)(3)(iii) to read as follows:

(iii) Plus 7 cents.

Adams, Claiborne, Clarke, Copiah, Hinds, Issaquena, Jasper, Jefferson, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Rankin, Scott, Sharkey, Simpson, Smith, Warren, and Yazoo.

H. Revise § 1096.52(a)(4)(i) by replacing the word "38" with the word "54".

I. Revise § 1096.52(a)(4)(ii) by replacing the word "19" with the word "37".

J. Revise § 1096.52(a)(5) by replacing the word "1.5" with the word "2.5".

Proposal No. 19—Nashville, Tennessee, Part 1098:

A. Revise § 1098.52(a) Plant location adjustment for handlers to read as follows:

(a) For milk received from producers or from a handler described in Section 1098.9(c) at a plant and which is classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, the Class I price shall be adjusted as follows: Provided, That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order that is applicable at the location of the transferor plant.

(1) For such milk that is physically received at plants located in the Kentucky counties of Adair, Bell, Breathitt, Casey, Clay, Clinton, Cumberland, Jackson, Lincoln, Harlan, Knott, Knox, Laurel, Leslie, Letcher, McCreary, Owsley, Perry, Pulaski, Rockcastle, Russell, Wayne and Whitley, the Class I price shall be decreased by a location adjustment of 7 cents;

(2) For such milk that is physically received at plants located in the Kentucky counties of Allen, Barren, Bath, Bourbon, Boyle, Butler, Caldwell, Carter, Christian, Clark, Crittenden, Edmonson, Elliott, Estill, Fayette, Fleming, Garrard, Green, Hart, Hopkins, Jessamine, Lee, Logan, Lyon, Madison, Marion, Metcalfe, Menifee, Mercer, Monroe, Montgomery, Morgan, Muhlenberg, Nicholas, Powell, Rowan, Taylor, Todd, Trigg, Scott, Simpson, Washington, Warren, Wolfe, and Woodford, the Class I price shall be decreased by a location adjustment of 26 cents;

(3) For such milk that is physically received at plants located within the defined marketing area of the Paducah, Kentucky, Federal Milk Marketing Order Number 1099, excluding those counties specified in paragraph (2) of this section, the Class I price shall be decreased by a location adjustment of 13 cents;

(4) For such milk that is physically received at plants located outside the areas specified in paragraphs (1), (2), or (3) of this section and north of the northern boundary of Tennessee or the northern boundary of North Carolina

and more than 50 miles from the State Capitol in Nashville by the shortest hard-surfaced highway distance as determined by the market administrator, the Class I price shall be reduced by 17.5 cents plus 2.5 cents for each 10 miles or fraction thereof that such plant is more than 70 miles from the State Capitol; and

(5) For such milk that is physically received at plants located east of the Mississippi River and south of the northern boundary of Tennessee or the northern boundary of North Carolina, no adjustment shall be made under this paragraph.

Proposal No. 20—Paducah, Kentucky, Part 1099:

A. Revise § 1099.52(a) to read as follows:

(a) For milk received from producers at a plant located outside the State of Kentucky and north of an east-west line running through the southern boundary of the state of Kentucky and more than 40 miles by shortest highway distance as measured by the market administrator, from the nearest County Courthouse in any of the counties included in the marketing area and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to Section 1099.50(a) shall be reduced by 12.5 cents, plus 2.5 cents for each 10 miles or fraction thereof that such distance exceeds 50 miles: Provided, That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order that is applicable at the location of the transferor plant.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 21:

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrators of each of the aforesaid marketing areas, or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator of each of the 11 orders

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on: February 7, 1986.

James C. Handley,

Administrator, Agricultural Marketing Service.

[FR Doc. 86-3162 Filed 2-12-86; 8:45 am]

BILLING CODE 3410-02-M

---

7 CFR Part 1136

Milk in the Great Basin Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend the requirement that milk diverted from a distributing plant be included in the plant's receipts for purposes of determining whether the plant is qualified for pool status under the Great Basin Federal milk order. Suspension of the provision was requested by cooperative associations representing most of the producers supplying the market to assure that the milk of all producers historically associated with the market will continue to be pooled. The proposed suspension would be for the months of February through July 1986.

DATES: Comments are due not later than February 20, 1986.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: The Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Great Basin marketing area is being considered for the months of February through July 1986:

In § 1136.7(a), the language "or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13".

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, Room 2968 South Building, U.S. Department of Agriculture, Washington, DC 20250, not later than 7 days from the date of publication of this notice in the **Federal Register**. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include February 1986 in the suspension period.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would remove, for the months of February through July 1986, the requirement that milk diverted from a distributing plant be included in the plant's receipts for purposes of determining whether the plant is qualified for pooling under the Great Basin milk order. The order provides that a certain percentage of a distributing plant's receipts in each month be disposed of as route disposition if the plant is to be qualified for pooling. In addition to fluid milk products physically received at the plant, diversions of producer milk to nonpool plants are included as part of the receipts of which a particular percentage must be disposed of on routes.

The proposed suspension was requested by Western General Dairies, Inc., and Lake Mead Cooperative Association, cooperative associations

that supply most of the market's fluid milk needs and handle most of the market's reserve milk supplies. The cooperatives state that due to an increased amount of milk production surplus to the fluid needs of the market, approximately 15,000,000 pounds of their members' milk failed to qualify for pooling during each of the months of November and December 1985. According to the cooperatives, suspension of the requested provisions would assure that all of their members' milk would qualify for inclusion in the marketwide pool.

The cooperatives have requested that a public hearing be held to merge the Great Basin and Lake Mead orders, and expect that the pool plant qualification standards contained in the proposed merged order would offer a long-term solution to the problems of qualifying all of the cooperatives' member milk for pooling.

List of Subjects in 7 CFR Part 1136

Milk marketing orders, milk, dairy products.

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

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

Signed at Washington, DC, on February 11, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86–3286 Filed 2–12–86; 8:45 am]

BILLING CODE 3410–02–M

---

7 CFR Part 1139

Milk in the Lake Mead Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain diversion provisions of the Lake Mead Federal milk order. Provisions proposed to be suspended relate to 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 proposed to be suspended is the "touch-base" requirement that at least one day's production of each producer's milk be received each month at a pool plant. The proposed suspension would be for the months of February through July 1986. Suspension of the provisions was requested by a cooperative association representing producers supplying the market in order to prevent uneconmic movements of milk.

DATES: Comments are due no later than February 20, 1986.

ADDRESS: Comments (two copies) should be filed with the Dairy Divisions, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: The Administrator of the Agricultural Market Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given, that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Lake Mead marketing area is being considered for February through July 1986:

In § 1139.13(d)(2), all of the language following the parenthetical phrase.

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register.** The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include February 1986 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would remove for the months of February through July 1986 the limit on the amount of producer milk that a cooperative association may divert from pool plants to nonpool plants, and remove the requirement that at least one day's production of each producer's milk be received at a pool plant each month. The suspension was requested by Lake Mead Cooperative Association, which supplies some of the market's fluid milk needs and handles most of the market's reserve supplies.

The order now provides that a cooperative may divert a quantity of milk not in excess of 50 percent in the months of March through July, and 40 percent in other months, of the producer milk delivered to or diverted from pool plants during the month. Suspension of the requested language would allow unlimited amounts of a coopertive's member milk supply to be diverted to nonpool plants and remain eligible to share in the marketwide pool.

Lake Mead Cooperative Association states that suspension of the order's diversion limits is necessary to assure that all of the member milk of the cooperative is eligible to prticipate in marketwide pooling and pricing under the Lake Mead Federal order. The cooperative claims that all of the production of a large nonmember producer is shipped to a distributing plant for fluid use, displacing the milk of cooperative members, and causing it to be hauled long distances to manufacturing facilities. Recently, increased production by this nonmember source of milk has caused greater displacement of the cooperative's member milk supply, which has also been increasing. As a result, the cooperative is unable to pool all of its members' milk within the diversion limits of the order.

The cooperative 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.

List of Subjects in 7 CFR Part 1139

Milk marketing orders, milk, dairy products.

The authority citation for 7 CFR Part 1139 continues to read as follows:

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

Signed at Washington, DC, on February 11, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86–3285 Filed 2–12–86; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 245

Adjustment of Status to That of Persons Admitted for Permanent Residence; Withdrawal of Proposed Rule

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Immigration and Naturalization Service is withdrawing its proposal to amend 8 CFR 245.1(e) and 8 CFR 245.2(a). The rule proposed to change the Service definition of immediate visa availability. The Service has determined not to change the existing regulation at this time.

FOR FURTHER INFORMATION CONTACT: Joseph D. Cuddihy, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633–3320.

SUPPLEMENTARY INFORMATION: On July 23, 1984 at 49 FR 29618, the Service published a proposed rule that would redefine the current Service definition of immediate visa availability for adjustment of status to conform with that of Department of State. After careful consideration, the Service has decided to withdraw the proposal.

Dated: January 30, 1986.

Richard E. Norton,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 86–3212 Filed 2–12–86; 8:45 am]

BILLING CODE 4410–10–M

DELAWARE RIVER BASIN COMMISSION

18 CFR Parts 410 and 430

Revised Proposed Amendment to Comprehensive Plan and Water Code of the Delaware River Basin and Proposed Amendment to the Commission's Ground Water Protection Area Regulations for Southeastern Pennsylvania

AGENCY: Delaware River Basin Commission.

ACTION: Proposed rules and public hearings.

SUMMARY: Notice is hereby given that the Delaware River Basin Commission will hold public hearings to receive comments on a revised proposed amendment to its Comprehensive Plan and Water Code and a proposed amendment to its Ground Water Protected Area Regulations for Southeastern Pennsylvania in relation to source metering, recording, and reporting of waters withdrawn from the Basin.

DATES: The public hearings on the Revised Proposed Amendment to the Comprehensive Plan and Water Code are scheduled as follows:

March 6, 1986 at 6:30 p.m. and March 26, 1986 at 1:30 p.m.

The public hearing of the Proposed Amendment to the Commission's Ground Water Protected Area Regulations for Southeastern Pennsylvania will be held on March 26, 1986 at 1:30 p.m.

Persons wishing to testify at either of these hearings are requested to register with the Secretary in advance of the hearings. The comment closing dates will be announced at the hearings.

ADDRESSES: Written comments should be submitted to Susan M. Weisman, Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628. The public hearings will be held as follows:

March 6, 1986 in the High School Auditorium, Hancock Inn Center School, 16 Read Street, Hancock, New York.

March 26, 1986 in the Benjamin West Room of the Holiday Inn Center City, 1800 Market Street, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission, telephone (609) 883–9500.

SUPPLEMENTARY INFORMATION: As noticed in the October 16, 1985 **Federal Register**, Vol. 50 No. 221, the Commission held a public hearing on November 26, 1985 on a proposed amendment to its Comprehensive Plan and Water Code to require source metering and recording of both new and existing ground water withdrawals that exceed 100,000 gpd during any 30-day period. Based upon comments received both during and following that hearing, the Commission has revised its proposed amendment to expand coverage to include surface as well as ground water withdrawals. As most of the Basin's ground and surface waters comprise an interdependent hydrologic resource, impacts of withdrawals on the total resource can best be evaluated with a common metering and reporting base. Further amendments to the October 16 proposal would require measurement of water withdrawn to within two percent of actual flow and the addition of calibration to the items subject to approval and inspection by the designated State agencies.

The Commission is also proposing a similar amendment to the Ground Water Protected Area Regulations for Southeastern Pennsylvania. It would require metering, recording and reporting of ground water withdrawals in excess of 10,000 gpd with the flow measurement and calibration provisions noted above. This amendment would set the metering and reporting requirement at the existing 10,000 gpd permitting level in the Protected Area.

The record compiled in connection with the Commission's November 26, 1985 public hearing on the proposed amendment to the Comprehensive Plan and Water Code relating to ground water withdrawal metering, recording and reporting shall be incorporated into and considered by the Commission as a part of these hearings. It will not be necessary to resubmit comments previously provided in order to be considered part of the hearing record. Documents relating to these proposed amendments may be examined at the Commission's offices.

The subjects of the hearings will be as follows:

Amendment to the Comprehensive Plan Relating to Source Metering, Recording and Reporting.

List of Subjects

18 CFR Part 410

Water pollution control.

18 CFR Part 430

Water supply, ground water protection.

PART 410—[AMENDED]

Article 2 of the *Water Code of the Delaware River Basin* includes Commission policy relating to conservation, development and utilization of Basin water resources. It is proposed to:

1. Amend the Comprehensive Plan and Article 2 of the *Water Code of the Delaware River Basin* by addition of a new subsection 2.50.2 which is referenced in 18 CFR Part 410, to read as follows:

2.50.2 *Source metering, recording and reporting.*

(1) Except as provided in subsection (2), each person, firm, corporation, or other entity whose cumulative daily average withdrawal(s) from the surface and/or

ground waters of the Basin from any surface water intake, spring, or well, or any combination of surface water intakes, springs, or wells operated as a system, exceeds 100,000 gallons per day during any 30-day period shall meter and record their withdrawals and report such withdrawals to the designated agency of the state where the withdrawals are located. Withdrawsls shall be metered by means of an automatic continuous recording device, flow meter, or other method capable of measuring accurately the quantity of water withdrawn to within two percent of actual flow. Meters or other methods of measurement shall be subject to approval and inspection by the designated state agency as to installation, maintenance, calibration, and reading. Withdrawals shall at a minimum be recorded on a daily basis and reported as monthly totals annually.

(2) The following water uses and operations are exempt from the requirement of metering ground water withdrawals: farm irrigation; dewatering incidental to mining and quarrying; and dewatering incidental to construction. Persons engaged in such withdrawals in excess of 100,000 gallons per day during any 30-day period shall, in lieu of metering, record the pumping rates and the dates elapsed hours of operation of any well or pump used to withdraw water, and report such information as monthly totals annually to the designated state agency.

(3) The following are the designated state agencies for the purposes of this regulation: Delaware Department of Natrual Resources and Environmental Control; New Jersey Department of Environmental Protection; New York State Department of Environmental Conservation; and Pennsylvania Department of Environmental Resources.

(4) Pursuant to Section 11.5 of the Compact, the designated state agencies shall administer and enforce programs for metering, recording, and reporting of water withdrawals, in accordance with this regulation and any applicable state regulations.

(5) This regulation shall be effective January 1, 1987.

Amendment to the Commission's Ground Water Protected Area Regulations for Southeastern Pennsylvania Relating to Ground Water Withdrawal Metering, Recording, and Reporting.

PART 430—[AMENDED]

Part 430 is proposed to be amended as follows:

1. The Authority citation for Part 430 continues to read as follows:

Authority: Pub. L. 87–328 (75 Stat. 688).

2. Existing §§ 430.19, 430.21, 430.23, 430.24, 430.25, 430.27, 430.29, and 430.31 are redesignated as §§ 430.21, 430.23, 430.25, 430.27, 430.29, 430.31, 430.33 and 430.35 respectively and the new § 430.19 is added to read as follows:

§ 430.19 Ground water withdrawal metering, recording, and reporting.

(a) Except as provided in subsection (b), each person, firm, corporation, or other entity whose cumulative daily average withdrawal of ground water from a well or group of wells operated as a system exceeds 10,000 gallons per day during any 30-day period shall meter and record their withdrawals and report such withdrawals to the Pennsylvania Department of Environmental Resources. Withdrawals shall be metered by means of an automatic continuous recording device, flow meter, or other method capable of measuring accurately the quantity of water withdrawn to within two percent of actual flow. Meters or other methods of measurement shall be subject to approval and inspection by the Pennsylvania Department of Environmental Resources as to installation, maintenance, calibration, and reading. Withdrawals shall at a minimum, be recorded on a daily basis and reported as monthly totals annually.

(b) The following water uses and operations are exemt from the requirement of metering ground water withdrawals: farm irrigation; dewatering incidental to mining and quarrying; dewatering incidental to construction; and space heating or cooling uses that are exempt from permit requirements in Section 430.13. Except for space heating and cooling uses described herein, persons engaged in such exempt withdrawals in excess of 10,000 gallons per day during any 30-day period shall, in lieu of metering, record the pumping rates and the dates and elapsed hours of operation of any well or pump used to withdraw ground water, and report such information as monthly totals annually to the Department of Environmental Resources. Space heating and cooling uses that are exempt from permit requirements in Section 430.13 shall also be exempt from the requirement for recording and reporting.

(c) Pursuant to Section 11.5 of the Compact, the Pennsylvania Department of Environmental Resources shall administer and enforce a program for metering, recording, and reporting ground-water withdrawals in accordance with this regulation.

(d) This regulation shall be effective January 1, 1987.

Delaware River Basin Compact, 75 Stat. 688.

Susan M. Weisman,

Secretary.

February 6, 1986.

[FR Doc. 86–3115 Filed 2–12–86; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Changes in Definitions; Use of Administrative Controlled Substances Code Numbers; Addition of an Emergency Scheduling Regulation

AGENCY: Drug Enforcement Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Dangerous Drug Diversion Control Act of 1984, as part of the Comprehensive Crime Control Act of 1984 (Pub. L. 98–473), which became effective on October 12, 1984, amended portions of the Controlled Substances Act (CSA) pertaining to the schedules and scheduling of controlled substances. These amendments include a new definition of the term "isomer," a redefinition of the term "narcotic drug," and a revision of Schedule II(A)(4) to specifically list cocaine, ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives. In addition, the Administrator of the Drug Enforcement Administration (DEA) is given an emergency authority to expeditiously and temporarily place new substances of abuse into Schedule I of the CSA in order to avoid an imminent hazard to the public safety. The Dangerous Drug Diversion Control Act of 1984 also amended portions of the Controlled Substances Import and Export Act which necessitates the use of the Admininstration Controlled Substances Code Number by registrants. The proposed revisions to 21 CFR Part 1308 reflect these statutory changes.

DATE: Written comments and objection must be received on or before March 17, 1986.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: The Dangerous Drug Diversion Act of 1984, as part of the Comprehensive Crime Control Act of 1984 (Pub. L. 98–473), effective October 12, 1984, represents the first major updating of the regulatory provisions of the CSA. The majority of the revisions pertain to tightening

regulatory controls in order to prevent the diversion of abusable prescription drugs from legitimate distribution channels. Several sections of this Act, however, modify those portions of the CSA regarding the scheduling and schedules of controlled substances. The proposed revisions to 21 CFR Part 1308 reflect these statutory changes in the schedules and scheduling of controlled substances.

Section 507(a) of the Dangerous Drug Diversion Act of 1984 defines the term "isomer" as it is used in section 202 of the CSA (21 U.S.C. 812). Prior to the passage of this bill the term "isomer" was defined only in 21 CFR 1308.02(c). The Dangerous Drug Diversion Act of 1984 expands the existing definition of isomer to include the optical and geometric isomers of cocaine, ecgonine and their salts and derivatives. Under this provision the levorotatory and dextrorotatory forms of cocaine, ecgonine and their derivatives and salts as well as the diastereomers, pseudococaine, pseudoecgonine, allococaine, alloecgonine, pseudoallococaine and pseudoalloecgonine and their optical isomers and salts are included in the term "isomer" as used in 21 U.S.C. 812 Schedule II(a)(4). This amendment clarifies which of the various isomers of cocaine, whether produced naturally or synthetically, are included in the term "isomer" as used in 21 U.S.C. 812 Schedule II(A)(4) and hence are controlled in Schedule II of the CSA. A revision of § 1308.02(c) of 21 CFR is proposed to reflect this change.

Section 507(b) of the Dangerous Drug Diversion Act of 1984 also modifies the existing defintion of the term "narcotic drug" in the CSA. The modified definition includes poppy straw and concentrate of poppy straw which are narcotic raw materials that are imported into the United States. Cocaine, its salts, optical and geometric isomers and salts of isomers and ecgonine, its derivatives, their salts, isomers, and salts of isomers are now specifically included in the definition of "narcotic drug." Previously, cocaine and ecgonine were considered to be narcotic drugs because they were derivatives of coca leaves. Coca leaves are listed as a narcotic drug except when cocaine, ecgonine and derivatives of ecgonine or their salts have been removed. The new definition also clarifies the narcotic status of derivatives of opium and opiates under the CSA. These changes allow the language of the CSA to more clearly parrallel that of the Single Convention on Narcotic Drugs, 1961 pertaining to the narcotic status of opium and opiates. An amendment to § 1308.02 of 21 CFR adds the revised definition of "narcotic drug" to reflect the statutory change.

Section 507(c) of the Dangerous Drug Diversion Act of 1984 amends Schedule II(a)(4) to specifically list cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives. Coupled with the amended definition of isomer which includes optical and geometric isomers of cocaine and ecgonine, the listing of these substances expands the Schedule II control of cocaine to include the isomeric forms of cocaine, ecognine and their derivatives. Section 1308.12 Schedule II(b)(4) of 21 CFR will be revised to reflect this statutory change.

Section 508 of the Dangerous Drug Diversion Control Act of 1984 authorizes the Attorney General to temporarily and expeditiously place substances into Schedule I of the CSA if it is determined that such scheduling is necessary to avoid an imminent hazard to the public safety. Authority granted to the Attorney General by Congress in the CSA has been delegated to the Administrator of DEA by 28 CFR 0.100. The emergency scheduling provision is intended to allow the Administrator to react quickly when a new substance such as controlled substance analogs (so-called Designer Drugs) enter the illicit market and exhibit the potential of becoming a hazard to the public safety.

Under this emergency scheduling provision, the Attorney General may temporarily place a substance into Schedule I of the CSA without regard to the requirement of section 201(b) of the CSA (21 U.S.C. 811(b)) relating to the scientific and medical evaluation and scheduling recommendation of the Secretary of Health and Human Services. A notification of intention to schedule a substance under the emergency scheduling provision must be published in the **Federal Register** and transmitted to the Secretary of Health and Human Services. An emergency scheduling action may become effective after the expiration of 30 days from the date that the notification of intention to do so was published in the **Federal Register** and transmitted to the Secretary of Health and Human Services. Any comments submitted by the Secretary regarding the emergency scheduling of a substance will be considered.

The emergency scheduling provision of the CSA may be invoked only for those substances not listed in any schedule in section 202 of the CSA (21 U.S.C. 812) or if the substance has no currently accepted medical use in treatment in the United States as defined by an approved New Drug Application or an exemption from such approval granted by the Food and Drug Administration.

Before finding that temporarily scheduling a substance in Schedule I is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider only three of the eight factors set forth in Section 201(c) of the CSA (21 U.S.C. 811(c)): (1) Its history and current pattern of abuse; (2) the scope, duration and significance of abuse; and (3) what, if any, risk there is to the public health. The Administrator is directed to consider the actual abuse, diversion and clandestine production, distribution and importation of the substance. An emergency scheduling order may be effective for one year with a possible extension for up to six months if scheduling procedures have been initiated pursuant to section 201(a) of the CSA (21 U.S.C. 811(a)). An emergency scheduling order will be terminated upon the completion of a subsequent rulemaking proceeding initiated under section 201(a) of the CSA (21 U.S.C. 811(a1)). Emergency scheduling orders, consistent with other temporary and emergency orders, are not subject to judicial review. A new section 21 CFR 1308.52 is proposed to describe the emergency scheduling process in the regulations.

Section 524 of the Diversion Control Amendments amends 21 U.S.C. 958(b) to limit the import and export of controlled substances by DEA registrants to those controlled substances specified in their registration. In order to make this determination, DEA will require registrants and applicants to use the Administration Controlled Substances Code Number which is described in 21 CFR 1308.03. An amendment to § 1308.03 is proposed to reflect this statutory change.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Pursuant to the authority vested in the Attorney General by 21 U.S.C. 871(b) and delegated to the Administrator of the Drug Enforcement Administration by 28 CFR 0.100, the Administrator hereby proposes that 21 CFR Part 1308 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Section 1308.02 is amended by revising paragraph (c), adding a new paragraph (e), and redesignating existing paragraphs (e) and (f) as (f) and (g) as follows:

§ 1308.02 Definitions.

* * * * *

(c) The term "isomer" means the optical isomer, except as used in §1308.11(d) and § 1308.12(b)(4). As used in § 1308.11(d), the term "isomer" means the optical, positional, or geometric isomer. As used in § 1308.12(b)(4), the term "isomer" means the optical or geometric isomer.

* * * * *

(e) The term "narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

(2) Poppy straw and concentrate of poppy straw.

(3) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives of ecgonine or their salts have been removed.

(4) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(5) Ecgonine, its derivatives, their salts, isomers and salts of isomers.

(6) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (e) (1) through (5) of this section.

* * * * *

3. Section 1308.03 is amended by revising paragraph (a) to read as follows:

§ 1308.03 Administration Controlled Substances Code Number.

(a) Each controlled substance, or basic class thereof, has been assigned an "Administration Controlled Substances Code Number" for purposes of identification of the substances or class on certain Certificates of Registration issued by the Administration pursuant to §§ 1301.44 and 1311.43 of this chapter and on certain order forms issued by the Administration pursuant to § 1305.05(d) of this chapter. Applicants for procurement and/or individual manufacturing quotas must include the appropriate code number on the application as required in §§ 1303.12(b) and 1303.22(a) of this chapter. Applicants for import or export permits must include the appropriate code number on the application as required in §§ 1312.12(a) and 1312.22(a) of this chapter. Authorized registrants who desire to import or export a controlled substance for which an import or export permit is not required must include the appropriate Administration Controlled Substances Code Number beneath or beside the name of each controlled substance listed on the DEA Form 236 (Controlled Substance Import/Export Declaration) which is executed for such importation or exportation as required in §§ 1312.18(c) and 1312.27(b) of this chapter.

* * * * *

4. Section 1308.12(b)(4) is revised to read as follows:

§ 1308.12 Schedule II.

* * * * *

(b) * * *

(4) Coca leaves and any salt, compound, derivative or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

* * * * *

5. A new § 1308.52 is added to read as follows:

§ 1308.52 Emergency scheduling.

Pursuant to section 201(h) of the Act (21 U.S.C. 811(h)), and without regard to the requirements of section 201(b) of the Act (21 U.S.C. 811(b)) relating to the scientific and medical evaluation of the Secretary of Health and Human Services, the Administrator may place a substance into Schedule I on a temporary basis, if he determines that such action is necessary to avoid an imminent hazard to the public safety. An order issued under this section may not be effective before the expiration of 30 days from (a) the date of publication by the Administrator of a notice in the **Federal Register** of his intention to issue such order and the grounds upon which such order is to be issued, and (b) the date the Administrator has transmitted notification to the Secretary of Health and Human Services of his intention to issue such order. An order issued under this section shall be vacated upon the conclusion of a subsequent rulemaking proceeding initiated under section 201(a) (21 U.S.C. 811(a)) with respect to such substance or at the end of one year from the effective date of the order scheduling the substance, except that during the pendency of proceedings under section 201(a) (21 U.S.C. 811(a)) with respect to the substance, the Administrator may extend the temporary scheduling for up to six months.

The Administrator hereby certifies that this proposal will have no significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. These changes are predominantly clarifications of existing regulations. The new regulation regarding emergency scheduling applies only to clandestinely produced and harmful drugs of abuse which have no currently accepted medical use in the United States, and therefore does not impact upon the legitimate pharmaceutical industry.

Pursuant to section 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, the proposed action has been submitted for review by the Office of Management and Budget, and approval of that office has been requested pursuant to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

Dated: February 3, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-3195 Filed 2-12-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 581]

Grape Variety Names; Wine Labeling

Correction

In FR Doc. 86-2300 beginning on page 4392 in the issue of Tuesday, February 4, 1986, make the following corrections:

1. On page 4395, in the second column, in § 4.91, in the second column of the list, in the sixteenth line, *"Emeral Riesling"* should read *"Emerald Riesling"*; in the third column, in the first column of the list, *"Rugy Cabernet"* should read *"Ruby Cabernet"*; and in the second column of the list

"(Welshriesling)" should read *"(Welschriesling)"*.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications to the Ohio Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of program amendments submitted by Ohio as amendments to the State's permanent regulatory progrom (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments submitted consist of proposed changes to the Ohio statute concerning collection of a fee by the county recorder for filing a permit application and procedures for removing permit applications from the county recorder's files after public notice, and procedures for the recording and discharging of liens.

This notice sets forth the times and locations that the Ohio program and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public not received by 4:30 p.m., March 17, 1986, will not necessarily be considered in the decision on whether the proposed amendments should be approved and incorporated into the Ohio regulatory program. If requested, a public hearing on the proposed amendments has been scheduled for March 5, 1986. Any person interested in speaking at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by February 28, 1986. If no person has contacted Ms. Hatfield by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing if requested, is scheduled for 1:00 p.m. in Room 202, Columbus Field Office, 2242 South Hamilton Road, Columbus Ohio. 43227.

Written comments and requests for an opportunity to speak at the hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbus Filed Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus Ohio 43227; Telephone: (614) 866–0578.

Copies of the Ohio program, the proposed modification to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSMRE Field Office listed above and at the OSMRE Headquarters Office and the office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5124, 1100 "L" Street, NW., Washington, DC 20240.

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1983 **Federal Register.**

II. Submission of Revisions

By letter dated November 15, 1985, the Ohio Department of Natural Resources submitted proposed amendments to Ohio Law Sections 1513.07, 1513.33 and 1513.37 consisting of:

(1) A revision to 1513.07(B)(6) requires the county recorder to charge a fee of ten dollars for his services in filing the application. The application shall remain on file until the recorder's office is notified by the bureau of reclamation that the application may be removed. Thirty days after receipt of notification, the application will be destroyed if not claimed. The notice will remain on file with the county recorder;

(2) Revisions to 1513.33 concerning the teatment of recording and discharging liens at county recorder's offices; and

(3) Revisions to 1513.37(F)(3) and (4) which record and index property liens and set forth procedures for the discharge of the liens.

The full text of the proposed program amendments submitted by Ohio is available for public inspection at the addresses listed above. Upon request to OSMRE's Field Office Director, each person may receive, free of charge, one single copy of the proposed amendments. The Director now seeks public comment on whether the proposed amendments are no less effective than the Federal regulations. If approved, the amendments will become part of the Ohio program.

III. Procedural Matters

1. Compliance with the National Environmental Policy Act

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

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

On August 28, 1982, the Office of Management and Budget (OMB) granted OSMRE an exemption from section 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require

approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subject in 30 CFR Part 935

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

Dated: February 7, 1986.

Brent Wahlquist,

Acting Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 86-3208 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-05-M

POSTAL SERVICE

39 CFR Part 265

Freedom of Information Act; Disclosure of Information From Customers' Mailing Records

AGENCY: Postal Service.

ACTION: Revised Proposed Rule.

SUMMARY: The Postal Service is revising a proposed rule published in 1985 with respect to the public disclosure of customers' mailing records. The present proposal revises the 1985 proposal only with respect to the disclosure of publishers' mailing transaction records. While the present proposal continues to identify as exempt from mandatory disclosure most mailing transaction records, it permits the disclosure of statements of mailing for periodical publications having second-class entry and for other periodical publications that do not meet one or more of the requirements for second-class entry, such as "shopper" publications and free circulation newspapers that are mailed at regular bulk third-class rates. In all other respects, the present proposal retains the provisions of the earlier one.

The present proposal affects the administration of the Postal Servcie's informaton disclosure policies and is consistent with the Freedom of Information Act and the Postal Reorganization Act.

DATE: Comments must be received on or before March 17, 1986.

ADDRESS: Written comments should be mailed or delivered to the Records Office, Room 8121, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260-5010. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, in Room 8121 at the above address.

FOR FURTHER INFORMATION CONTACT: John Gunnels (202) 268-4873.

SUPPLEMENTARY INFORMATION: On January 9, 1985, the Postal Service published in the **Federal Register** (50 FR 1069) and invited public comments on a proposal to clarify its public information regulations with respect to records maintained about its customers who mail in bulk at reduced rates, such as: Presorted First-Class, Carrier Route First-Class, Presorted Zip+4 First-Class, second-class, regular and special bulk third-class, bulk fourth-class zone, bulk bound printed matter, and special fourth-class presort.

As stated in its 1985 proposal, the Postal Service receives and maintains the following categories of information about its customers who mail at presort or bulk rates:

- Applications for permission to mail at rates other than the full First-Class rate, including statements of continued eligibility for reduced rates, and applications to use certain special services or alternative methods for payment of postage.
- Mailing transaction records that contain detailed information about individual bulk mailings, or summary information about bulk mailings during a specific period of time.
- Financial records that contain information about balances in advance deposit or trust fund accounts, and amounts of postage and fees paid, or information about customers' postage meter settings.

The 1985 proposal would have permitted the disclosure of customers' applications for special privileges (and related documents) and of records relating to specific bulk mailings of political campaign literature. It also stated the general policy of withholding all other records containing information about a particular customer's mailing habits, practices or operations; information about specific bulk mailing transactions; and information relating to a customer's payment of postage and fees. An explanation of the legal authority for the proposed rule accompanied its publication.

Although the nondisclosure provision was referred to in the informational section of the 1985 proposal in terms of "prohibiting" disclosure, the proposed rule was intended to amend the section of the Postal Service's public information regulations, 39 CFR 265.6(b), that identifies certain categories of records that are not subject to mandatory disclosure but which may, nevertheless, under appropriate circumstances be made available as a matter of discretion when disclosure would serve the public interest.

To resolve what may be preceived as an inconsistency between the 1985 proposed rule and the discussion of its purpose and effect, the Postal Servcie wishes to make clear that the purpose of the present proposed rule is to state a general policy of withholding certain types of information about its customers' mailing habits and transactions. The rule is not intended, however, to work as an absolute prohibition against disclosure; rather, it identifies certain categories of records as exempt from mandatory disclosure and at the same time retains the discretion vested in the Postal Service to disclose in the appropriate case when the public interest would be better served by disclosure.

We note also that these proposed regulations must be applied in conformity with the Freedom of Information Act, 5 U.S.C. 552, including 552(b), which requires the segregation of exempt and non-exempt material in agency records, as applicable, and the disclosure of non-exempt portions. In any instance of a request for a record having exceptional contents, this statutory provision could require the disclosure of parts of an otherwise exempt record or justify the exemption of parts of an otherwise non-exempt record.

The proposal as here revised continues to permit disclosure of applications for special privileges and records relating to specific bulk mailings of political campaign literature. It also continues to identify as exempt from mandatory disclosure most other records relating to a customer's mailing habits, specific mailing transactions, or financial transactions. The provision relating to disclosure of transaction records for political campaign mailings has been made more precise by specific reference to the campaign mailings or registered political candidates or campaign organizations and qualified political committees. This modification makes it clear that the mailings intended to be covered by the rule are the same as those political campaign mailings that are defined or described for the purposes of mail processing procedures in 454 of the Postal Operations Manual.

The only additional substantive change now being proposed would permit the disclosure of records about specific mailing transactions for periodical publications mailed in bulk either at second-class rates or at regular bulk third-class rates. This change is proposed on account of the comments received from the mailers of these publications, as discussed below.

The Postal Service received 15 comments on the 1985 proposal from various associations of direct mail

advertisers and merchandisers as well as newspaper and magazine publishers. Approximately one-half of the comments supported the proposal while the remainder opposed it.

Two commenters stated that the applications of those seeking second or third-class rates should be open to public inspection. The Postal Service had not intended, however, to withhold these applcations and will disclose applications for mail privileges or special services to any person upon specific request. In addition, it will disclose any information required to be filed pursuant to 39 U.S.C. 3685(a) for the purposes of determining eligibility to mail at the second-class postage rate.

Some commenters properly objected to the use of the term "bulk business mail" to include second-class publications now treated as surface preferential mail. The term has been replaced in the revised proposal by the more generic description, "bulk rate mailings," to make clear that the intended coverage of the rule extends to all records generated on account of mailings presented in bulk, regardless of the service standard applied.

The Postal Rate Commission commented that, while it recognizes the confidential character of individual mailer's business data, the proposed restriction against disclosure to the public should not be read as a restriction on the Commissions access to information necessary to its functions in rate and classification proceedings. The proposed rule addresses the public's right of access pursuant to the Freedom of Information Act, and is not intended to affect the flow of information in proceedings before the Commission.

The balance of the comments focused on the proposal to withhold mail transaction records, specifically the statements of mailing submitted in connection with second-and third-class bulk mailings (PS Forms 3541 and 3602, respectively). The Postal Service has proposed to withheld these statements based upon the assessment that the statements may contain details about a customer's business operations and transaction with the Postal Service which the customer would regard as proprietary information and would not ordinarily and voluntarily divulge to its competitors. The Postal Service had, therefore, determined that these statements could properly be withheld pursuant to the Freedom of Information Act's exemptions of confidential commercial information, 5 U.S.C. 552(b)(4) and 39 U.S.C. 410(c)(2).

The comments indicate that postal customers who mail in bulk are divided on the question whether their mailing statements should be made available to the public. The perceptions of these mailers as to the proprietary nature of the information contained in these statements appear to differ depending upon the type of business in which the mailers engage and upon the purpose for which they use the mails.

Those commenters who wrote on behalf of firms engaged in direct mail advertising and merchandising generally favored the withholding of their mailing statements, because they consider that information about their mailing practices or the details of a specific mailing is proprietary and confidential, and disclosure of such information to competitors would, in their view, place them at a competitive disadvantage. Included in this group are American Retail Federation, Mail Order Association of America, and Columbia House.

The commenters representing the publishing industry, however, unanimously oppposed the proposed withholding of mailing statements submitted in connection with bulk mailings of publications. This group includes American Business Press, American Newspaper Publishers Association, National Newspaper Association and Landmark Community Newspapers, Inc., representing in the aggregate approximately 7,500 publications. While most of these publications have second-class entry, there are also included in this group some publications, commonly referred to in the trade as "shoppers," and some free circulation newspapers, which are mailed at regular bulk third-class rates. The comments suggest that the mailers of all of these publications, regardless of whether they are mailed at second- or third-class rates, are united in the view that the mailing statements for these publications should be made available to the public.

The commenters who wrote on behalf of these publications expressed the general view that members of the publishing industry do not ordinarily regard circulation and distribution information as confidential, that they have no expectation of privacy with respect to the circulation and distribution information they routinely supply to the Postal Service in mailing statements, and that they would have no objection to its disclosure. Several of these commenters also expressed the concern that withholding these statements would benefit only those publishers who make exaggerated circulation claims, and that the availability of the statements to competing publishers would help to keep competitiors honest in the circulation claims they make to advertisers. In sum, none of these commenters advanced a legally cognizable interest which they considered would be protected by withholding these mailing statements from the public, nor did they express a desire or expectation that their mailing statements be withheld.

In consequence of the views expressed by the publishers who submit this information, the Postal Service proposes to structure the rule so as to make available to the public upon proper request any mailing statement submitted for a periodical publication mailed in bulk at second- or third-class rates. The other provisions of the proposed rule remain substantially unaltered.

In summary, the purpose of this proposed regulation is to state a general policy of nondisclosure for records relating to a particular customer's mailing habits, specific bulk mailing transactions, and payment of postage and fees. The limited exceptions from this general policy of nondisclosure are: (1) Applications and statements of eligibility for second-class mail privileges and for special rates or services; (2) records related to bulk mailings of political campaign literature; (3) statements of mailing for publications having second-class entry; and (4) statements of mailing for periodical publications mailed in bulk at third-class rates.

For the purposes of this proposed rule, the term "periodicial publication" is intended to include only those publications that are published at a known office of publication at a stated frequency, are issued regularly with the intent to continue publication indefinitely, and have continuity from issue to issue in either style, format, theme or subject matter. The term is not meant to include any of the other types of material mailed in bulk at third- or fourth-class rates, such as circulars, printed letters, or catalogs, containing advertising or promotional material. Nor is is meant to include "marriage mail" pieces that may consist of a combination of various types of printed matter.

The comments indicate that customers who use the mails for the purpose of direct marketing or advertising of products and services consider the information contained in their mailing statements to be proprietary and do not make a practice of disclosing the information to their competitors. Since

disclosure of the information would pose the risk of substantial harm to the business interests of these customers, the Postal Service proposes to extend the policy of nondisclosure to all mail transaction records except for those specifically identified in the proposed rule that follows.

Further comment from the customers affected by these proposed changes is invited to ensure that any final rule adopted has a sound factual basis and comports, to the extent permitted by law, with the legitimate business interests of postal customers. The Postal Service, therefore, invites further public comment on the following proposed revisions to Title 39, Code of Federal Regulations.

List of Subjects in 39 CFR Part 265

Freedom of Information, Postal Service.

PART 265—RELEASE OF INFORMATION

1. The authority citation for Part 265 is revised to read as follows:

Authority: 39 U.S.C. 401, 410, 3685; 5 U.S.C. 552.

2. In § 265.6, paragraphs (b)(3) (viii), (ix) and (x) are added to read as follows. The introductory text of paragraph (b)(3) is shown for the convenience of the reader.

§ 265.6 Availability of records.

* * * * *

(b) * * *

(3) Information of a commercial nature, including trade secrets, whether or not obtained from a person outside the Postal Service, which under good business practice would not be publicly disclosed. This class includes, but is not limited to:

* * * * *

(viii) Records that would reveal details of the mailing habits, practices or operations of postal customers other than: applications and statements of eligibility for second-class mail privileges and for special rates or services.

(ix) Records of specific bulk rate mailing transactions other than: Political campaign mailings by a registered political candidate or campaign organization; mailings at special bulk third-class rates by a qualified political committee; and mailings of periodical publications at second-or third-class rates.

(x) Records of a postal customer's payment of postage and fees.

* * * * *

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 86-3198 Filed 2-12-86; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42030C FRL-2969-7]

Mesityl Oxide; Proposed Test Standards; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule; extension of comment period.

SUMMARY: EPA is extending the comment period for the proposed test rule on Mesityl Oxide (MO) test standards. Extension of the comment period is necessary because certain revisions to TSCA test guidelines cited as test standards in this proposed rule for MO were not available for comment at the time of proposal.

DATES: Written comments on the proposed rule should be submitted on or before February 28, 1985. Requests to make oral comments at a public meeting have already been submitted to the Agency, and a public meeting will be held.

ADDRESS: Address written comments in triplicate identified by the document control number OPTS-42030C to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, DC 20460.

The public records supporting these actions are available for inspection in Rm. E-107 at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St. SW., Washington, DC 20460, Toll Free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: Proposed rulemaking for MO in response to the Fourth Interagency Testing Committee (ITC) Report was published in the **Federal Register** of December 20, 1985 (50 FR 51888). The proposed rule noted that the Agency intended to propose shortly in a separate **Federal Register** document certain revisions to the TSCA test guidelines cited as test standards for the test rule to provide more explicit guidance on the necessary minimum elements in each study. The Agency proposed that these revisions be adopted in the test standards for the test rule for MO. The proposed revisions were published in the **Federal Register** of January 14, 1986 (51 FR 1522). Because the Agency was delayed in issuing these proposed revisions, the Agency is extending the comment period for the proposed thest rule for MO to provide sufficient opportunity for comment on those revisions as they apply to the test standards for MO. Written comments should be submitted on or before February 28, 1986, which is 45 days after publication in the **Federal Register** of these revisions. Requests to make oral comments at a public meeting have already been submitted to the Agency. Information on the exact time and place of the meeting will be available from the TSCA Assistance Office.

Authority: 15 U.S.C. 2603.

Dated: February 7, 1986.

Edwin F. Tinsworth,

Acting Director, Office of Toxic Substances.

[FR Doc. 86-3181 Filed 2-12-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 11

Natural Resource Damage Assessments

AGENCY: Department of the Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On December 20, 1985, the Department of the Interior (Department) proposed a rule establishing procedures for assessing damages to natural resources from a discharge of oil or a release of a hazardous substance and compensable under either the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, or under the Clean Water Act (CWA), 33 U.S.C. 1251 *et seq.* (also known as the Federal Water Pollution Control Act). The Department is extending the period for comment on the

proposed regulation from February 18, 1986, to March 21, 1986.

DATE: Comments on the proposed rule (50 FR 52126) must be submitted by March 21, 1986.

ADDRESS: Comments should be sent to: Keith Eastin, Associate Solicitor, CERCLA 301 Project Director, Room 4354, Department of the Interior, 1801 "C" Street NW., Washington, DC 20240.

Comments will be available for public review at the above address during regular business hours (7:45 A.M. to 4:15 P.M.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Keith Eastin, (202) 343–5757;
Sheryl Katz, (202) 343–1301;
Alison Ling, (202) 343–1301.

SUPPLEMENTARY INFORMATION: On December 20, 1985, the Department proposed a rule for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a release of a hazardous substances for the purposes of CERCLA and section 311(f) (4) and (5) of the CWA. The December 20, 1985 notice stated that the proposed rule was being developed under a deadline imposed by the court in *State of New Jersey et al.* v. *Ruckelshaus et al.*, Cir. No. 84–1668 (D.C.N.J.), which required promulgation of final "B regulations" on or before April 22, 1986. Because of that deadline, the notice stated that comments on the proposed rule were to be submitted on or before February 3, 1986.

The Department received numerous requests from the public for additional time to comment on this proposed rule. The parties to the litigation referred to above, agreed upon, and petitioned the court to approve a modification in the schedule for the promulgation of the final "B" regulations. While awaiting the court's ruling on this motion, the Department extended the comment period to February 18, 1986.

On February 3, 1986, the court signed an order approving the modification of the schedule agreed upon by the parties. The comment period is now extend to March 21, 1986, to assure that all members of the public have adequate time to comment fully on this proposed rule.

Dated: February 7, 1986.

Keith Eastin,

Associate Solicitor.

[FR Doc. 86–3167 Filed 2–12–86; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 58 and 160

[CGD 79–168]

Lifesaving Equipment; Launching Equipment for Liferafts

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to adopt specifications for approving liferaft launching devices and automatic disengaging devices. This equipment is often used to lower liferafts from vessels with high freeboard, and its use is required on mobile offshore drilling units and deepwater ports. Most of the standards and tests in these specifications have been applied as guidelines for several years in approving liferaft launching equipment.

DATES: Comments on this proposal must be received on or before May 14, 1986.

ADDRESSES: Comments should be submitted to Commandant (G–CMC/21), (CGD 79–168) U.S. Coast Guard, Washington, DC 20593. The comments, draft evaluation, and materials referenced in this notice will be available for examination and copying and comments may also be hand delivered between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G–CMC/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: LCDR William M. Riley (202) 426–1444.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice as CGD 79–168, and give reasons for their comments. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The rules 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 these proposed rules. 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 presentations will aid the rulemaking process.

Drafting Information

The principal drafters of these proposed rules are: LCDR William M. Riley, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

Discussion of the Proposed Regulations

Launching equipment is often used on vessels with high freeboard for lowering liferafts, and its use is required on deepwater ports and mobile offshore drilling units. By using this equipment, liferafts can be lowered over long descents while fully loaded and then released automatically into the water. The automatic releasing feature is provided by a specially designed disengaging device.

The standards and tests in the proposed rules are based on those developed several years ago to supplement requirements in 46 CFR Subpart 75.27, for launching devices installed on large passenger vessels. These standards and tests have been revised to comply with the 1983 amendments to Chapter III of the International Convention For The Safety Of Life At Sea, 1974 (SOLAS 1974), and to take into account the recommendations in International Maritime Organizations (IMO) Resolution A521(3) concerning implementation of SOLAS 1974 provisions. The amendments to SOLAS 1974 are expected to come into force on July 1, 1986.

Four manufacturers are currently authorized to produce approved launching devices. Devices approved under the previous standards and tests will probably meet the requirements proposed in this notice for launch heights up to approximately 10 m (33 ft.). However, they would have to undergo supplemental testing in order to renew their approvals should the rules become final as proposed in this notice.

Sections 75.27–5 and 108.508 of Title 46, CFR, and Section 149.525 of Title 33, CFR, contain various equipment requirements for launching devices. Those requirements are also included in rules proposed in this rulemaking and they will be deleted from 46 CFR 75.27–5, 108.508 and 33 CFR 149.525 when the rules in this proposal are finalized.

The proposed rules require all testing to be done by or under the supervision of an independent laboratory. In the past, approval testing of liferaft launching equipment has been done under Coast Guard supervision.

The proposed rules require approved launching equipment to have instruction plates or placards explaining how to use

the equipment. The recent amendments to SOLAS 1974 include a requirement that the information on these plates and placards be posted on or in the vicinity of each launching device and liferaft. The Coast Guard is currently preparing a rulemaking proposal which includes this requirement as well as other lifesaving equipment requirements that would implement the amendments to SOLAS 1974. Notice of the SOLAS rulemaking project appeared in the **Federal Register** on December 31, 1984.

In preparing these proposed rules, the Coast Guard consulted with various launching device equipment manufacturers and potential manufacturers. Each manufacturer was asked to comment in writing on a preliminary draft of the proposal. One letter reply was received and most of its comments and recommendations have been incorporated into the proposal. A copy of the letter is available for inspection and copying in the public docket.

Proposed § 160.063–11(o)(1) requires wire rope falls of a launching device to be rotation resistant. Comments are specifically requested concerning any criterion that could be prescribed to define acceptable or unacceptable rotation resistance in launching device falls.

Economic Analysis and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A draft evaluation has been prepared and placed in the rulemaking docket. It may be inspected or copied at the address listed above under **"ADDRESSES"**. Copies may also be obtained by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT"**.

Total annual manufacturers' costs to test and approve launching equipment under these proposed regulations would be approximately $35,940. This represents an annual cost increase of $10,940 over costs incurred under current methods to test and approve equipment. Annual costs to the government under this proposal would be about $1,663, i.e. $16,315 per year less than costs currently incurred. The benefits of this proposal would include: (1) Less governmental involvement in required testing because of the use of independent laboratories and (2) international marketability of U.S. manufactured products because of conformity to SOLAS 74.

Manufacturer costs under this proposal would be approximately 2.3% per installation more than costs incurred under current methods. This increase in costs should not materially affect the price that vessel owners would have to pay for equipment. Although some vessel owners and manufacturers would be "small entities" under this proposal, a 2.3% cost increase is not considered to be significant for these businesses.

Based upon the estimated cost increases involved, the Coast Guard certifies that these proposed rules would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking contains information collection requirements in §§ 160.063–15, 160.063–21, 160.070–15, and 160.070–21. These requirements have been previously submitted to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been approved by OMB under control number 2115–0141. The information collection requirements in this rulemaking and their corresponding control numbers will be listed in 46 CFR Part 159 concurrently with the publication of final rules.

List of Subjects

46 CFR Part 58

Vessels, Oil and gas exploration, Marine safety.

46 CFR Part 160

Marine safety.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Title 46 of the Code of Federal Regulations as follows:

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

1. The authority citation for Part 58 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46(b).

§ 58.30–1 [Amended]

2. By revising § 58.30–1(a)(7) to read as follows:

(a) * * *

(7) Lifeboat handling equipment and liferaft launching devices.

* * * * *

PART 160—LIFESAVING EQUIPMENT

2. By adding a new Subpart 160.063 to Part 160 to read as follows:

Subpart 160.063—Launching Devices for Liferafts

Sec.

160.063–1 Scope.
160.063–3 Working Load.
160.063–5 Independent laboratory.
160.063–7 Approval procedure.
160.063–9 Materials.
160.063–11 Construction.
160.063–13 Performance.
160.063–15 Instruction manual and placard.
160.063–17 Approval tests.
160.063–19 Production tests.
160.063–21 Marking.

Authority: 46 U.S.C. 3306 and 3703; and 49 CFR 1.46.

Subpart 160.063—Launching Devices for Liferafts

§ 160.063–1 Scope.

(a) This subpart prescribes standards, tests, and procedures for approving liferaft launching devices.

(b) The standards and tests apply to a liferaft launching device that has a davit, winch, wire rope falls, and a brake to control lowering of rafts.

§ 160.063–3 Working load.

(a) The term "working load" means the sum of the weights of—

(1) The largest liferaft listed in the application for approval of the launching device;

(2) The total number of persons for which the raft is rated under Subpart 160.051; and

(3) The equipment required for the raft by this chapter.

§ 160.063–5 Independent laboratory.

(a) The approval and production tests in this subpart must be conducted by, or under the supervision of, an independent laboratory accepted by the Coast Guard under Subpart 159.010 of this chapter.

§ 160.063–7 Approval procedure.

(a) *General.* A launching device is approved by the Coast Guard under the procedures in Subpart 159.005 of this chapter, except as modified in paragraphs (d) and (e) of this section.

(b) *Approval testing.* Each approval test must be conducted in accordance with § 160.063–17.

(c) *Approval of alternate designs.* A launching device which does not meet the requirements of §§ 160.063–9, 160.063–11, and 160.063–13 may be approved if standards and tests prescribed by the Commandant in place of or in addition to tests in § 160.063–17 show that the launching device provides at least the same degree of safety provided by launching devices that do comply with §§ 160.063–9, 160.063–11, and 160.063–13.

(d) *Application.* The application required by § 159.005–5 of this chapter—

(1) Need not include a sample of the equipment; and

(2) Must include, in addition to information required by that section—

(i) A list of approved liferafts that the launching device is designed to launch;

(ii) A description of the test apparatus and test procedure that applicant proposes to use;

(iii) Stress diagrams and calculations that show the strength of each gear and structural part of the launching device; and

(iv) The maximum proposed height of installation above the light waterline.

(e) *Test report.* The test report required by § 159.005–11 of this chapter must include, in addition to information required by that section, a list of approved liferafts that the launching device is designed to launch.

§ 160.063–9 Materials.

(a) *Machine-cut parts.* Each gear, cam, pawl, and similar part in the winch must be—

(1) Machine cut steel;

(2) Machine cut bronze; or

(3) Of a design of equivalent strength, durability, reliability, and accuracy.

(b) *Corrosion resistant parts.* Each part exposed to water, spray, or high humidity must be—

(1) Corrosion resistant or must be treated to be corrosion resistant; and

(2) Galvanically compatible with each adjoining part.

(c) *Aluminum alloys.* Any aluminum alloy which is not resistant to stress corrosion in marine atmospheres (i.e., contains more than 0.6 percent copper) must not be used in a structural component or in any other component subject to stress.

(d) *Extreme Temperature Tolerance.* Each load-carrying part must be of a material which retains its strength when exposed to temperatures as low as −30 °C.

§ 160.063–11 Construction.

(a) *Load-carrying parts.* Except as specified in paragraph (o)(4) of this section, each load-carrying part of a launching device must be designed to have a minimum breaking strength of at least 4.5 times the load imposed on the part by the working load during operation of the launching device, under all combinations of list up to 20° and trim up to 10°.

(b) *Boarding points.* Each launching device must be constructed so that a person can board a liferaft at deck level when the raft is at the outboard suspension point of the launching device.

(c) *Brake.* Each launching device must have a mechanical brake to control the lowering of liferafts. The brake must be of a type that is engaged by a weighted lever and must be designed so that it is always engaged unless manually moved to the disengaged position. The lever must be located adjacent to the launching device in a position where the liferaft is visible to the operator of the lever during launching. The lever must be capable of being moved to the disengaged position from within the liferaft being lowered.

(d) *Bearings.* Each bearing of a moving part of a launching device must have a means to retain the bearing in its normal operating position. Each journal bearing must be made of nonferrous metal.

(e) *Means of lubrication.* Each launching device must have a means to lubricate its bearings and all moving parts of blocks, sheaves, fairleads, etc. Sliding-contact gearing, such as worm gears, must operate in an oil bath, or have another means of lubricating the gear teeth on each revolution. Each lubricant enclosure must be designed so that it can be readily filled, drained, and checked for lubricant level. The bearings in the hub of each wire rope sheave must be lubricated by a fitting which is not located on the sheave itself.

(f) *Sheaves and drums.* Each sheave and each winch drum must be of a size recommended by the wire rope supplier for the diameter and construction of the wire rope being used. Each sheave must have a device that prevents the wire rope from jumping out of the sheave groove. The fleet angle of a grooved drum must not exceed 8°, and the fleet angle of a non-grooved drum must not exceed 4°.

Note.—The term "fleet angle" is defined in §§ 94.33–10 and 108.509(a) of this chapter.

(g) *Machinery.* Each machinery housing on a launching device must be designed so that all internal moving parts may be examined using only common tools. Each machinery housing, except gear boxes and other enclosures that retain lubricants, must be designed to prevent moisture accumulation.

(h) *Exposed moving parts.* Each exposed moving part of a launching device that poses a hazard to personnel must have a guard or screen.

(i) *Fasteners.* Each fastener securing a part of a launching device must have a means to prevent the fastener from loosening.

(j) *Electrical equipment.* Electrical equipment of a launching device must meet the Electrical Engineering Regulations in Part 111 of this chapter.

(k) *Hydraulic and pneumatic equipment.* Each hydraulic or pneumatic part and system of a launching device must comply with the Marine Engineering Regulations in Subpart 58.30 of this chapter.

(l) *Welding.* Each weld must be made using automatic welding equipment or be made by a welder who is qualified by the U.S. Coast Guard, U.S. Navy, American Bureau of Shipping, American Welding Society, American Society of Mechanical Engineers, or other organization that has similar procedures for welder qualifications that are acceptable to the Commandant.

(m) *Hand-operated mechanism and interlock.* Each launching device must have a hand-operated lifting mechanism for lifting and moving unloaded liferafts to the outboard suspension point on the device. The mechanism must be operable from a standing position. The device must have an interlock that prevents simultaneous operation of its hand-operated mechanism and any mechanical, electric, or gravity power source. Any removable hand gear, crank, or wheel of the hand-operated mechanism must be securely stowed on the device.

(n) *Hand-powered fall retrieval.* Each launching device must have a hand-powered retrieving mechanism capable of recovering its wire rope falls. The device must have an interlock that prevents simultaneous operation of its hand-operated mechanism and any mechanical, electric, or gravity power. Any removable hand gear, crank, or wheel of the hand operated mechanism must be securely stowed on the device.

(o) *Wire rope falls.* Each launching device must have wire rope falls that—

(1) Are rotation-resistant;

(2) Are of galvanized steel, stainless steel, or other material with equivalent corrosion-resistant properties;

(3) Are equal or superior, with respect to flexibility and wear, to 6x19 regular lay filler wire that is pre-lubricated during construction;

(4) Have a minimum breaking strength of 6 times the working load, including each chain, link, block, connector, and other device used on the fall, and;

(5) Are not more than single part falls.

(p) *Nonfunctional sharp edges and projections of excessive length.* A launching device must not have nonfunctional sharp edges and must not have fasteners or other projections of excessive length.

(q) *Gears.* Each gear of a launching device must be keyed to or integral with its shaft.

§ 160.063–13 Performance.

(a) Each launching device must be designed to pass the tests in § 160.063–17.

(b) Each launching device must have a means for protecting the device from ice formation which could make the device inoperative.

§ 160.063–15 Instruction manual and placard.

(a) Each launching device must have an instruction manual and one or more instruction plates or placards with operating instructions for the launching device.

(b) *Instruction manual.* The instruction manual required by paragraph (a) of this section must—

(1) Be written so that an operator not having previous experience with liferaft launching devices can understand it;

(2) Be in English;

(3) Be illustrated with diagrams, pictures, or both, to aid in understanding the instructions; and

(4) Contain detailed operating instructions that—

(i) Explain in sequence each of the steps to follow in launching two liferafts in succession; and

(ii) Include in this sequence a step stating that the automatic disengaging device used with the launching device—

(A) Is to be cocked for automatic release just before the liferaft enters the water; and

(B) Can be manually released after the liferaft is in the water;

(5) Include—

(i) Procedures for conducting drills in the use of the equipment;

(ii) Monthly inspection checklist;

(iii) Maintenance and repair instructions;

(iv) Schedule of periodic maintenance;

(v) Diagram of lubrication points with recommended lubricants;

(vi) List of replaceable parts;

(vii) List of sources of spare parts;

(viii) Log for recording inspections and maintenance; and

(ix) Installation instructions.

(c) *Instruction plates or placards.* The instruction plates or placards required by paragraph (a) of this section must—

(1) State in sequence, each of the steps to follow in launching two liferafts in succession; and

(2) Include in this sequence a step stating that the automatic disengaging device used with the launching device—

(i) Is to be cocked for automatic release just before the liferaft enters the water; and

(ii) Can be manually released after the liferaft is in the water;

(3) Use bright red letters to present the information described in paragraph (c)(2)(i) of this section;

(4) Be corrosion-resistant or weatherproof; and

(5) Be in English and include diagrams to aid in understanding the instructions.

§ 160.063–17 Approval tests.

(a) *General.* Each launching device submitted for approval must be tested in accordance with this section. The launching device must be completely assembled and installed on a test tower in a manner that simulates intended shipboard installation. The launching device must have an automatic disengaging device of a type approved under Subpart 160.070.

(b) *Test failure.* If a launching device fails one of the tests in this section, the cause of the failure must be identified and any needed design changes made. After a test failure and any design change, the failed test, and any previously completed tests affected by the change, must be rerun.

(c) *Tests.* The following approval tests must be conducted:

(1) *Empty raft loading.* A test weight equal to the weight of a fully-equipped liferaft of the largest size listed in the application for approval is attached to the falls. One person operating the hand-powered lifting mechanism must be able to raise the weight 1 m (3.3 ft.) without undue exertion and then move it from the full inboard position of the launching device to its full outboard position. The total time to raise and move the weight must not exceed 90 seconds.

(2) *Maximum speed.* A test weight equal to the working load is suspended from the launching device in its full outboard position. Thereafter, the weight is lowered by gravity power to the water or ground level. The lowering speed must be measured and must not exceed 1.3 m/sec. (240 ft./min.). During lowering the brake may not be used.

(3) *Minimum speed.* A test weight equal to the weight of a fully equipped liferaft of the smallest size listed in the application for approval plus the weight of one person is suspended from the launching device in its full outboard position. The raft is then lowered by gravity power alone to the water or ground level. The lowering speed must be measured.

(4) *Retrieval of falls.* A test weight equal to the weight of the automatic disengaging device is attached to the falls at water or ground level. One person using the hand-powered retrieving mechanism must be able to raise the automatic disengaging device 4.5 m (15 ft.) above the water or ground level. The total time to raise the device this distance must not exceed 60 seconds.

(5) *List and trim.* The tests described in paragraphs (c)(1), (c)(2) and (c)(3) of this section must be repeated with the launching device installed in a position that simulates an inboard vessel list of 20° in combination with 10° of trim.

(6) *Overload.* A weight of 2.2 times the working load is suspended from the launching device in its full outboard position. The load is swung in a fore and aft direction twice through an arc of approximately 20°. The falls must not slip or break during this test. The outboard suspension point of the launching device must not move laterally in either direction during this test. The test must be repeated with the launching device in a position that simulates a 20° outboard list, and must be repeated with the launching device in a position that simulates a 20° inboard list.

(7) *Static brake overload.* If the brake is not used to hold the weight during the test in paragraph (c)(6) of this section, a weight of 1.5 times the working load is suspended from the launching device in its full outboard position. The brake must hold the weight for two minutes without permitting it to drop.

(8) *Dynamic brake overload.* A weight of 1.1 times the working load is attached to the falls and lowered at maximum lowering speed through a distance of at least 3 m (10 ft.). The brake is then quickly engaged. The test weight must stop within 1 m (3.3 ft.) therefore. This test must be repeated along with the test in paragraph (c)(9) of this section (if applicable) until the accumulated lowering distance in testing equals 150 m (492 ft.) or more.

(9) *Wet dynamic brake overload.* If the launching device has external braking surfaces, the test described in paragraph (c)(8) of this section must be repeated after the braking surfaces have been thoroughly wetted with water. The test weight must stop when the brake is engaged, but need not stop within 1 m (3.3 ft.) This test must be repeated at least 5 times.

(d) *Visual examination.* Upon completing the tests described in paragraph (c) of this section, the launching device is disassembled. Its parts are then examined for evidence of noncompliance with the requirements in §§ 160.063–9 and 160.063–11. The examination must also not disclose any deformation, excessive wear, or other damage.

§ 160.063–19 Production tests.

(a) Each launching device manufactured under Coast Guard approval must be tested—

(1) In accordance with Subpart 159.007 of this chapter; and

(2) As prescribed in §§ 160.063–17(c) (7) and (9).

(b) If a device fails testing, its defects must be corrected and the device retested until it passes.

(c) The independent laboratory that conducts or supervises the testing must also conduct the visual examination described in § 160.063–17(d), except that the device need not be disassembled.

(d) A launching device may not be sold as Coast Guard approved unless—

(1) It passes testing; and

(2) Each defect uncovered in the visual examination is corrected.

§ 160.063–21 Marking.

(a) *Nameplate.* Each launching device manufactured under Coast Guard approval must have a corrosion resistant nameplate.

(b) Each nameplate must contain the—

(1) Name of manufacturer;

(2) Coast Guard approval number;

(3) Manufacturer's brand or model designation;

(4) Serial number;

(5) Working load;

(6) Maximum length of falls which the winch drum will accommodate;

(7) Maximum height of installation above the light waterline as calculated under paragraph (d) of this section; and

(8) Date of manufacture.

(c) Each launching device must be permanently and legibly marked with the name of the laboratory that conducted the production test.

(d) The maximum height of installation above the light waterline for marking on the nameplate is the lesser of—

(1) The distance "H" calculated from the formula:

$$H = 50(S - 20)$$

where H is in meters and S is the lowering speed determined under § 160.063–17(c)(2) in meters per second. (The formula is $H = 0.83\ (S - 66)$ if H is measured in feet and S is in feet per minute.); or

(2) The height at which the maximum length of falls specified on the nameplate will reach the light waterline with at least two turns of wire remaining on the winch drum, assuming no list or trim.

4. By adding a new Subpart 160.070 to Part 160 to read as follows:

Subpart 160.070—Automatic Disengaging Devices for Liferafts

Sec.

160.070–1 Scope.
160.070–3 Working load.
160.070–5 Independent laboratory.
160.070–7 Approval procedure.
160.070–9 Materials.
160.070–11 Construction.
160.070–13 Performance.
160.070–15 Instruction manual and placard.
160.070–17 Approval tests.
160.070–19 Production tests.
160.070–21 Marking.

Authority: 46 U.S.C 3306 and 3703; and 49 CFR 1.46.

Subpart 160.070—Automatic Disengaging Devices for Liferafts

§ 160.070–1 Scope.

(a) This subpart prescribes standards, tests and procedures for approving automatic disengaging devices.

(b) The standards and tests apply to an automatic disengaging device designed for use with an inflatable liferaft of a type approved under this part and a launching device of the type approved under Subpart 160.063.

§ 160.070–3 Working load.

(a) The term "working load" means the sum of the weights of—

(1) The largest liferaft listed in the application for approval of the automatic disengaging device;

(2) The largest number of persons for which the raft is rated under Subpart 160.051; and

(3) The equipment required for the raft by this chapter.

§ 160.070–5 Independent laboratory.

(a) The approval and production tests in this subpart must be conducted by, or under the supervision of, an independent laboratory accepted by the Coast Guard under Subpart 159.010 of this chapter.

§ 160.070–7 Approval procedure.

(a) *General.* An automatic disengaging device is approved by the Coast Guard under the procedures in Subpart 159.005 of this chapter, except as modified in paragraphs (d) and (e) of this section.

(b) *Approval testing.* Each approval test must be conducted in accordance with § 160.070–17.

(c) *Approval of alternate designs.* An automatic disengaging device which does not meet the requirements of §§160.070–9, 160.070–11, and 160.070–13 may be approved if standards and tests prescribed by the Commandant in place of or in addition to tests in § 160.070–17 show that the device provides at least the same degree of safety provided by automatic disengaging devices that do comply with §§ 160.070–9, 160.070–11, and 160.070–13.

(d) *Application.* The application required by § 159.005–5 of this chapter—

(1) Need not include a sample of the equipment, and

(2) Must include, in addition to information required by that section—

(i) A list of approved liferafts that the automatic disengaging device is designed to handle;

(ii) A description of the test apparatus and test procedure that applicant proposes to use; and

(iii) Stress diagrams and calculations that show the strength of each structural part of the automatic disengaging device.

(e) *Test report.* The test report required by § 159.005–11 of this chapter must include, in addition to information required by that section, a list of approved liferafts that the automatic disengaging device is designed to handle.

§ 160.070–9 Materials.

(a) *Corrosion resistant parts.* Each part exposed to water, spray, or high humidity must be—

(1) Corrosion resistant or must be treated to be corrosion resistant; and

(2) Galvanically compatible with each adjoining part.

(b) *Aluminum alloys.* Any aluminum alloy which is not resistant to stress corrosion in marine atmospheres (i.e., contains more than 0.6 percent copper) must not be used in a structural component or in any other components subject to stress.

(c) *Machine-cut parts.* Each cam, pawl, bushing, bearing, or similar part must be—

(1) Machine-cut steel;

(2) Machine-cut bronze; or

(3) Of a design of equivalent strength, durability, reliability, and accuracy.

§ 160.070–11 Construction.

(a) *Load-carrying parts.* Each load-carrying part of an automatic disengaging device must be designed to have a minimum breaking strength of at least six times the load imposed on the part by the working load during operation of the device.

(b) *Attachment to falls.* Each automatic disengaging device must be designed for attachment to the wire rope falls of a lauching device by a splice or socket which, when installed, will comply with the strength requirements of § 160.070–11(a).

(c) *Trip mechanism.* Each automatic disengaging device must have a trip mechanism that can be manually preset for release.

(d) *Welding.* Each weld must be made using automatic welding equipment or be made by a welder who is qualified by the U.S. Coast Guard, U.S. Navy, American Bureau of Shipping, American Welding Society, American Society of Mechanical Engineers or other organization that has similar procedures for welder qualifications that are acceptable to the Commandant.

(e) *Means of lubrication.* Each automatic disengaging device must have a means to lubricate all moving parts without prior disassembly.

(f) *Fasteners.* Each fastener securing a part of an automatic disengaging device must have a means to prevent the fastener from loosening.

(g) *Hook.* The hook of an automatic disengaging device must be of appropriate size for use with the lifting ring, shackle, or eye of the lifting attachment of each liferaft that the device will handle.

§ 160.070–13 Performance.

(a) Each automatic disengaging device must be designed to pass the tests in § 160.070–17.

§ 160.070–15 Instruction manual and placard.

(a) Each automatic disengaging device must have an instruction manual and an instruction plate or placard.

(b) *Instruction manual.* The instruction manual required by paragraph (a) of this section must—

(1) Be written so that an operator not having previous experience with automatic disengaging devices can understand it;

(2) Be in English;

(3) Be illustrated with diagrams, pictures, or both, to aid in understanding the instructions; and

(4) Contain detailed operating instructions that explain in sequence each of the steps to follow in—

(i) Cocking the device for automatic release; and

(ii) Manually releasing the device;

(5) Include—

(i) Procedures for conducting drills in the use of the equipment;

(ii) Monthly inspection checklist;

(iii) Maintenance and repair instructions;

(iv) Schedule of periodic maintenance;

(v) Diagram of lubrication points with recommended lubricants;

(vi) List of replaceable parts;

(vii) List of sources of spare parts;

(vii) Log for recording inspections and maintenance; and

(ix) Installation instructions.

(c) *Instruction plate or placard.* The instruction plate or placard required by paragraph (a) of this section must—

(1) State in bright red letters that the automatic disengaging device is to be cocked for automatic release just before the liferaft enters the water;

(2) Explain in sequential steps how to—

(i) Cock the automatic disengaging device for automatic release, and

(ii) Manually release the device;

(3) Be corrosion-resistant or weatherproof; and

(4) Be in English.

§160.070–17 Approval tests.

(a) *General.* Each automatic disengaging device submitted for approval must be tested in accordance with this section. The device must be attached to wire rope falls by means of a spliced in thimble or a swaged fitting. The falls must be attached to a winch of a launching device, davit, crane, or other fixture that can be used to perform the tests described in this section.

(b) *Test weights.* Each test weight must have a lifting ring, shackle, or eye of the same size as the lifting attachments of the liferafts listed in the application for approval.

(c) *Test sequence.* Each test in this section, except test #12, must be performed three times. Test #12 need be done only once. In each test, except test #1, the automatic disengaging device must be attached to the lifting ring, shackle, or eye of the test weight used. If the automatic disengaging device is intended for use with lifting attachments of different sizes, each test must be repeated with each size of lifting attachment. In test #1, the automatic disengaging apparatus must be attached to the jig referred to in subparagraph (e)(1) of this section.

(d) *Test failure.* If an automatic disengaging device fails one of the tests in this section, the cause of the failure must be identified and any needed design changes made. After a test failure and any design change, the failed test, and any previously completed tests affected by the change, must be rerun.

(e) *Tests.* The following approval tests must be conducted:

(1) *Test #1.* The automatic disengaging device shall be tested to destruction in a suitable jig. The breaking strength of the device, as determined in this test, must be greater than or equal to its working load multiplied by a safety factor of six.

(2) *Test #2.* The automatic disengaging device is attached to a test weight equal to 1.1 times the working load and the trip mechanism is locked in its closed position. The device and attached weight are then raised so that the weight clears the ground. The trip mechanism of the device is then cocked for automatic release. The initial action of cocking the trip mechanism must not release the test weight.

(3) *Test #3.* Test #2 is repeated with a test weight equal to the weight of the smallest liferaft listed in the application for approval and the equipment required for the raft by this part.

(4) *Test #4.* The automatic disengaging device is attached to a test weight equal to 1.1 times the working load and the trip mechanism locked in its closed position. The weight is then raised to a height of at least 6 m (20 ft.). Then the weight is lowered at a speed of 0.6 m/sec. (120 ft./min.) (±10%) and before striking the ground or water surface, is stopped as abruptly as possible. The automatic disengaging device must not release the test weight during the test.

(5) *Test #5.* Test #4 is repeated with the trip mechanism cocked for automatic release.

(6) *Test #6.* The automatic disengaging device is attached to a test weight equal to 1.1 times the working load and the trip mechanism locked in its closed position. The test weight then is raised to a height of at least 1.5 m (5 ft.) and then lowered so that it strikes the ground or water surface and the wire rope falls become slack. The device must not release when the test weight strikes the ground or water surface. Thereafter, one person following the instructions on the placard required by § 160.070–15(c), and without the use of tools, must be able to manually disconnect the test weight from the device.

(7) *Test #7.* The automatic disengaging device is attached to a test weight equal to 1.1 times the working load and the trip mechanism locked in its closed position. The test weight is raised to a height of at least 6 m (20 ft.) and then lowered at a speed of 0.6 m/sec. (120 ft./min.) (±10%) but is not allowed to strike the ground or water surface. During the lowering operation, the test weight is swung so that it strikes a vertical wall at least three times. The initial impact must be at a velocity of at least 1 m/sec. (3.3 ft/sec.). The automatic disengaging device must not release the test weight during the test.

(8) *Test #8.* Test #7 is repeated with the trip mechanism cocked for automatic release.

(9) *Test #9.* The automatic disengaging device is attached to a test weight equal to 1.1 times the working load and the trip mechanism locked in its closed position. The test weight is raised at least 6 m (20 ft.) and then lowered at a speed of 0.6 m/sec. (120 ft./min.) (±10%) but is not allowed to strike

the ground or water surface. During the lowering operation, the test weight is kept in continuous contact with a surface inclined 20° from the vertical. The automatic disengaging device must not release the test weight during the test.

(10) *Test #10.* Test #9 is repeated with the trip mechanism cocked for automatic release.

(11) *Test #11.* The automatic disengaging device is attached to a test weight equal to 1.1 times the working load and the trip mechanism is then locked in its closed position. The test weight is raised to a height of at least 6 m (20 ft.) and then lowered at a speed of 0.6 m/sec. (120 ft./min.) (±10%). When the test weight is 1.5 m (5 ft.) (±10%) above the ground or water surface, the trip mechanism is cocked for automatic release. The lowering operation is then completed. The automatic disengaging device must release the test weight when the test weight strikes the ground or water surface.

(12) *Test #12.* Test #11 is repeated with a test load that is 2.2 times the working load.

(f) *Visual examination.* Upon completing the tests described in paragraph (e) of this section, the automatic disengaging device is disassembled. Its parts are then examined for evidence of noncompliance with the requirements in §§ 160.070–9 and 160.070–11. There must be no evidence of deformation, excessive wear, or other damage.

§160.070–19 Production tests.

(a) Each automatic disengaging device manufactured under Coast Guard approval must be tested—

(1) In accordance with Subpart 159.007 of this chapter; and

(2) As prescribed in §§ 160.070–17(e)(5) and 160.070–17(e)(10) [Test #5 and Test #10].

(b) If a device fails testing, its defects must be corrected and the device retested until it passes.

(c) The independent laboratory that conducts or supervises the testing must also conduct the visual examination described in § 160.070–17(f), except that the device need not be disassembled.

(d) An automatic disengaging device may not be sold as Coast Guard approved unless—

(1) It passes testing; and

(2) Each defect uncovered in the visual examination is corrected.

§ 160.070–21 Marking.

(a) *Nameplate.* Each automatic disengaging device manufactured under Coast Guard approval must have a corrosion resistant nameplate.

(b) Each nameplate must contain the—

(1) Name of manufacturer;

(2) Coast Guard approval number;

(3) Manufacturer's brand or model designation;

(4) Serial number;

(5) Working load; and

(6) Date of manufacture.

(c) Each automatic disengaging device must be permanently and legibly marked with the name of the laboratory that conducted the production tests.

Dated: January 27, 1986.

J.W. Kime,

Rear Admiral (Lower Half), U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 86–2090 Filed 2–12–86; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

49 CFR Part 584

[Docket No. 83–05; Notice 3]

Splash and Spray Suppression Devices; Reopening of Comment Period

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

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: This notice reopens the comment period for a notice of proposed rulemaking published April 12, 1985, regarding splash and spray suppression devices. The comment period for this rulemaking action closed on August 12, 1985. However, NHTSA received at least three comments after the comment closing date that presented significant new data from field tests of splash and spray suppression devices. Additionally, one of those comments offered a new method of evaluating the data derived from field testing. NHTSA has spent much time analyzing these data and the suggested new method for evaluating the data, as well as analyzing the comments and data that were timely filed. This notice is intended to inform the public of the significant data in the comments received after the comment closing date, and to invite comments and analysis of the late data. To that end, NHTSA is reopening the comment period for an additional 60 days.

DATE: Comments should be received by NHTSA not later than April 14, 1986.

ADDRESS: Comments should refer to Docket No. 83–05 and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours are 8:00 am to 4:00 pm Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth W. Rutland, Office of Vehicle Safety Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590, (202–426–2154).

SUPPLEMENTARY INFORMATION: NHTSA published a notice of proposed rulemaking regarding the installation of splash and spray suppression devices on truck tractors, trailers, and semitrailers at 50 FR 14632, April 12, 1985. The comment period for that proposal was scheduled to close June 11, 1985. However, NHTSA extended the comment period so that it closed August 12, 1985; 50 FR 24550, June 11, 1985.

NHTSA received more than 20 comments after the comment closing date. At least three of these comments presented significant new data based on field testing of splash and spray suppression devices. The most comprehensive field testing was sponsored by the Motor Vehicle Manufacturers Association (MVMA). The report and data from that testing are filed at Docket 83–05–N01–163. NHTSA's initial analysis of these data verified some aspects of other field testing, but called into question some aspects of previous testing. Specifically, the new MVMA testing showed an inconsistency in the measured spray suppression when aeroaids are used on short-nosed conventional (SNC) tractor-van trailer combinations. NHTSA has been analyzing these data to try to determine the effects an aeroaid has on potential spray suppression.

Moreover, the MVMA comments suggested a new method of analyzing the field data. Under this method, the only measurements used in the analysis of the spray generated during a vehicle run are those taken by the particular sensors that are downwind of the prevailing winds at the time of the run. If applied to data generated in previous field tests, this method could significantly change the conclusions drawn from those data.

Another late comment relating to field tests was submitted by Taft, Stettinius & Hollister, on behalf of the Effective Spray Control Organization (83–05–N01–1550. This comment asserted that field tests showed that the Monsanto flap, rated at 83 percent in the spray tunnel, and a textured rubber flap, rated at 40 percent in the spray tunnel, performed virtually identically in the field tests.

One other late comment relating to performance of spray suppression devices on highways was submitted by Schlegel Corporation (83–05–N01–159).

Based on the evaluation of trucks equipped with spray suppression devices used on highways in the State of Oregon, this comment asserted that the visibility improvements associated with use of those devices are perceptible and significant enough to make it safer on highways on rainy days.

NHTSA has been thoroughly analyzing and evaluating these comments as well as those that were timely filed. In addition, the agency is continuing its research and testing on the effectiveness of spray suppression devices, and the correlation between measured effectiveness in the spray tunnel and in field tests. NHTSA believes that the data in the late-filed comments could significantly affect the analysis of splash and spray suppression devices and the resulting rulemaking decision. The agency is, therefore, reopening the comment period for this rulemaking action for an additional 60 days and inviting public comment on that data.

In this reopened comment period, it is not necessary for commenters to resubmit views and data that have been expressed in previous comments. The reason for reopening the comment period is to invite all persons to comment on the late data that have been submitted since August 12, 1985, the close of the comment period. NHTSA is particularly interested in comments on the field tests conducted in the three comments outlined above, and the commenters' analysis of the data collected therein.

Authority: 49 U.S.C. 2314; delegations of authority at 49 CFR 1.50 and 49 CFR 501.6.

Issued on February 10, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-3235 Filed 2-12-86; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Extension of Comment Period on Proposed Threatened Status for the Flattened Musk Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of extension of comment period.

SUMMARY: The Service gives notice that the comment period on the proposal to list the flattened musk turtle as a threatened species will be extended to allow for review and comment on the flattened musk turtle study by Dr. C. Kenneth Dodd for the Office of Surface Mining.

DATE: Comments on this proposal must be received by March 18, 1986.

ADDRESS: Written comments and materials should be sent to the Endangered Species Field Office, 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 (601/965-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION: .

Background

The flattened musk turtle is a small aquatic turtle found only in Alabama in the upper Black Warrior River system from Bankhead Dam northward. About 15 percent of this habitat seems to contain healthy reproducing populations. The flattened musk turtle was included in a notice of review of 12 species of turtles, published in the **Federal Register** for June 2, 1977 (42 FR 28903). The Service then contracted a status survey to Dr. Robert H. Mount and the following year included the species as a category 1 species in a Notice of Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species (December 30, 1982; 47 FR 58454). Additional survey work was sponsored by the Alabama Coal Association and Drummond Coal Company.

On December 1, 1983, the Service received a petition to list the flattened musk turtle, dated November 30, 1983, from the Environmental Defense Fund. On November 1, 1985, the Service proposed the species as threatened in the **Federal Register** (50 FR 45638). A public hearing was held in Birmingham, Alabama, on February 6, 1986. The comment period was reopened until February 16, 1986, to receive comments from the hearing.

A flattened musk turtle study, recently completed by Dr. C. Kenneth Dodd for the Office of Surface Mining, has provided additional data that was not available at the time the proposal was published. The Service is extending the comment period to March 18, 1986, to allow for review and comment on this data. Copies of the report may be requested from the Regional Director, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303. Written comments may now be submitted until March 18, 1986, to the Jackson Endangered Species Field Office (see **ADDRESSES** section).

Author

The primary author of this notice is Mr. John J. Pulliam (see **ADDRESSES** section) at (601/965-4900 or FTS 490-4900).

Authority

The authority for this section is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.;* 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).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife; Fish; Marine mammals; Plants (agriculture).

Dated: February 5, 1986.

David B. Allen,

Acting Regional Director.

[FR Doc. 86-3116 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of a fishery management plan amendment and request for comments.

SUMMARY: NOAA issues this notice that the Mid-Atlantic Fishery Management Council (Council) has submitted an amendment to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) for review by the Secretary of Commerce (Secretary), and is requesting comments from the public. The amendment would establish quarterly quotas and effort control measures for the Nantucket Shoals surf clam fishery, provide for adjustment of New England surf clam quotas between quarterly periods and years, and prohibit fishermen from making more than one surf clam trip during an authorized Mid-Atlantic Area surf clam fishing period. The amendment is intended to augment the management program for surf clams on Nantucket Shoals and to foreclose

opportunities for fishing outside of authorized Mid-Atlantic surf clam fishing periods and is in response to disapproval of §§ 652.7(n), 652.21(b), and 652.22(b).

DATE: Comments on the amendment should be submitted on or before March 11, 1986.

ADDRESS: All comments should be sent to Mr. Bruce Nicholls, Surf Clam Management Coordinator, National Marine Fisheries Service, 2 State Fish Pier, Gloucester, Massachusetts 01930–3097. Clearly mark "Comments on Surf Clam and Ocean Quahog Amendment 6" on the envelope.

Copies of the revised FMP, the amendment, and revised environmental assessment/regulatory impact review are available upon request from Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, Delaware 19901

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, 617–281–3600, ext. 263.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act, as amended [16 U.S.C. 1801 *et seq.*] at section 304(b)(3)(B), requires each regional fishery management council to submit any revised fishery management plan or amendment it prepares to the Secretary for review and approval or disapproval. The act also requires that the Secretary, upon receiving the revised plan or amendment, must immediately publish a notice that the revised plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the revised plan or amendment.

Amendment 6 to the FMP was submitted by the Council early in 1985. The Secretary approved portions of the amendment, and disapproved several provisions (50 FR 32707, August 14, 1985). The Council reviewed and reconsidered the measures which were disapproved and has submitted a revised Amendment 6 which includes provisions establishing quarterly quotas and effort control measures for the Nantucket Shoals surf clam fishery, provides for adjustment of New England surf clam quotas between quarterly periods and years, and prohibits fishermen from making more than one surf clam fishing trip during an authorized Mid-Atlantic surf clam fishing period.

Proposed regulations based on this amendment will be published within 10 days.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 652

Fisheries, Recordkeeping and reporting requirements.

Dated: February 10, 1986.

Richard B. Roe,

Director, Office Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–3218 Filed 2–10–86; 3:56 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 51, No. 30
Thursday, February 13, 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.

DEPARTMENT OF AGRICULTURE

Forest Service

Western Spruce Budworm Insect Control; Environmental Impact Statement Cancellation

The Department of Agriculture, Forest Service has withdrawn its intent to prepare an Environmental Impact Statement for the control of the Western Spruce Budworm insect infestations in Oregon and Washington during 1986. Following a successful field trial of the nonchemical insecticide, Bt, it has been determined that the 1986 Western Spruce Budworm control programs will not use chemicals. The proposed application of Bt has been found to cause no significant impact on the quality of the human environment and, therefore, an Environmental Impact Statement will not be prepared.

The Notice of Intent, published in the **Federal Register** of February 12, 1985, is hereby rescinded (85-3452).

For further information, contact Bruce Hostetler, Forest Pest Management, USDA Forest Service, P.O. Box 3623, Portland, Oregon 97208; Telephone (503) 221-3605.

Dated: February 5, 1986.

Wayne Lewis,

Acting Regional Forester.

[FR Doc. 86-3166 Filed 2-12-86; 8:45 am]

BILLING CODE 3410-11-M

Intent To Prepare an Environmental Impact Statement; Herbicide use for Weed Control in Deerlodge National Forest, Butte, MT

The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to use herbicides to control noxious weeds on the Deerlodge National Forest.

A range of alternatives will be considered including alternate methods of weed control and a no action alternative.

Federal, state, and local agencies; other individuals; and organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. The process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of potential cooperative agencies and assignment of responsibilities.

Frank Salomonsen, Forest Supervisor, Deerlodge National Forest, Butte, Montana is the responsible official.

The analysis is expected to take about five months. The draft environmental impact statement should be available for public review by April 1986. The environmental impact statement is scheduled to be completed by June, 1986.

Written comments and suggestions concerning the analysis should be sent to Frank Salomonsen, Deerlodge National Forest, Butte, Montana 59703, by March 15, 1986.

Questions about the proposed action and environmental impact statement should be directed to Tom Griffith, Resource Coordinator, Deerlodge National Forest, telephone (406) 496-3457.

Dated: February 3, 1986.

Frank E. Salomonsen,

Forest Supervisor.

[FR Doc. 86-3228 Filed 2-13-86; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-427-016]

Industrial Nitrocellulose From France; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on industrial nitrocellulose from France. The review covers the period March 22, 1983, through December 31, 1983, and 12 programs.

As a result of the review, the Department has preliminarily determined the net subsidy for the period of review to be 0.44 percent *ad valorem*, a rate we consider *de minimis*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 13, 1986.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 22, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 28521) a countervailing duty order on industrial nitrocellulose from France. We began this review under our old regulations on November 23, 1983, and sent a questionnaire to the French government on that day. After the promulgation of our new regulations, a foreign exporter, the Société Nationale des Poudres et Explosifs ("SNPE"), on September 6, 1985, requested an administrative review of the order, in accordance with § 355.10(a) of the Commerce Regulations. We published the new initiation on November 27, 1985 (50 FR 48745). The Department has now conducted that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of French industrial nitrocellulose containing between 10.8 percent and 12.2 percent nitrogen, not explosive grade nitrocellulose which contains over 12.2 percent nitrogen. Industrial nitracellulose is a dry, white, amorphous synthetic chemical produced by the action of nitric acid on cellulose. Industrial nitrocellulose comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing ink. Such

merchandise is currently classifiable as cellulosic plastic materials, other than cellulose acetate, under item 445.2500 of the Tariff Schedules of the United States Annotated.

The review covers the period March 22, 1983, through December 31, 1983, and 12 programs: (1) Cross-subsidization through military sales; (2) a grant from the Ministry of Defense; (3) a grant from DATAR; (4) the assumption of labor costs for civil servants; (5) increased government equity; (6) raw material purchases from government-owned firms; (7) assumption of labor costs by the FNE; (8) research and development assistance; (9) financing from the Fonds de Developpement Economique et Social; (10) loans from Crédit National; (11) financing from the Caisse des Dépôts et Consignations; and (12) loans from the Ministry of Research and Industry. SNPE is the only known producer and exporter to the United States of this merchandise.

Analysis of Programs

(1) Cross-Subsidization through Military Sales.

In our final determination in this case (48 FR 11971, March 22, 1983), we found on the basis of the best information available that the French government conferred a countervailable benefit on industrial nitrocellulose by paying excessive prices for SNPE's military nitrocellulose. Again on the basis of the best information available, we determined that SNPE used those "excess" profits to subsidize the purchase of fixed assets for the production of industrial nitrocellulose. We used the best information available because the French government and SNPE refused to provide data on the cost of production of industrial nitrocellulose. We requested the cost of production data to test whether the French government was conferring such a subsidy.

In this review, we requested, received, and verified complete cost of production information. After examining the data, we conclude that it cannot serve to show whether cross-subsidization occurs.

Cross-subsidization involves the issue of the fungibility of money because it implies that a benefit tied to a particular product is in fact not tied only to that product. If we were to consider money as fungible, we would treat a benefit ostensibly for a particular product as part of a pool of funds indirectly affecting other products. A strict fungibility of money approach would allow us to capture the effects of such a benefit by allocating it over all products, whether under investigation or not.

However, in Appendix II of *Certain Steel Products from Belgium (47 FR 39316), we stated that:*

> [w]e have not viewed all aid received for any purpose by companies under investigation as fungible, and thus equally beneficial to all products made by the company in question. While the law clearly envisions reaching subsidies which benefit the product under investigation indirectly, as well as directly, it would distort and be inconsistent with the clear intent of the statute, as reflected in its legislative history, to allocate to products under investigation any portion of benefits clearly tied to products not under investigation. This is particularly true since we are compelled to allocate fully to the products actually being investigated any subsidies directly tied to them. . . .

We continued to adhere to this interpretation of the statute. If we applied the fungibility approach in all cases, we would have to allocate over a company's total sales those benefits that we formerly allocated only over sales of the product under investigation. If Congress had intended that we universally apply the fungibility concept, we would have to countervail export subsidies on sales to countries other than the United States, allocate export subsidies on U.S. sales over total sales instead of over only export sales, and dilute benefits tied to a product under investigation by allocating them over total sales.

In fact, an export subsidy does not ordinarily provide an incentive to produce for domestic sale; a third country export subsidy does not ordinarily provide an incentive to export to the United States; and a benefit tied to a specific product does not ordinarily provide an incentive to produce anything other than that product.

We should not allocate benefits tied to products not under investigation over a product under investigation unless we have a clear reason to believe that such benefits do encourage the production or export to the United States of the merchandise under investigation. When we refer to tied benefits, the intent to subsidize must at times become a surrogate for the effect of a subsidy when that effect is not demonstrable. In the absence of evidence to the contrary, we conclude that a benefit tied to a specific product is intended to affect only that product and provides an incentive to produce or sell only that product.

In this case, we have no evidence that the French government does in fact pay excessive prices for military nitrocellulose. Even if the French government does pay excessive prices, such prices would normally encourage the production of sale of that product rather than industrial nitrocellulose. We have no evidence that any of the payments for military nitrocellulose are diverted to, or otherwise encourage, the production or sale of industrial nitrocellulose.

For these reasons, we preliminarily determine that cross-subsidization does not occur and that any benefit from potentially excessive prices on military nitrocellulose would be tied to a produce not under investigation.

(2) Grant From the Ministry of Defense

The Ministry of Defense provided a grant to SNPE in 1975 to modernize the company's Bergerac plant, where SNPE produces (among other products) industrial nitrocellulose. We determined in our original investigation that this grant constitutes a subsidy.

To calculate the benefit, we applied the grant methodology outlined in the Subsidies Appendix to the notice of "Final Affirmative Countervailing Duty Order on certain cold-rolled carbon steel flat-rolled products from Argentina" (49 FR 18006, April 26, 1984) ("the Subsidies Appendix"). We allocated the grant over 10 years, the average useful life of assets in the nitrocellulose industry, according to the Asset Guideline Classes of the Internal Revenue Service. We used as the discount rate the 1975 national average corporate bond rate in France (as reported in Morgan Guarantee Trust Company's *World Financial Markets*) because we have no information on SNPE's weighted cost of capital for that year. On this basis, we preliminarily determine the benefit from this program to be 0.23 percent *ad valorem*.

(3) DATAR Grant

The Délégation à l'Aménagement du Territoire et à l'Action Régionale ("DATAR") coordinates the programs of various government agencies that provide incentives to establish or expand businesses in certain regions of France. SNPE received a grant from DATAR in 1979 to improve the production facilities and general infrastructure of the Bergerac plant. We determined in the original investigation that this program constitutes a subsidy.

Using the same methodology as described for the Ministry of Defense grant, we allocated the grant over 10 years and used as the discount rate the 1979 national average corporate bond rate in France. On this basis, we preliminarily determine the benefit from this program to be 0.04 percent *ad valorem*.

(4) Assumption of Labor Costs for Civil Servants

Some employees of SNPE retain government civil service status as a result of the company's change from a government agency to a government-owned private corporation in 1971. SNPE is responsible for paying the wages and benefits of all its employees.

In general, SNPE's contribution for social security benefits, such as health insurance, pensions, and unemployment insurance, is lower for its employees with civil service status than for other employees. Because the French government assumes part of SNPE's contributions for those with civil service status, we determined in the original investigation that this program constitutes a subsidy.

To calculate the benefit, we took the difference between SNPE's annual contribution for its civil service employees and for other employees and multiplied it by the number of its civil service workers involved in industrial nitrocellulose production. We allocated the result over total sales of industrial nitrocellulose during the period of review. On this basis, we preliminarily determine the benefit from this program to be 0.17 percent *ad valorem*.

(5) Increased Government Equity in SNPE

In 1983, the Government of France increased its equity holdings in SNPE. To determine whether the purchase of additional shares by the French government was made in accordance with commercial considerations, we examined SNPE's financial ratios for 1981 and 1982.

In our final determination, we found that SNPE had reported a profit in every year between 1972 and 1981 except 1975, when one of the company's plants was accidentally destroyed. SNPE continued to report healthy and rising profits in 1982 and 1983. For 1981 and 1982, we examined the company's interest to income ratio, its quick ratio, its current ratio, its cash flow from operations, its return on sales, and its return on equity. Interest expenses for this period represented only a fraction of net income. The quick ratios were below one during this period, showing that a significant portion of the company's current assets was made up of inventory. However, the current ratios, which give the relationship of current assets plus inventory to current liabilities, were well above one and therefore reasonably strong. Although the 1982 cash flow from operations was slightly in the red, the company reported a high return on sales and an even higher return on equity for both years.

We also examined several trade journals and periodicals published in France and abroad in 1982 and early 1983 in order to determine whether a commercial investor would have considered investment in the nitrocellulose industry attractive. Industrial nitrocellulose is classified as part of the plastics industry in the Office of Management and Budget's *Standard Industrial Classification Manual*, and as part of the chemical industry in the IRS Asset Guideline tables. Articles in *Usine Nouvelle* and the *Financial Times* of London indicated that the chemical industry in France suffered losses of FF5 billion in 1982. However, the *Wall Street Journal Europe* reported operating profits for the French chemical industry in 1982. *European Chemical News* and *I1 Sole 24 Ore* of Milan reported that French chemical output would rise somewhere between 0.6 percent and 3 percent in 1983. *Information Chimie* predicted that the basic demand for chemicals in France would rise more than overall industrial output through 1987 and that plastics output would increase through 1986. *Chimie Actualités* reported that plastic materials output in France rose in 1982 and compared to 1981 and Monde reported that the French chemical sector's turnover would rise 11 percent in 1982 as compared to 1981.

Given SNPE's favorable data and the preponderance of encouraging news reported in trade journals at the time of the French government's new equity infusions in SNPE, we conclude that a commercial investor would have considered investment in that company to be an attractive prospect. Based on this information, we find that SNPE remained equity-worthy during the period of review and that the government's 1983 purchase of shares in SNPE was not inconsistent with commercial considerations. Therefore, we preliminarily determine that the government's 1983 equity infusions in SNPE do not constitute a subsidy.

(6) Raw Material Purchases From Government-Owned Firms

During the period of review, SNPE purchased nitric acid, oleum, and woodpulp from companies recently nationalized by the Government of France. The petitioner alleges that SNPE benefited from the government's acquisition of those suppliers.

SNPE signed a contract with one government-owned supplier of nitric acid long before that supplier was nationalized. The price formula set in that contract is still in effect. We also examined SNPE's purchases of woodpulp and oleum and found that it paid prices negotiated at arm's length.

We therefore preliminarily determine that SNPE did not benefit from purchases of its raw materials from government-owned suppliers.

(7) Fonds National d'Emploi

In 1982, SNPE signed a contract with the Fonds National d'Emploi ("FNE") with two significant features: 1) to allow early retirement for employees provided each were replaced by a newly-hired employee, and 2) to hire new employees for training. In return, SNPE agreed that the total number of employees would not drop below the level of employment at the time the contract with the FNE was signed. Any firm in France may use this program. Because the program is generally available, we preliminarily determine that it does not constitute a subsidy.

(8) Other Programs

We also examined the following programs and preliminarily find that SNPE did not use them during the period of review:

(A) Research and development assistance;

(B) Financing from the Fonds de Developpement Economique et Social;

(C) Preferential loans from Crédit National;

(D) Financing from the Caisse des Dépôts et Consignations; and,

(E) Loans from the Ministry of Research and Industry.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be 0.44 percent and *ad valorem* for the period of review. The Department considers any rate less than 0.50 percent *ad valorem* to be *de minimis*.

The Department therefore intends to instruct the Customs Service not to assess countervailing duties for shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after March 22, 1983, the date of our affirmative final determination (48 FR 37051), and exported on or before December 31, 1983.

Further, the Department intends to instruct the Customs Service to waive deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit waiver shall remain in

effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 55 days from the date of publication, or the last workday preceding. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10; 50 FR 32556, August 13, 1985).

Dated: February 10, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary Import Administration.

[FR Doc. 86-3203 Filed 2-12-86; 8:45 am]

BILLING CODE 3510-DS-M

[Case No. OEE-2-85]

Export Privilege; Actions Affecting; Werner Scheele, et al.

In the matter of: Werner Scheele, individually and doing business as CHB Computer Hardware Vertriebs GmbH, a/k/a: CHB GmbH and Comserv GmbH and Comserv Computer Leasing GmbH, with addresses at 427 Langenberger Strasse, 4300 Essen 14, Federal Republic of Germany and 449/451 Langenberger Strasse, 4300 Essen 14, Federal Republic of Germany; Bengt, Andersson, individually with an address at Bodalsvagen 20 XII, Lidingo, Sweden, and doing business as BEA Computer, Vasagatan 15-17, S-111 20 Stockholm, Sweden; and Beacom International AB, Vasagatan 15-17, S-111 20 Stockholm, Sweden; VEB Deutrans International, Sassnitzgatan 2, 231 00 Trelleborg, Sweden, Respondents.

Order Renewing Temporary Denial of Export Privileges

The Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), pursuant to the provisions of Section 388.19 of the Export Administration Regulations, 15 CFR Parts 368-399 (1985) (the Regulations,[1] issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app. 2401-2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985) (the Act), has asked that the order temporarily denying all export privileges to Werner Scheele, individually and doing business as CHB Computer Hardware Vertriebs GmbH, a/k/a CHB GmbH, Comserv GmbH and Comserv Computer Leasing GmbH, all of Essen, Federal Republic of Germany, to Bengt Andersson of Lidingo, Sweden, individually and doing business as BEA Computer and Beacom International AB of Stockholm, Sweden, and to VEB Deutrans International of Trelleborg, Sweden (hereinafter collectively referred to as respondents), initially issued on December 9, 1985 (50 FR 50931 (December 13, 1985)), be renewed.

The Department states that, as a result of an ongoing investigation, it has reason to believe that respondents have (1) conspired and acted in concert to violate the Act and the Regulations; (2) indirectly caused the filing of false and misleading information with the Department for the purpose of effecting exports from the United States; and (3) reexported U.S.-origin equipment, U.S.-origin computers and computer-related equipment, to proscribed destinations without authorization from the Department. The Department states that it has reason to believe that the conspiracy involves Scheele's obtaining U.S.-origin goods, both from the United States and abroad, through his companies located in the Federal Republic of Germany (FRG). The Department states further that it believes that Scheele exported the U.S.-origin goods to Andersson in Sweden, using export documents obtained from the FRG government wherein Scheele declared that the goods were intended for ultimate end-use in Sweden. However, the Department has reason to believe that respondents intended that, once the goods were in Sweden, the respondents would, and in fact did, reexport the U.S.-origin goods to proscribed destinations.

The Department further states that it has reason to believe that respondents are continuing in their efforts to obtain U.S.-origin goods. The Department states that its investigation continues to give it reason to believe that the violations under investigation were deliberate, covert and likely to occur again. The Department submits that renewal of the order temporarily denying export privileges to respondents is necessary in order to prevent an imminent violation and to give notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the likelihood that they will continue to engage in activities which are in violation of the Act and the Regulations.

Based upon the showing made by the Department, I find that renewal of the order temporarily denying all export privileges to respondents and to any person now or hereafter related to them is necessary in the public interest to prevent an imminent violation of the Act and the Regulations. This order is issued without a hearing, the respondents' not having filed any opposition to the Department's renewal request within the time specified in Section 388.19(d)(2) of the Regulations.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in preparing or filing any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization

[1] Parts 387 and 388 were recently amended and republished. See 50 FR 53130 (December 30, 1985).

with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. No person, firm corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent denied export privileges, or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(e) of the Regulations, any respondent may, at any time, appeal this temporary denial order by filing with the Office of the Administrative Law Judges, U.S. Department of Commerce, Room H-6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support thereof.

VI. Pursuant to section 388.19(d)(2)(iii) of the Regulations, I am issuing this order today upon the expiration of the time specified for my receipt of any opposition by any respondent to the Department's renewal request. This order shall become effective on February 7, 1986 and shall remain in effect for 60 days.

VII. In accordance with the provisions of § 388.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose any request to renew this temporary denial order by filing a written submission with the Deputy Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order renewing the temporary denial of export privileges to the respondents shall be served upon the respondents and published in the **Federal Register.**

Dated: February 6, 1986.

Theodore W. Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 86-3204 Filed 2-12-86; 8:45 am]

BILLNG CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council will convene a public meeting, March 5–6 1986, at the Ramada Inn, Essington, PA (telephone: 215–521–9600), to discuss joint venture applications, swordfish, billfish, bluefish and other fishery management matters. For further information contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, 300 South New Street, Room 2115, Dover, DE 19901; telephone: (302) 674–2331.

Dated: February 7, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR. Doc. 86-3223 Filed 2-12-86; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

A workgroup of the Plan Team for the Gulf of Alaska Groundfish Fishery Management Plan will convene a public meeting, February 27, 1986 at 9 a.m., through February 28, at the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, Building 4, Room 2143, Seattle, WA, to continue development of a frameworked groundfish plan. For further information contact Steve Davis, North Pacific Fishery Management Council, 411 West Fourth Avenue, Box 103136, Anchorage, AK 99510; telephone (907) 274–4563.

Dated: February 7, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-3224 Filed 2-12-86; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Salmon Plan Development Team will convene a public meeting, February 10–14, 1986, at the Council's Office, Metro Center, 2000 S.W. First Avenue, Suite 420, Portland, OR to draft the 1986 stock status report for presentation to the Council in March. The meeting will convene February 10 at 1 p.m. Written or oral statements pertaining to salmon abundance projections will be accepted at appropriate times during the meeting. For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 S.W. First Avenue, Suite 420, Portland, OR 97201; telephone: (503) 221–6352.

Dated: Februrary 3, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-3225 Filed 2-12-86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; Mr. Jeffrey D. Goodyear (P317A)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name Mr. Jeffrey D. Goodyear, Ecology Research Group, Inc.

b. Address 97–B Howland Avenue, Jamestown, RI 02835.

2. Type of Permit: Scientific Research/Scientific Purposes.

3. Name of Marine Mammals:

Humpback whale (*Megaptera novaeangliae*)

4. Type of Take and number: Up to 60 humpback whales per year will be taken by harassment a maximum of six times each. Of these, 30 will be taken by radio-tagging.

5. Location of Activity: Western North Atlantic.

6. Period of Activity: 1986–1988.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee on Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC; and

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: February 6, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–3201 Filed 2–12–86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals, Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. Fishery Conservation Zone during 1986 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the regulations thereunder.

Applicant: FEDERPESCA, Rome, Italy has applied for a Category 1: Towed or Dragged Gear general permit to take up to 20 small cetaceans and 20 harbor seals in the North Atlantic Ocean.

The application is available for review in the the following office:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC.

Interested parties may submit written comments on this application within thirty (30) days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, DC 20235.

Dated: February 5, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–3202 Filed 2–12–86; 8:45 am]

BILLING CODE 3510-22-M

Listing Endangered and Threatened Species and Designating Critical Habitat; Action on a Petition to List; Winter-Run Chinook Salmon in the Sacramento River, California

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of Determination on Petition and Request for Information.

SUMMARY: The National Marine Fisheries Service has received a petition to add the winter-run of chinook salmon (*Oncorhynchus tshawytscha*) in the Sacramento River, to the U.S. List of Endangered and Threatened Wildlife. In accordance with Section 4 of the Endangered Species Act of 1973, the Assistant Administrator for Fisheries has determined that the petition presents substantial scientific information indicating that the action may be warranted. As required by section 4(b)(3)(A) of the Act, the Service has commenced a review of the status of *O. tshawytscha* to determine if the petitioned action is warranted. To ensure that the review is comprehensive, the Service is soliciting information and data concerning the status of *O. tshawytscha*.

DATE: Comments and information should be received by April 14, 1986.

ADDRESS: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Carter, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235 (202/634–7471) or Mr. James Lecky, U.S. Department of Commerce, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731 (213/548–2575).

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Endangered Species Act of 1973 (ESA) contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce to add a species to, or remove a species from the List of Endangered and Threatened Wildlife (List). Section 4(b)(3)(A) of the ESA requires that, to the maximum extent practicable, within 90 days after receiving such a petition the Secretary must determine whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. This information standard for petitions is the result of amendments made to section 4 of the ESA in 1982. Regulations implementing these amendments were published in the **Federal Register** (49 FR 38908) on October 1, 1984. The Service interprets "substantial scientific or commercial information" to mean the amount of information that would lead a reasonable person to believe that the proposed measure may be warranted. The criteria used in making such determinations are found in 50 CFR 424.14(b). These criteria essentially are the same as those contained in the regulations implementing the 1982 amendments to Section 4 of the ESA (49 FR 38908).

Listing Factors and Basis for Determination

Pursuant to section 4(a)(1) of the ESA, a species is determined to be endangered or threatened for any of the following reasons: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence.

The 1982 amendments to the ESA clarify that determinations concerning decisions on listings shall be made solely on the best scientific and commercial data available after conducting a status review of the species and after taking into account those efforts, if any, being made by any State, or foreign nation, or subdivision thereof, to protect such species. The purpose of these amendments is to

ensure that decisions in every phase of the process to list or delist species are made solely on biological criteria and to prevent non-biological considerations from affecting such decisions (H.R. Rep. No. 97–835, 97th Cong., 2d Sess. 19 (1982) Conference Report).

Petition Received

On November 7, 1985, the Service received a petition from Mr. Cay C. Goude, California-Nevada Chapter, American Fisheries Society, to list the winter-run of chinook salmon (*Oncorhynchus tshawytscha*) in the Sacramento River, California, as a threatened species.

The Assistant Administrator for Fisheries has determined that the petition presents substantial scientific information indicating that the petitioned action may be warranted. Pursuant to section 4 of the ESA, this determination requires that a review of the status of *O. tshawytscha* be conducted to determine if the petitioned action is warranted. In addition, section 4 also requires that within 12 months of receipt of a "substantial" petition the Secretary must make one of the following findings: (1) The petitioned action is not warranted; (2) the petitioned action is warranted; or (3) the petitioned action is warranted, but pending listing proposals preclude immediate proposal of a regulation to implement the action. A Notice of the finding must be published in the **Federal Register** and in the case of (2) above, the completed text of a proposed regulation to implement the action must be included.

The petition does not address the designation of Critical Habitat. If it is determined that the petitioned action is warranted, section 4(a)(3)(A) of the ESA requires that Critical Habitat be addressed in the publication of proposed and final rules listing the species.

Biological Information Solicited

To ensure that the review is complete and is based on the best available scientific and commercial data concerning *O. tshawytscha*, the Service is soliciting information and comments concerning the status of the species from any interested party. The Service requests that such data, information, and comments be accompanied by: (1) Supporting documentation, such as maps, bibliographic reference, or reprints of pertinent publications; (2) the Party's name, address, and any association, institution, or business that the Party represents.

Dated: February 6, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86–3199 Filed 2–12–86; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fur Seals; Meeting

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of meeting.

SUMMARY: This notice is to announce a meeting to discuss fur seal issues in preparation for the Ottawa Meeting Concerning North Pacific Fur Seals. This notice also announces the availability of a draft issue paper on the Ottawa meeting. Issues that will be discussed include the future role of the Interim Convention on Conservation of North Pacific Fur Seals, long-term research planning, the entanglement problem, and the U.S. regulated 1985 subsistence harvest. The issue paper is available on request from the information contact listed below.

DATE: March 19, 1986, 10:00 a.m. to 4:00 p.m.

ADDRESS: National Marine Fisheries Service, Northwest Region, Building 9-Auditorium, 7600 Sand Point Way, N.E., Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ted I. Lillestolen, Office of International Fisheries (F/M31), National Marine Fisheries Service, Washington, DC, 20235, (202) 634–7257.

Dated: February 10, 1986.

Carmen J. Blondin,

Deputy Assistent Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–3200 Filed 2–12–86; 8:45 am]

BILLING CODE 3510-32-M

[Docket No. 50720–5154]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of control date for entry into the Gulf of Alaska sablefish fishery.

SUMMARY: This notice announces that anyone entering the commercial sablefish fishery in the Gulf of Alaska after September 26, 1985 (control date) will not be assured of future access to the sablefish resource if a management regime is developed and implemented that limits the number of participants in the fishery. This announcement is necessary for public awareness of a potential eligibility criterion for access to the Gulf of Alaska sablefish resource. This announcement does not prevent any other date for eligibility in the fishery or another method of controlling fishing effort from being proposed and implemented. The intended effect of this announcement is to discourage new entry to the fishery based on speculation while discussions continue on whether and how access to the sablefish resource should be controlled.

FOR FURTHER INFORMATION CONTACT: Jay J.C. Ginter (Resource Management Specialist), NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) was developed and recently amended by the North Pacific Fishery Management Council (Council). The final rule implementing this Amendment 14 to the FMP was approved by the Director, Alaska Region, NMFS (Regional Director), on September 26, 1985, and published in the **Federal Register** (50 FR 43193 October 24, 1985).

This notice is not part of Amendment 14. However, in his letter to the Council approving the amendment, the Regional Director noted that NMFS was ". . . convinced that the rapid increase in fishing effort experienced in the sablefish fishery is likely to continue if not checked." Since the current fishing fleet is capable of harvesting the entire sablefish quota, additional fishing effort would lead to harvesting inefficiencies, more management constraints, and increased conservation risks. The Regional Director recommended that the Council begin immediately to address this problem by developing additional controls on fishing effort. Such controls contemplated in his letter include those that control access to the sablefish fishery resource.

To assist the Council, the Regional Director offered ". . . to publish a notice in the **Federal Register**, announcing that anyone entering the sablefish fishery after September 26, 1985, will not be assured to future participation should the Council develop, and the Secretary [of Commerce] implement, an effort control regime that limits the number of participants in the fishery." At its meeting of December 11–13, 1985, the Council voted to accept this offer and adopted September 26, 1985, as the control date. No further action was taken on this issue at that time.

The NMFS and the Council intend, in making this announcement, to discourage speculative entry into the

sablefish fishery while potential entry or access control management regimes are discussed by the Council and possibly developed. If the Council decides to develop an access or entry control management regime, some fishermen who do not currently fish for sablefish in the Gulf of Alaska and never have done so may decide to enter the fishery for the sole purpose of establishing a record of making commercial landings of sablefish. Such a record generally is considered indicative of economic dependence on the fishery. On this basis, the fishermen may successfully claim access to a fishery that is otherwise limited to traditional participants. New entrants may have to buy the fishing rights or a permit from an existing participant. Hence, initial access to the fishery at little or no cost may result in a windfall gain when selling an access right to a new entrant. This speculation often is responsible for a rapid increase in fishing effort in fisheries already fully or over developed when management authorities begin to consider use of a limited access management regime. The original problems become exacerbated by those who seek possible windall gain from the solutions being discussed. To help distinguish *bon fide*, established sablefish fishermen from the speculative entrants to a fishery, a management authority may set a control date before discussions and planning of controlled access regimes begin. Fishermen are notified that entering the fishery after that date will not necessarily assure them of future access to the fishery resource on grounds of previous participation. Other qualifying criteria may be applied for entry.

This announcement establishes September 26, 1985, as such a control date for potential use in determining historical or traditional participation in the Gulf of Alaska sablefish fishery. This action does not commit the Council or the Secretary to any particular management regime or criterion for entry to the sablefish fishery. Fishermen are not guaranteed future participation in the sablefish fishery regardless of their date of entry or intensity of participation in the fishery before or after the control date. The Council may choose a different control date, or it may choose a management regime that does not make use of such a date. The Council may choose to give variably weighted consideration to fishermen in the fishery before and after the control date. The Council may choose also to take no further action to control entry or access to the fishery.

Dated: February 3, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

[FR Doc. 86-2659 Filed 2-12-86; 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 A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Thursday, March 19, 1986.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc. 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Harold Summer, 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 A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. 92-463, as amended (5 U.S.C. App. ii section 10(d) (1982)), it has been determined 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.

Dated: February 10, 1986.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-3221 Filed 2-12-86; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Wednesday, March 18, 1986.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Becky Terry, AGED Secretariat, 2011 Crystal Drive, Arlington, Virginia 22202.

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 B 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 Microelectronics area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. 92-463, as amended, (5 U.S.C. App. II section 10(d) (1982)), it has been determined 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.

Dated: February 10, 1986.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-3222 Filed 2-12-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Civilian Radioactive Waste Transportation Business Plan; Availability

AGENCY: Department of Energy.

ACTION: Notice of Availability of the Civilian Radioactive Waste Transportation Business Plan.

The Office of Civilian Radioactive Waste Management (OCRWM), U.S. Department of Energy, has developed a Transportation Business Plan to assist in implementing section 137 of the Nuclear

Waste Policy Act of 1982. The document will provide information on the plans and strategies for the development and operation of the projected system to transport spend fuel or high-level waste as authorized by the Act.

Two preliminary documents entitled: (1) Transportation Business Plan: Strategy Options Document and (2) Draft Transportation Business Plan were issued for public review. Comments received have been incorporated in the Transportation Business Plan which is being provided at this time to all interested parties.

This document, which will be updated periodically, is specifically intended to be an instrument for interaction between industry, State, local and tribal governments, and the public. The Department seeks (1) to identify industry interests in participating with the Department to establish and operate the waste transportation system, (2) to identify and address State, local and tribal concerns in development of specific strategies and action plans and (3) to understand the public's concerns. This is in accord with the principle of consultation and cooperation among affected parties as established by the Nuclear Waste Policy Act.

Copies of the Transportation Business Plan may be obtained after February 10, 1986, by telephoning (202) 252–5575, or by direct pickup from Room 1E206, or requesting in writing the Transportation Business Plan (OCRWM), from the U.S. Department of Energy, Office of Public Affairs, 1000 Independence Avenue, SW., Forrestal Building, Washington, DC 20585.

Issued in Washington, DC February 4, 1986.

Ben C. Rusche,

Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 86–3147 Filed 2–12–86; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Alliance Oil and Refining Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Action taken on Consent Order.

SUMMARY: The Ecomomic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Alliance Oil and Refining Company (Alliance) as a final order of the Department.

FOR FURTHER INFORMATION CONTACT: Sandra K. Webb, Director, Houston Office, Ecomomic Regulatory Administration, One Allen Center, Suite 610, 500 Dallas St., Houston, Texas 77002.

SUPPLEMENTARY INFORMATION: On November 19, 1985, 50 FR 47584, the ERA published a notice in the **Federal Register** ("Notice") that it had executed a proposed Consent Order with Alliance Oil and Refining Company on October 21, 1985 which would not become effective sooner than 30 days after publication of that Notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order. ERA received two comments. Neither of the commenters questioned the basis of the settlement or the adequacy of the settlement amount, and both commenters concurred with the proposal to implement the Subpart V refund procedures. The Consent Order therefore was made final and effective as proposed.

Issued in Houston, Texas on the 28th day of January, 1986.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 86–3144 Filed 2–12–86; 8:45 am]

BILLING CODE 6450–01–M

Proposed Consent Order With Atlantic Richfield Company

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Proposed Consent Order and opportunity for public comment.

SUMMARY: The Economic Regulatory Administration (ERA) announces a proposed Consent Order between the Department of Energy (DOE) and Atlantic Richfield Company (ARCO). The agreement proposes to settle matters not previously resolved in the Consent Order with ARCO dated January 23, 1985 (1985 Consent Order). The 1985 Consent Order explicitly excluded from its coverage ARCO's compliance with federal petroleum price regulations which pertained to the prices charged by ARCO in sales of price-controlled crude oil which were related, or linked, to transactions involving other crude oil. Based upon findings developed in an audit of such transactions, ERA issued a Proposed Remedial Order (PRO), Case Number KRO–0170, alleging liability for overcharges in the amount of $239,948,207.00 and $259,347,879.00 in interest. This amount, plus subsequently accrued interest, represents ARCO's liability were the government to prevail in litigating the issues raised in the PRO. This Consent Order would resolve ARCO's potential liability for overcharges in linked crude oil transactions during the period January 1, 1973 through January 27, 1981. ARCO has disputed ERA's allegations of regulatory violations and denies any overcharge liability.

ERA proposes that ARCO's liability for potential overcharges and interest be settled for $313 million. This proposed settlement reflects negotiated compromises present in every settlement, including assessments of litigation risks in significant areas of dispute between ERA and ARCO.

Within thirty days of the effective date of the Consent Order, ARCO will make a restitutionary payment of $313 million, plus interest from January 24, 1986, the date the Consent Order was executed by DOE. ERA will direct that these monies be deposited in a suitable account for appropriate distribution by DOE. In addition, within thirty days of the effective date of the Consent Order ARCO will pay $2 million for deposit into the Miscellaneous Receipts account of the United States Department of the Treasury as a compromise of civil penalites which DOE might have asserted pursuant to section 5 of the Emergency Petroleum Allocations Act of 1973, as amended.

Pursuant to 10 CFR 205.199J, ERA will receive written comments on the proposed Order for thirty (30) days following publication of this Notice. Comments should be addressed to: ARCO Consent Order Comments, RG–13, Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, DC 20585.

Following this coment period, on March 21, 1986, at 10:00 a.m. in the Department of Energy Auditorium, Room GE–086, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, ERA will conduct a public hearing to provide interested persons an additional opportunity to present comments, information and recommendations as to whether the settlement should be made final by DOE.

Requests to make presentations must be received in writing by 5:00 p.m., March 17, 1986, and should be marked "Requests to Make Oral Comments" and forwarded to the same address indicated for written comments.

The request should identify the person (with address and telephone number) who wishes to make a presentation and

the amount of time desired. Presentations should be limited to 15 minutes. Persons wishing to participate in the hearing who have not scheduled time will be allowed to make presentations following those who have been scheduled.

ERA will consider the comments, information and recommendations received from the public in evaluating whether to make final the proposed settlement. This will result in one of the following courses of action: Rejection of the settlement; acceptance of the settlement and issuance of a final Order; or renegotiation of the agreement and, if successful, issuance of the modified agreement as a final Order. DOE's final decision will be published in the **Federal Register**, along with an analysis of and response to the significant written and oral comments, as any other considerations that were relevant to the decision.

FOR FURTHER INFORMATION CONTACT:
Robert Heiss, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6727.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Negotiation Process
III. Determination of Reasonable Settlement Amount
IV. Terms and Conditions of the Consent Order
V. Resolution of Litigation Matters

I. Introduction

ARCO is a major petroleum refiner subject to the audit jurisdiction of ERA to determine compliance with the federal petroleum price and allocation regulations. During the period covered by this proposed Order (January 1, 1973 until January 28, 1981), ARCO engaged in, among other things, the production, importation, refining, and sale of crude oil; the sale of residual fuel oil, motor gasoline, middle distillates, aviation fuel, propane and other refined petroleum products; and the extraction, fractionation and sale of natural gas liquids and natural gas liquid products.

ERA conducted an intensified audit of ARCO's compliance for the period of September 1973 to the date when federal price and allocation controls were ended by the President (January 28, 1981, Executive Order 12287). On March 1, 1985, ERA issued a notice announcing a proposed consent order between DOE and ARCO which, with specific exceptions, would resolve all matters relating to ARCO's compliance with federal petroleum price and allocation regulations for the period January 1, 1973 to January 28, 1981. 50 FR 8366 (March 1, 1985). That proposed order, which required ARCO to pay $65.7 million, plus interest accrued while that amount was in an escrow account, settled ARCO's potential liability for $66 million in alleged overcharges plus attributable interest. Following the solicitation of written comments and a public hearing, ERA issued a notice on June 19, 1985 announcing that the proposed consent order was made a final order of DOE. 50 FR 26603 (June 27, 1985). Pursuant to that Order, ARCO paid DOE $68,035,416.00.

One of the matters expressly excluded from the coverage of the 1985 Consent Order, as provided in paragraph 501(g) of that agreement, was ARCO's compliance with the federal petroleum price and allocation regulations which pertain to the sale or other transfer of lower or upper tier crude oil in transactions which were related by sale, purchase, exchange or other transfer to transactions involving other crude oil. In the 1985 Consent Order ARCO expressly agreed to maintain, and to produce on written request, records, documents, data, contracts, correspondence and information concerning such transactions. Pursuant to this commitment, ARCO submitted materials to ERA. Following completion of an audit, ERA raised issues with respect to certain of ARCO's crude oil purchase and sale transactions. In October 1985 ERA issued to ARCO a PRO, 50 FR 48120 (November 21, 1985), which, as amended, charges ARCO with selling domestic price-controlled crude oil at prices in excess of those permitted by DOE regulations at 10 CFR 212.183(b), 205.202, 210.62(c), and 212.10(a) during the period March 1, 1978 through January 27, 1981.

The PRO alleges that during the period from August 1, 1977 through January 27, 1981, ARCO sold 48,251,710 barrels of domestic price-controlled crude oil to eleven crude oil resellers, conditioning those sales upon ARCO's receipt of various price concessions from those resellers on linked, or tied-in, transactions, in the form of discounts on ARCO's purchases of foreign, stripper well, and other crude oil, or in the form of premiums on its sales of foreign crude oil. As a result, the PRO alleges, ARCO received prices in excess of those permitted in its sales of controlled crude oil.

During the period of alleged violation, March 1, 1978 through January 27, 1981, the total excess consideration, or premiums, alleged to have been unlawfully received by ARCO from the eleven resellers for the 48,251,710 barrels of domestic price-controlled crude oil was $239,948,207.00, exclusive of interest. The interest thereon, computed through October 31, 1985, was $259,347,879.00, yielding a total of $499,296,086.00.

ERA has preliminarily agreed to the settlement amount after assessing the litigation risks associated with establishing the alleged overcharges, and considering the asserted facts and legal issues underlying the PRO, and appropriate settlement compromises related to those issues.

The settlement calls for ARCO to make $313 million (plus interest from the date of execution by DOE) in restitutionary payment and $2 million in compromise of civil penalties to discharge in full all of its obligations under the price and allocation regulations with respect to its linked, or tied-in, transactions between January 1, 1973 and January 28, 1981, particularly including, as noted above, the violations alleged in the PRO.

The restitutionary sum would be paid to DOE for appropriate distribution. The amount paid in compromise of civil penalties which DOE might have asserted pursuant to Section 5 of the Emergency Petroleum Allocation Act of 1973, as amended, would be for deposit into the Miscellaneous Receipts account of the United States Department of the Treasury.

II. Negotiation Process

As described above, the pending PRO alleges that ARCO's maximum liability for crude oil overcharges in linked transactions, exclusive of interest, is approximately $240 million. ERA's investigation did not disclose violations in the period of price controls prior to March 1, 1978.

In the negotiation process which led to this proposed settlement, ERA analyzed the results of the audit which underlies the PRO, and the nature of the alleged regulatory violations. During the ARCO negotiations, ERA reexamined the regulatory violations alleged in the PRO and ARCO's total liability exposure. ERA also considered alternative measures of liability urged by ARCO during the course of discussions which preceded this proposed settlement.

Although ERA has issued a PRO on the crude oil price violations resulting from linked transactions, ARCO has the opportunity to defend against ERA's determination before DOE's Office of Hearings and Appeals. If unsuccessful, ARCO may appeal an adverse decision

to the Federal Energy Regulatory Commission and thence to federal district and appeal courts.

III. Determination of Reasonable Settlement Amount

The total amount of the violation alleged in the PRO could only be recovered by the government if, in litigation, all issues raised in the PRO were adjudicated in ERA's favor. The risks inherent in litigation make such an outcome uncertain.

In addition to the analysis of litigation risks, ERA took into account such factors as the interest which could be added to possible adjudicated refund amounts, the number and complexity of the legal and factual issues, the time and expense required for the government to fully litigate every issue, as well as the operative principle necessary in most successful settlement—recognition by the parties of the need to reasonably compromise their respective interests and expectations. Based on all of these considerations, ERA concludes that the resolution of these matters for $313 million in restitution, plus $2 million in compromise of civil penalties, for a total of $315 million, is an appropriate settlement. This amount represents $75 million more than the PRO's alleged violation amount. Given all these factors, ERA has made a preliminary determination that this settlement is in the public interest.

IV. Terms and Conditions of the Consent Order

Within thirty days of the effective date of the Consent Order, ARCO will pay DOE the principal restitutionary amount of $313 million, plus interest, for appropriate distribution by DOE, and $2 million in compromise of civil penalties for deposit into the Miscellaneous Receipts account of the United States Department of the Treasury. If the settlement is not made final by June 1, 1986, ARCO may withdraw from the proposed agreement.

The proposed Consent Order would supplement the 1985 Consent Order. Specifically, ARCO and DOE mutually release each other from issues and claims regarding ARCO's compliance with the federal petroleum price and allocation regulations which pertain to the sale or other transfer of lower or upper tier crude oil or other price-controlled crude oil in transactions which were related by sale, purchase, exchange or other transfer, agreement, exchange or promise of consideration, or otherwise, to transactions involving other crude oil, as excluded from the 1985 Consent Order. The proposed Consent Order would also release ARCO from all undertakings contained in paragraph 501(g) of the 1985 Consent Order relating to the provision of materials pertaining to the linked transactions. All matters resolved by the 1985 Consent Order are unaffected by the Consent Order. However, several matters enumerated in paragraph 501 of this proposed Consent Order remain unresolved by the parties.

Finally, this agreement only resolves certain civil liabilities and makes no attempt to resolve any criminal liability that might be established by the government against ARCO.

V. Resolution of Litigation Matters

The proposed settlement resolves the matters covered in the PRO, Case No. KRO–0170, that is being litigated by ARCO and ERA before DOE's Office of Hearings and Appeals.

Submission of Written Comments

The proposed Consent Order cannot be made effective until the conclusion of the public review process, of which this Notice is a part.

Interested persons are invited to submit written comments concerning this proposed Consent Order to the address noted above. Although this settlement does not resolve a wide range of issues within the meaning of the Notice published at 49 FR 12301 (March 29, 1984), DOE has determined it would be useful to hold a public hearing on this proposed Consent Order because it would resolve issues concerning a large monetary amount. Accordingly, interested persons are also invited to appear at a public hearing beginning at 10:00 a.m. on March 21, 1986. All comments received by the thirteenth day following publication of this Notice in the **Federal Register**, and all statements made at the hearing, will be considered by DOE in determining whether to adopt the proposed Consent Order as a final Order. Any modifications of the proposed Consent Order which significantly alter its terms or impact will be published for additional comment. If, after considering the comments it has received and the comments at the hearing, ERA determines to issue the proposed Consent Order as a final Order, the proposed Order will be made final and effective by publication of a Notice in the **Federal Register.**

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the provisions of 10 CFR 205.9(f).

Issued in Washington, D.C., on February 7, 1986.

M.C. Lorenz,

Special Counsel, Economic Regulatory Administration.

Consent Order With Atlantic Richfield Company by the United States Department of Energy

I. Introduction

101. This Consent Order is entered into between Atlantic Richfield Company ("ARCO") and the United States Department of Energy ("DOE"). Except as specifically excluded herein, this Consent Order settles and finally resolves all civil and administrative claims and disputes, irrespective of whether heretofore asserted, between DOE and ARCO, and its subsidiaries and affiliates, relating to ARCO's compliance with the Federal Petroleum Price and Allocation Regulations administered and enforced by DOE and its predecessor agencies during the period of January 1, 1973 through January 27, 1981. This Consent Order supplements the Consent Order between ARCO and DOE dated January 23, 1985 ("1985 Consent Order"), notice of which was originally published at 50 FR 8366 (1985), and approval of which was published at 50 FR 26603 (1985). All matters resolved by the 1985 Consent Order are unaffected by this Consent Order.

II. Jurisdiction, Regulatory Authority, and Definitions

201. This Consent Order is entered into by DOE pursuant to the authority conferred upon it by sections 301 and 503 of the Department of Energy Organization Act ("DOE Act"), 42 U.S.C. 7151 and 7193 (1983); Executive Order No. 12009, 42 FR 46267 (1977); Executive Order No. 12038, 43 FR 4957 (1978); and 10 CFR 205.199J (1985).

202. The Economic Regulatory Administration ("ERA") was created by section 206 of the DOE Act, 42 U.S.C. 7136 (1982). In DOE Delegation Order No. 0204–4, the Secretary of Energy delegated responsibility for the administration of the Federal Petroleum Price and Allocation Regulations to the Administrator of the ERA. In ERA Delegation Order No. 0204–4A, the Administrator delegated authority to settle enforcement actions to the Special Counsel.

203. For purposes of this Consent Order, the phrase "Federal Petroleum Price and Allocation Rgulations" means all statutory requirements and administrative regulations regarding the pricing and allocation of crude oil and refined petroleum products, including

the entitlements and mandatory oil import programs, administered by DOE. The Federl Petroleum Price and Allocation Regulations, for purposes of this Consent Order, include, without limitation, the pricing, allocation, reporting, certification, and recordkeeping requirements imposed by or pursuant to the Economic Stabilization Act of 1970; the Emergency Petroleum Allocation Act of 1973; the Federal Energy Administration Act of 1974; Presidential Proclamation 3279; all applicable DOE regulations codified in 6 CFR Parts 130 and 150 and 10 CFR Parts 205, 210, 211, 212, and 213, and all rules, rulings, guidelines, interpretations, clarifications, manuals, decisions, orders, notices, forms, and subpoenas relating to the pricing and allocation of petroleum products. The provisions of 10 CFR 205.199J (1985) and the definitions under the Federal Price and Allocations Regulations shall apply to this Consent Order, except to the extent inconsistent herewith, in which case the terms of this Consent Order shall govern. Reference herein to "DOE" includes the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, the Department of Energy, the Economic Regulatory Administration; the Office of Special Counsel ("OSC") and all predecessor agencies. References in this Consent Order to "ARCO" include, without limitation: (1) Atlantic Richfield Company, its subsidiaries, affiliates (but only with respect to the acts of such companies while they were subsidiaries or affiliates of ARCO), predecessors and successors, and (2) all of its petroleum related activities as refiner, producer, operator, reseller, retailer, natural gas processor, or otherwise, and (3) its officers, directors, employees and agents.

III. Facts

The stipulated facts upon which this Consent Order is based are as follows:

301. ARCO was a "refiner" and a "producer" of crude oil as those terms are defined in the Federal Petroleum Price and Allocation Regulations, and was subject to the jurisdiction of the DOE. During the period covered by this Consent Order, ARCO engaged in, among other things, the production, importation, sale, and refining of crude oil, the sale of residual fuel oil, motor gasoline, middle distillates, aviation fuel, propane, and other refined petroleum products, and the extraction, fractionation, and sale of natural gas liquids, and natural gas liquid products.

302. Following an audit by DOE to determine ARCO's compliance with the Federal Petroleum Price and Allocation Regulations, ARCO and DOE entered into the 1985 Consent Order. The stipulated facts upon which the 1985 Consent Order was based are set forth in paragraphs 301–304 of the 1985 Consent Order and are incorporated herein by reference. Pursuant to the 1985 Consent Order, ARCO has paid sixty-five million seven hundred thousand dollars ($65,700,000) which is now subject to distribution in accordance with Subpart V of 10 CFR Part 205.

303. The matters described in paragraph 501(g) of the 1985 Consents Order were not resolved in that Consent Order. Pursuant to ARCO's commitment reflected in paragraph 501(g) of the 1985 Consent Order, ARCO provided DOE with extensive records, documents, data, contracts, correspondence and information concerning ARCO's importation, purchases, sales, exchanges or other transfers of crude oil, and the consideration given or received by ARCO in such transactions. In addition, ARCO made requested employees available for interviews by DOE. These documents and interviews fulfilled ARCO's obligation under paragraph 501(g) of the 1985 Consent Order. DOE used this information, as well as extensive materials and information received from third parties (including audits of certain resellers), as the basis of an audit to determine whether any such transfers of crude oil were related to transactions in which lower or upper tier crude oil was transferred by ARCO and, if so, the exact nature of the relationship.

304. Following completion of its audit, DOE raised certain issues with respect to ARCO's crude oil purchase, sale, and exchange transactions. DOE also took administrative enforcement action against ARCO by issuing a Proposed Remedial Order ("PRO"), dated October 4, 1985 (and amended October 11, 1985), alleging violations by ARCO of the Federal Petroleum Price and Allocation Regulations in connection with such transactions. ARCO maintains, however, that its conduct with respect to such transactions was in all respects lawful and in accordance with the Federal Petroleum Price and Allocation Regulations. DOE and ARCO disagree in several respects concerning the factual matters pertaining to such transactions and the proper application of the Federal Petroleum Price and Allocation Regulations to ARCO's activities during the period covered by this Consent Order, and each believes that its respectives legal and factual positions on the matters resolved by this Consent Order are meritorious. However, in order to avoid the expense of protracted, complex litigation and disruption of its orderly business functions, ARCO has agreed to enter into this Consent Order. DOE believes that entering into this Consent Order is in the public interest and constitutes a satisfactory resolution of the matters covered herein.

IV. Remedial Provisions

401. In full and final settlement of all matters covered by this Consent Order and in lieu of all other remedies which have been or might have been sought by DOE for such matters under 10 CFR 205.199I (1985) or otherwise, ARCO shall pay three hundred thirteen million dollars ($313,000,000) pursuant to paragraph 403 of this Consent Order, plus interest earned as provided in paragraph 402, and in addition ARCO shall pay two million dollars ($2,000,000) as specified in paragraph 404.

402. Interest shall be deemed to be earned from the date of execution by DOE of this Consent Order at an interest rate reflecting the average price bid at the most recent auction of 13-week U.S. Treasury Bills preceding said date of execution. Therefore, the interest deemed to be earned shall be revised to reflect the average price bid at the auction of 13-week Treasury Bills next following the first day of each calendar quarter, beginning with the calendar quarter next following said date of execution. The revised interest rate will apply on the first day after the relevant auction, and will continue to apply until and including the date of the next relevant auction. Upon each quarterly revision of the interest rate or upon payment to DOE, the interests earned since the date of execution of this Consent Order by DOE in the case of the first such quarterly revision or in the case of payment to DOE before such quarterly revision or since the immediately preceding quarterly revision in all other cases shall be computed and added to the balance at the end of the computation period. The interest for the computation period shall be computed at a rate equal to the annual coupon equivalent for the 13-week U.S. Treasury Bill auction average bid price at the auction governing the interest rate for the computation period times a fraction the numerator of which shall be the number of calendar days in the computation period and the denominator of which shall be 365. Interest shall be deemed earned at of 2:00 P.M. Eastern Time.

403. ARCO agrees to make a restitutionary payment of three hundred thirteen million dollars ($313,000,000), plus the interest accured as prescribed by paragraph 402 through the date of

payment, to DOE within 30 days of the effective date of this Consent Order. Payment shall be made by wire transfer, pursuant to directions provided to ARCO by DOE. The Administrator or ERA, or his designee, shall direct that these monies be deposited in a suitable account pending DOE's determination of appropriate restitutionary distribution.

404. ARCO also agrees to pay to DOE the sum of two million dollars ($2,000,000) as a compromise of civil penalties which DOE might have asserted pursuant to section 5 of the Emergency Petroleum Allocation Act of 1973, as amended 15 U.S.C. 754(a)(A)(i) (1982). Such payment shall be made within 30 days of the effective date of this Consent Order by wire transfer for deposit in the miscellaneous receipts account of the United States Department of Treasury.

V. Issues Resolved

501. All pending and potential civil and administrative claims, whether or not known, demands, liabilities, causes of action or other proceedings regarding ARCO's compliance with the Federal Petroleum Price and Allocation Regulations during the period covered by this Consent Order, irrespective of whether heretofore raised by an issue letter, notice of probable violation, notice of proposed disallowance, proposed remedial order, proposed order of disallowance, remedial order, notice of disallowance, or otherwise, are resolved and extinguished by this Consent Order, except that this Consent Order does not cover or affect:

(a) Issues or claims resolved by the 1985 Consent Order;

(b) The issues or claims pending or arising out of the subject matter now before the courts in *Atlantic Richfield Company* v. *DOE* No. 79-1204 (D. Kan.) consolidated in *In Re DOE Stripper Well Exemption Litigation*, MDL No. 378 (D. Kan.);

(c) The issues or claims pending or arising out of the subject matter now before the courts in *Texaco* v. *DOE and 341 Tract Unit of the Citronelle Field* No. 81-99 (D. Del.) and before the DOE's Office of Hearings and Appeals in Case Nos. BEN-0078, et al.;

(d) The issues or claims pending or arising out of the subject matter now before the courts in *Diamond Shamrock Refining and Marketing Co.* v. *Standard Oil Co.* v. *DOE No. C2-84-1432 (S.D. Ohio)*;

(e) Any obligation to buy or right to sell entitlements which may be imposed upon or made available to ARCO should the entitlements notice of January 1981 be published or should any obligation to buy or sell entitlements be imposed on ARCO pursuant to the operation of 10 CFR 211.69, including any adjustments made to the entitlements notice for January 1981 or to any notice issued pursuant to 10 CFR 211.69 as a result of the granting of exception relief by the Office of Hearings and Appeals; provided however, that DOE expressly waives any right to inititate enforcement proceedings against ARCO predicated on the effects on the Entitlements Program or on participants in the Entitlements Program (including their direct and indirect customers) by reason of the crude oil transactions which were excluded from the 1985 Consent Order pursuant to paragraph 501(g) of that Consent Order;

(f) Any entitlements obligations or reporting requirements which may be imposed on Entitlements Program participants pursuant to future modification of the requirements of the Entitlements Program (10 CFR 211.67 *et seq.* 1985)) either by the DOE on its own initiative, or at the direction of a final judgment of a court of competent jurisdiction;

(g) ARCO's rights or obligations concerning claims under 10 CFR Part 205, Subpart V.

502. (a) This Consent Order specifically resolves all issues and claims regarding ARCO's compliance with the Federal Price and Allocation Regulations which pertain to the sale or other transfer of lower or upper tier crude oil or other price-controlled crude oil in transactions which were related by sale, purchase, exchange or other transfer, agreement, exchange or promise of consideration, or otherwise, to transactions involving other crude oil, as excluded from the 1985 Consent Order pursuant to paragraph 501(g) of that Consent Order.

(b) This Consent Order also releases ARCO from all undertakings contained in paragraph 501(g) of the 1985 Consent Order. ARCO and DOE agree that ARCO shall be deemed to have complied fully with all such undertakings. DOE will not initiate any further administrative or judicial enforcement proceedings against ARCO based on those undertakings.

503. (a) Except as otherwise provided in this Consent Order, compliance by ARCO with this Consent Order shall be deemed by DOE to constitute full compliance for administrative and civil purposes with all Federal Petroleum Price and Allocation Regulations for the matters covered by this Consent Order. In consideration for performance as required under this Consent Order by ARCO, except as to those matters excluded by paragraph 501, DOE hereby releases ARCO completely and for all purposes from all administrative and civil judicial claims, liabilities, or causes of action, specifically including claims for civil penalties, that DOE has asserted or may otherwise be able to assert against ARCO for alleged violations of the Federal Price and Allocation Regulations with respect to the matters covered by this Consent Order. DOE will not (1) initiate or prosecute any such administrative or civil matter against ARCO, (2) voluntarily assert in any administrative or civil judicial proceeding that ARCO has violated the Federal Petroleum Price and Allocation Regulations with respect to the matters covered by this Consent Order, or (3) otherwise take action with respect to ARCO in derogation of this Consent Order.

(b) Nothing contained herein shall preclude DOE from defending the validity of the Federal Petroleum Price and Allocation Regulations. DOE also reserves the right to initiate and prosecute enforcement actions against any party other than ARCO for noncompliance with the Federal Petroleum Price and Allocation Regulations.

(c) DOE expressly agrees that it will not seek or recommend any criminal fines or penalties based solely on the information and evidence presently in its possession for the matters covered by the Consent Order; provided that nothing in this Consent Order precludes DOE from exercising its obligations under law with regard to forwarding information of possible criminal violations of law to the appropriate authorities. Nothing contained herein may be construed as a bar, an estoppel, or a defense against any criminal action, or against any civil action brought by any purchaser of covered products from ARCO, or against any civil action brought by an agency of the United States other than by DOE under (i) section 201 of the Economic Stabilization Act or (ii) any statute or regulation other than the Federal Petroleum Price and Allocation Regulations.

(d) This Consent Order does not affect or prejudice any private action brought by a third party against ARCO, or by ARCO against any third parties, including an action for contribution, nor may this Consent Order be used to establish, enlarge, or abridge the rights of third parties seeking contribution from ARCO, or the rights of ARCO to seek contribution from third parties.

(e) ARCO expressly agrees that in consideration of DOE's performance under the Consent Order, ARCO releases DOE completely and for all

purposes from all administrative and civil judicial claims, liabilities or causes of action that ARCO has asserted or may otherwise be able to assert against DOE under the Federal Petroleum Price and Allocation Regulations, except for matters specifically excluded from this Consent Order. ARCO and DOE agree that this Consent Order constitutes a settlement and compromise of complex factual and legal issues, and is entered into in order to avoid the expense of protracted litigation in which those factual and legal issues would otherwise be resolved.

504. Within fifteen (15) days of the execution of this agreement, DOE agrees to join with ARCO in written notification to DOE's Office of Hearings and Appeals ("OHA") of the fact of the execution of this Consent Order, which notice shall request that OHA stay all further proceedings regarding the PRO dated October 4, 1985 (as amended on October 11, 1985) until such time as DOE shall notify OHA that the Consent Order has become effective as a final order pursuant to the provisions of paragraph 901, or until such time as DOE provides notice to OHA that this Consent Order has been withdrawn pursuant to the provisions of paragraph 902.

505. Within thirty (30) days after the effective date of this Consent Order, DOE will file appropriate pleadings to dismiss with prejudice the PRO dated October 4, 1985 (as amended on October 11, 1985).

506. Execution of this Consent Order constitutes neither an admission by ARCO nor a finding by DOE of any violation ARCO of any statute or regulation. Except as expressly provided in paragraph 404 above, none of the payments or expenditure made by ARCO pursuant to this Consent Order are to be considered for any purpose as penalties, fines, or forfeitures or as settlement of any potential liability for penalties, fines, or forfeitures. Payments made by ARCO pursuant to this Consent Order are attributable only to the civil matters resolved by this Consent Order.

507. Notwithstanding any other provision herein with respect to the matters covered by this Consent Order, DOE reserves the right to initiate an enforcement proceeding, or to seek appropriate penalties, respecting any newly discovered regulatory violations committed by ARCO, if ARCO has knowingly concealed facts relating to such violations. DOE and ARCO also reserve the right to seek appropriate judicial remedies other than full rescission of this Consent Order, respecting any misrepresentation of material fact during the course of the audit or during the course of the negotiations that preceded this Consent Order.

VI. Reporting, Recordkeeping Requirements and Confidentiality

601. Subject to the provisions of paragraph 601 of the 1985 Consent Order, ARCO shall maintain all records covered by the recordkeeping requirements set forth at 10 CFR 210.1(a) of the DOE regulations, and such records as are necessary to demonstrate compliance with the terms of this Consent Order, until ARCO completes all restitutionary payments required by this Order. After completing all such payments ARCO shall maintain all records for the matters covered by this Consent Order evidencing sales volume data for each product subject to controls and customers' names and addresses, until one of the following: Six months after ARCO completes all such payments, unless this period is extended by notice given in writing by DOE; the end of such extension; or until DOE notifies ARCO in writing that its records are no longer needed. ARCO will not be subject hereafter to any audit requests, report orders, subpoenas or other administrative discovery by DOE with respect to the matters covered by this Consent Order, except for (1) requests for information maintained pursuant to this paragraph; and (2) discovery or requests for information regarding compliance by other firms with DOE regulations and requests made by DOE pursuant to its information gathering and reporting authority. This Consent Order does not believe ARCO of any obligation imposed by or pursuant to 10 CFR 210.1 to maintain records.

602. DOE will treat the sensitive commercial and financial information provided by ARCO pursuant to ARCO's undertakings under paragraph 501(g) of the 1985 Consent Order, pursuant to negotiations which are conducted with respect to the settlement agreed to in this Consent Order, or obtained by DOE in its audit of ARCO and related to the matters covered by this Consent Order, as confidential and proprietary and will not disclose such information unless required to do so by law, including a request by a duly authorized committee or subcommittee of Congress. If a request or demand for release of any such information is made pursuant to law, DOE will, if possible, provide ARCO with ten (10) days actual notice, or such lesser actual notice as is possible, of any pending disclosure of any such information, unless prohibited or precluded from doing so by law or written request of Congress. Pursuant to DOE's records retention policy, DOE will retain for law enforcement or other lawful purposes the audit information which it has acquired during its review of ARCO's compliance with the Federal Petroleum Price and Allocation Regulations. Notwithstanding the otherwise confidential treatment afforded such information by the terms of the Consent Order, DOE will make such information available to the Department of Justice in repsonse to a request by a duly authorized representative pursuant to that department's statutory authority. If so requested by the Department of Justice, DOE shall not disclose that such a request has been made. Nothing in this paragraph shall be deemed to waive or prejudice any right ARCO may have independent of this Consent Order regarding the disclosure of sensitive commercial and financial information.

VII. Contractural Undertaking

701. It is the understanding and express intention of ARCO and DOE that this Consent Order constitute a legally enforceable contractual undertaking that is binding on the parties and their successors and assigns. Notwithstanding any other provision herein, ARCO and DOE each reserves the right to institute a civil action in any appropriate United States District Court, if necessary, to secure enforcement of the terms of this Consent Order, and DOE also reserves the right to seek appropriate penalties and interest for any failure to comply with the terms of this Consent Order. Consistent with Departmental policy, DOE will undertake the defense of the Consent Order as finalized, in response to any litigation challenging the Consent Order's validity in which DOE is named as a party. ARCO agrees to cooperate with DOE in the defense of any such challenge.

VIII. Final Order

801. Upon becoming effective, this Consent Order shall be a final order of DOE having the same force and effect as a remedial Order issued purusant to section 503 of the DOE Act, 42 U.S.C. 7193 (1982), and 10 CFR 205.199B (1985). ARCO hereby waives its right to initiate administrative or judicial review of this Consent Order. However, ARCO specifically reserves the right to participate fully in any administrative or judicial review of this Consent Order initiated by any third party.

IX. Effective Date

901. This Consent Order shall become effective as a final order of the DOE upon notice to that effect published in

the **Federal Register.** Prior to that date, DOE will published notice of the proposed Consent Order in the **Federal Register** and, in that notice, will provide thirty (30) days for members of the public to submit written comments to DOE and to appear at a public hearing conducted by ERA. DOE will consider the written comments and statements made at the hearing to determine whether to make the Consent Order effective, to withdraw agreement to the Consent Order, or to attempt to renegotiate the terms of the Consent Order.

902. Until the effective date, DOE reserves the right to withdraw consent to the Consent Order by written notice to ARCO, in which event this Consent Order shall be null and void. If this Consent Order is not made effective on or before June 1, 1986, ARCO reserves the right, at any time thereafter until the effective date, to withdraw its agreement to this Consent Order by written notice to DOE, in which event this Consent Order shall be null and void.

[FR Doc. 86-3145 Filed 2-12-86; 8:45 am]

BILLING CODE 6450-01-M

Final Consent Order with Bass Enterprises Production Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Action on Proposed Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed Consent Order between the Department of Energy (DOE) and Bass Enterprises Production Co. (Bass) shall be made a final order of the DOE. The Consent Order resolves issues of compliance by Bass with the federal petroleum price and allocation regulations concerning production and first sales of domestic crude oil for the period June 1, 1979 through December 31, 1980. Bass will pay to the DOE the sum of $1,679,352.37 within 10 days of publication of this notice. The Consent Order is effective as a final order of the DOE on the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Sandra K. Webb, Director, Houston Office, Economic Regulatory Administration, U.S. Department of Energy, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002, (713) 229-3715.

SUPPLEMENTARY INFORMATION:

I. Introduction

ERA previously issued a notice announcing a proposed Consent Order between DOE and Bass which would resolve matters relating to the company's compliance with the federal petroleum price and allocation regulations pertinent to production and first sales of domestic crude oil for the period June 1, 1979 through December 3, 1980. (50 FR 49598, December 3, 1985). The proposed Consent Order requires Bass to pay $1,679,352.37 within ten days of the effective date of the Consent Order. The notice solicited written comments from the public relating to the terms and conditions of the settlement.

II. Comments Received

ERA received only one timely comment. That comment addressed the question of the ultimate disposition of the funds to be paid by Bass pursuant to the settlement, but did not question the basis of the settlement or the adequacy of the settlement amount.

The comment was devoted exclusively to establishing the proposition that monies received under the Bass Consent Order that could not be paid to parties injured by alleged overcharges should be paid to the States and should not be deposited in the U.S. Treasury.

During the period covered by this Consent Order the violations allegedly committed by Bass related to the miscertification of its crude oil. Such violations resulted in cost increases that were distributed among all refiners by the entitlements program and refiners could than pass the overcharges on to others. See *United States* v. *Exxon Corp.*, 773, F.2d 1240 (Em. App. 1985).

The DOE's Office of Hearings and Appeals in a report to the District Court of the District of Kansas in *In re: the Department of Energy Stripper Well Litigation, MDL No. 378,* determined that where alleged crude oil violations involve crude oil miscertifications, the resulting harm cannot be traced to specific customers. As explained by the DOE in an accompanying Statement of Restitutionary Policy:

> Essentially, OHA concluded that direct purchasers (as such) generally did not absorb the overcharges because they were reimbursed by the entitlements programs. Tracing of overcharges is impossible in view of the spreading effect of the entitlements program, the fungibility of refiner costs and the consequent inability of firms and OHA to determine which costs were passed through and which, if any, were retained, and the high proportion of cost passthrough, among other factors.
>
> OHA's finding that it is impossible to trace crude oil cost increases that were equalized by the entitlements program. . . . is consistent with the conclusions of two district courts that have previously determined that the harm resulting from crude oil miscertifications cannot be traced. 50 FR 27400 (July 2, 1985).

DOE then examined the possible use of econometric modeling methods to estimate the extent to which overcharges were passed through at the various distribution levels within the industry. With regard to this indirect methodology, DOE concluded:

> It is too inexact in determining injury to particular classes of claimants and yields no conclusions concerning the injury to individuals within any class. The governmental costs in resources and, more importantly, societal costs in years of continued litigation prior to distribution are unacceptably high. *Id.* at 27402.

The comment on the Bass Consent Order appears to assume that DOE will distribute, or attempt to distribute, funds received under the Consent Order to parties injured by the alleged overcharges. However, as discussed above, it is impossible to determine which persons were ultimately injured by crude oil miscertifications. Therefore, DOE will not attempt to make such a determination here, and the funds received from Bass pursuant to the Consent Order will not be the subject of a Subpart V petition and proceeding.

DOE's Statement of Policy also addressed the question of how to effect indirect restitution where refunds to individual injured claimants are not feasible. The policy statement provides that the ERA will retain the monies received in an escrow account for a reasonable time to allow Congress an opportunity to determine an appropriate disposition of the funds. If Congress does not enact legislation within a reasonable time, the DOE will transfer the funds to the general fund of the U.S. Treasury.

Because the terms of the settlement are consistent with the foregoing action, ERA has determined to make the Consent Order final. The ERA, however, modified the Consent Order to reflect a higher interest rate that would apply should the company, not meet the 10-day payment deadline.

III. Decision

Pursuant to 10 CFR 205.199J, the Consent Order between Bass and DOE shall become a final order of the DOE on the date of publication of this notice in the **Federal Register.**

Issued in Houston, Texas on February 3, 1986.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 86-3146 Filed 2-12-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RM85-1-000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (The Alpha Corporation); Order Granting Petition for Clarification

Issued: February 10, 1986.

Before Commissioners: A.G. Sousa, Acting chairman; Charles G. Stalon, Charles A. Trabandt, and C.M. Naeve.

On January 28, 1986, the Alpha Corporation filed a request for expedited clarification that the transportation arrangements it has with Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline) qualify for transitional treatment under § 284.223(g)(1) of the regulations adopted in Order No. 436.[1] We will grant Alpha's request.

Alpha is a manufacturer of unsaturated polyester resins. It uses natural gas for plant protection and for process and feedstock needs, a high-priority end use of gas under § 157.202(b)(13) of our regulations. On December 17, 1984, Alpha entered into gas transportation agreements with Panhandle and Trunkline. On February 22, 1985, pursuant to those agreements, Panhandle and Trunkline filed requests for authority to transport gas on behalf of Alpha under § 157.209(e).

Alpha's transportation, however, was authorized automatically under former § 157.209(a)(1) with the commencement of service by Panhandle and Trunkline.[2] Accordingly, Alpha's transportation arrangements with Panhandle and Trunkline qualify for continuing transportation authorization under § 284.223(g)(1).

Finally, we wish to emphasize that orders clarifying Order No. 436 apply to *all* regulated pipelines and *all* transactions covered by the regulations that are clarified. We expect that transactions coming within the regulations as clarified will proceed without the need for a Commission order in each case.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-3227 Filed 2-12-86; 8:45 am]

BILLING CODE 6717-01-M

[1] 33 FERC ¶ 61,007 (1985), 50 FR 42408 (October 18, 1985).

[2] Order Granting Rehearing, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Midwest Solvents Company), 33 FERC ¶ 61,395 (issued December 19, 1985).

ENVIRONMENTAL PROTECTION AGENCY

[A-9-FRL-2969-4]

Extension of the Suspension of the Arizona State Implementation Plan Sulfur Dioxide Emission Standards for Phelps Dodge Corporation; Section 119 of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of Suspension of the Arizona State Implementation Plan Emission Limitation for Sulfur Dioxide; Notice of Administrative Action.

SUMMARY: Under section 119 of the Clean Air Act, the Administrator may issue a nonferrous smelter order (NSO) to an eligible nonferrous smelter, suspending certain otherwise applicable SIP requirements for sulfur dioxide (SO2) until not later than January 1, 1988. On May 15, 1985, Phelps Dodge submitted a substantially complete NSO application to EPA for its smelter located at Douglas, Arizona, resulting in an automatic regulatory suspension of the applicable SO2 limits until August 13, 1985. EPA subsequently extended the suspension for "good cause" until November 12, 1985 and again until February 10, 1986.

EPA has not yet completed its review of Phelps Dodge's NSO application and all supplementary information submitted. EPA therefore finds that there is "good cause" to extend the suspension for an additional sixty days from the previous extension or until EPA proposes action on Phelps Dodge's NSO application, whichever is sooner. Therefore, in accordance with 40 CFR 57.202(b), EPA is extending the suspension to and including the sooner of April 11, 1986, or the date of EPA's proposal.

DATE: April 11, 1986, or date of proposal.

FOR FURTHER INFORMATION CONTACT: David Howekamp,a Director, Air Management Division, EPA Region 9, 215 Fremont Street, San Francisco, CA 94105 (415) 974-8201, FTS: 454-8201.

Background

Section 119 of the Clean Air Act permits the issuance of an NSO to a nonferrous smelter if no method of control which would enable it to meet its applicable SO2 SIP emission limitations has been adequately demonstrated to be reasonably available (as determined by the Administrator taking into account the cost of compliance, non-air quality health and environmental impact, and energy considerations). An NSO may temporarily defer the SIP requirements for compliance with the SO2 stack emission limitations and schedules for installation of the pollution control equipment necessary to meet those limitations. An NSO may also temporarily defer compliance with any other SIP requirements which are integrally related to such requirements, and which would be pointless to enforce in light of the deferral. (See 50 FR 6434).

On February 15, 1985, EPA promulgated regulations to implement the NSO program. 50 FR 6434 (Feb. 15, 1985) (to be codified at 40 CFR Part 57). The NSO regulations set forth the minimum requirements for an NSO, and the procedures a smelter owner must follow in applying for an NSO.

An NSO may be issued either by the applicable State agency or by EPA. To initiate the NSO process, a smelter owner must submit to the issuing agency (i.e., the agency to which the application is made) a notice of intent to apply for an NSO and an agreement to supply the agency with any required information. Upon the receipt of this notice and agreement by the issuing agency, the applicable SIP emission limitations for sulfur dioxide and the related SIP requirements are suspended for sixty days.

The regulations, 40 CFR 47.202(b), also provide that if the smelter owner submits a substantially complete application within the initial sixty-day notice period, the suspension of the SIP emission limitation for sulfur dioxide and the related requirements will continue until the issuing agency issues or declines to issue an NSO or until ninety days after the date the issuing agency receives the substantially complete application, whichever occurs sooner. However, if the issuing agency has not issued or declined to issue an NSO within the ninety-day period, EPA may extend the suspension for good cause. (40 CFR 57.202(b)).

Phelps Dodge initiated the NSO application process by submitting to EPA a notice of intent to apply for an NSO and an agreement to supply the requisite information, by letter dated March 14, 1985. On May 15, 1985, Phelps Dodge submitted its application to EPA. While the Agency has requested Phelps Dodge to supplement its application and

may ask for additional supplementary information, the May 15, 1985, submittal was deemed substantially complete for purposes of § 57.202(b) and thus extended the suspension for 90 days, until August 13, 1985.

On October 10, 1985, the Administrator of EPA signed a notice extending for "good cause" the suspension of the sulfur dioxide emission limitations for an additional 90 days beyond the expiration of the previous suspension, or until November 12, 1985. 50 FR 47841 (Nov. 20, 1985). On December 19, 1985, the Regional Administrator of Region 9 EPA, to whom authority to extend the suspension has been delegated, signed another notice extending the suspension for "good cause" an additional 90 days, or until February 10, 1986. 51 FR 1294 (Jan. 10, 1986).

Administrative Action

EPA has not yet completed its review of Phelps Dodge's NSO application and all supplementary information submitted. After EPA completes its review, it will propose action on the application and solicit public comment before taking final action. Based on the volume and complexity of the information being considered, the Agency believes that it may not complete its action on Phelps Dodge's application earlier than sixty days after the date of expiration of the previous suspension. Accordingly, EPA concludes that good cause exists for extending the suspension for an additional sixty days from the expiration of the previous extension (until April 11, 1986) or until EPA proposes action on Phelps Dodge's NSO application, whichever is sooner.

This extension should not be construed as reflecting any conclusion on the merits of Phelps Dodge's application. It is simply a procedural action to extend the suspension while the application is pending.

Dated: February 4, 1986.

John Wise,

Regional Administrator.

[FR Doc. 86-3180 Filed 2-12-86; 8:45 am]

BILLING CODE 6560-50-M

[FRL-2965-8]

Intent To Form an Advisory Committee To Negotiate New Source Performance Standards for Residential Wood Combustion Units

Correction

In FR Doc. 86-2587 beginning on page 4800 in the issue of Friday, February 7, 1986, make the following correction:

On page 4801, in the first column, in the DATE paragraph, in the second line, the closing date for comments should have read "February 24, 1986."

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations; American Kings, Inc., et al.

Notice is herby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2228
Name: American Kings, Inc.
Address: P.O. Box 522823, Miami, FL 33152
Date Revoked: January 22, 1986
Reason: Failed to maintain a valid surety bond

License Number: 2668
Name: S & Z International Air Forwarders, Inc.
Address: P.O. Box 8778, BWI Airport, MD 21240
Date Revoked: January 23, 1986
Reason: Failed to maintain a valid surety bond

License Number: 2734
Name: Alfomar International, Inc.
Address: 9900 NW 80th Ave., Hialeah Gardens, FL 33046
Date Revoked: January 23, 1986
Reason: Failed to maintain a valid surety bond

License Number: 2887
Name: Key International, Inc.
Address: S. Highland Street, Baltimore, MD 21224
Date Revoked: January 23, 1986
Reason: Failed to maintain a valid surety bond

Eugene P. Stakem,

Deputy Director, Bureau of Tariffs.

[FR Doc. 86-3160 Filed 2-12-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants; Jackie International Corp. et al.

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Jackie International Corp., 12401 S.W. 207 Terrace, Miami, FL 33177, Officer: Jackie Johns, President/Secretary/Treasurer/Director

B.P. Mata & Co. (U.S.A.) Inc., 1411 West 15th Street, Long Beach, CA 90813, Officer: Benjamin P. Mata, President, Edgardo Q. Nadal, Director, International Operations, Augustus A. Roche, Vice President, Int'l Forwarding.

By the Federal Maritime Commission.

Dated: February 10, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86-3161 Filed 2-12-86; 8:45 am]

BILLING CODE 6730-01-M

U.S. Atlantic-North Europe Conferences, et al.; Filing of Petition to Amend Rules

February 7, 1986.

Notice is hereby given that a petition has been filed by the U.S. Atlantic-North Europe and North Europe-U.S. Atlantic Conferences requesting the Commission to amend its rules so as to ". . . provide some further elaboration of the term 'shipper' as it is used in the regulations the Commission has issued to implement the Shipping Act of 1984, and particularly in the Commission's service contract regulations 46 CFR 580.7." [1] The sections to be affected by the proposed language include § 510.2(r), 572.104(aa), 580.2(t) and 580.7(a)(5).

Specifically, Petitioner proposes to add at the end of the definition of "shipper" in each section, another sentence to read as follows:

> For purposes of this definition, (i) *owner* means a person holding legal title to the cargo for which transportation is purchased, (ii) person for whose account the ocean transportation of cargo is provided means (A) a person, other than an owner, having a beneficial interest in the cargo for which transportation is purchased, or (B) a person who purchases transportation for its account and sells such transportation to others under a tariff it has filed pursuant to this part, and (iii) person to whom delivery is to be made means the person to whom cargo is to be ultimately delivered.

In order for the Commission to make a thorough evaluation of the petition,

[1] The Commission, in Docket No. 86-6, is proposing to completely revise its service contract regulations in a new Part 581. The Proposed Rule will appear in the **Federal Register** within the next week or so, with public comments due in mid April, 1986.

interested persons are requested to submit views, arguments or data on the petition no later than March 14, 1986. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in an original and 15 copies. Responses shall also be served on counsel for petitioner: Howard A. Levy, Esq., Suite 1408, 90 West Street, New York, New York 10006–1201.

Copies of the petition are available for examination at the Washington, DC, office of the Commission, 1100 L Street, NW., Room 11101.

John Robert Ewers,

Secretary.

[FR Doc. 86–3044 Filed 2–12–86; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPO–53–FN]

Medicare Program; Freestanding Home Health Agencies to Designated Regional Intermediaries; Assignment and Reassignment

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

ACTION: Final notice.

SUMMARY: Section 1816(e)(4) of the Social Security Act (the Act) (as amended by section 2326(b) of the Deficit Reduction Act of 1984, Pub. L. 98–369) requires that the number of regional intermediaries designated to service freestanding home health agencies (HHAs) be limited to not more than ten. In accordance with section 1816(e)(4) of the Act and existing regulations, this notice announces our designation of regional intermediaries to process the workload of these HHAs, the States each intermediary would service, the general criteria used to select these intermediaries, and the procedures we will use during the change-over period.

The goal of this initiative and the legislation on which it is based is to achieve more consistent and effective administration of the home health benefit under the Medicare program.

EFFECTIVE DATE: March 17, 1986.

FOR FURTHER INFORMATION CONTACT:

Norman Fairhurst, (301) 594–9498, Regarding transition

Toba Winston, (301) 597–0471, Regarding intermediary selection.

SUPPLEMENTARY INFORMATION:

Background

In the Medicare program, in general, fiscal intermediaries under contract with HCFA are responsible for making payment to providers of services for the covered services they furnish to Medicare beneficiaries.

Section 1816 of the Social Security Act (the Act) gives any group or association of providers the option of nominating an intermediary to determine the proper amount of reimbursement and to make those payments. This section also authorizes the Secretary, notwithstanding the nomination process, to assign and reassign providers that had nominated intermediaries to other intermediaries and to designate regional or national intermediaries for a class or classes of providers.

Section 1816(e)(4) of the Act requires the Secretary to designate regional agencies or organizations that have entered into an agreement under section 1816 of the Act to perform functions under that agreement for freestanding home health agencies (HHAs) in the region. For purposes of this notice, we consider a freestanding HHA as one that is not a subdivision of another Medicare provider of services; i.e., a hospital, a skilled nursing facility, a comprehensive outpatient rehabilitation facility or hospice.

Section 1816(e)(4) of the Act also requires that if an HHA is hospital-affiliated (i.e., the hospital and HHA are under common control) the Secretary shall assign that HHA to a regional intermediary only if the Secretary, after applying published criteria relating to administrative efficiency and effectiveness, determines that the assignment would result in the more effective and efficient administration of the Medicare program. We are also applying this approach to HHAs that are affiliated with Medicare providers of services other than hospitals. An HHA is determined to be provider-affiliated when it is an integral and subordinate part of another Medicare provider and is operated with other departments of the provider under common licensure, governance, and professional supervision; that is, all services of both the provider and the HHA are fully integrated. The existence of either (1) an agreement between an HHA and a Medicare provider with respect to the referral of patients or (2) a share-service arrangement (a common arrangement recognized by both Medicare and Medicaid) does not necessarily mean an HHA is provider-affiliated and is not considered in determining the status of the facility.

To implement the provisions of section 1816(e)(4) of the Act, we amended our regulations (42 CFR 421.117) to require that all freestanding HHAs serviced by a nominated intermediary be serviced instead by a regional intermediary designated by HCFA (47 FR 38535, September 1, 1982). At that time we defined, in the preamble to those amendments, "regional" as meaning "State" and, therefore, we designated one intermediary to service freestanding HHAs in each State.

More recently, we amended our regulations (42 CFR 421.103) concerning providers' options to elect to receive payments directly from HCFA rather than through a fiscal intermediary (49 FR 3648, January 30, 1984). In addition, in 42 CFR 421.117 (e), (f), and (g), we made available to all HHAs the option of requesting an alternative designated regional intermediary if the HHA could demonstrate that such an arrangement would be consistent with the effective and efficient administration of the Medicare program (49 FR 3660).

Subsequently, section 2326 of the Deficit Reduction Act of 1984 (Pub. L. 98–369) amended section 1816(e)(4) of the Act to require that, by not later than July 1, 1987, HCFA reduce the number of regional intermediaries designated to service freestanding HHAs to not more than ten.

On April 10, 1985, we published a proposed notice (50 FR 14162) announcing our proposal to reduce the number of designated regional intermediaries that would service HHAs to not more than ten. In addition, we announced our tentative selection of the ten designated regional intermediaries and invited interested parties to submit comments.

Proposed Actions and Intermediary Selections

In the proposed notice we discussed considerations leading to our decision to designate ten intermediaries rather than fewer. There would be: a smaller distribution of workload and providers, resulting in greater potential for first-hand knowledge of the HHA provider communities and less administrative complexity; the least risk of transition problems, since it would require reassigning fewer providers; and greater HCFA flexibility with respect to both short-term and long-term contingency planning than would result from having fewer than ten intermediaries.

We proposed four exceptions to the standard HCFA regional configuration in order to provide a more even distribution of providers and bill volume per intermediary.

In making our proposed selections, we did not use a precise mathematical formula for ranking the intermediaries; rather we considered each intermediary's performance against an entire array of criteria and compared it against other existing intermediaries available within the proposed regional configurations. The major criteria we used included each intermediary's electronic data processing capability and its past performance as measured by HCFA's fiscal year 1983 Contractor Performance Evaluation Program (CPEP). (We also stated that we planned to review our selections in light of FY84 CPEP results when they were available, and we have done so.) In addition, we evaluated each intermediary's performance specific to servicing HHAs, including evaluation of performance in the following areas:

- Ensuring that coverage and payment requirements are met;
- Ensuring that correct utilization determinations are made;
- Establishing interim payments for participating HHAs to approximate Medicare reimbursable costs as closely as possible;
- Accurately applying principles of reimbursement to ensure that only reasonable and allowable costs of furnishing covered services to Medicare beneficiaries are reimbursed to HHAs;
- Completing accurate coverage compliance reviews;
- Completing timely HCFA cost report settlements; and
- Processing reconsideration requests timely and accurately.

In addition, we attempted to evaluate an intermediary's performance in the area of provider relations; e.g., whether the intermediary provides adequate training to providers, whether it responds to telephone and written inquiries from HHAs promptly, and whether it demonstrates a willingness to communicate coverage and reimbursement policies fully to HCFA providers.

Furthermore, we considered an intermediary's past performance and cooperation in implementing HCFA initiatives in a timely and cost effective manner. We also looked at the number of providers that would need to be reassigned based on various intermediary selections and the percentage of workload increase for a selected intermediary.

Our tentative selections to service the freestanding HHAs in the indicated States and the District of Columbia and Puerto Rico were as follows:

1. Associated Hospital Service of Maine—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

2. The Prudential Insurance Company of America*—New Jersey, New York, Puerto Rico and the Virgin Islands.

3. Blue Cross of Greater Philadelphia—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia.

4. Blue Cross and Blue Shield of South Carolina—Kentucky North Carolina, South Carolina, and Tennessee.

5. Aetna Life and Casualty—Alabama, Florida, Georgia and Mississippi.

6. Blue Cross and Blue Shield of Michigan—Indiana, Michigan and Ohio.

7. Health Care Service Corporation (Chicago, Illinois)—Illinois, Minnesota and Wisconsin.

8. New Mexico Blue Cross and Blue Shield, Inc.—Arkansas, Louisiana, New Mexico, Oklahoma and Texas.

9. Blue Cross of Iowa, Inc.*—Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.

10. Blue Cross of California*—Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon and Washington.

(Intermediaries annotated with an asterisk (*) would also continue to serve as alternative designated regional intermediaries)

We received a total of 272 comments from various entities: 211 providers, 25 provider associations, four consumer advocacy groups, 16 members of Congress, one State senator, two State Medicaid agencies, eight county health departments, four intermediaries, and one trade association.

In the majority of comments, the commenters stated they were for or against our selection of the intermediary that would service them; the commenters amplified by giving reasons.

Below we discuss the comments and our responses to them.

Comments and Responses

1. *Comment:* We received 53 comments to the effect that the increased distance from the designated intermediary would create problems; e.g., additional provider administrative costs (such as long distance telephone charges) and lack of easy access to the designated intermediary.

Response: We do not agree that increased distance by itself will lead to problems. A number of HHA providers, per their request, are currently serviced by the alternative designated regional intermediary. In many cases, the provider is located over 800 miles from the intermediary. This has not created problems. Additionally, for years, many providers, located throughout the United States, elected to be serviced by HCFA's Office of Direct Reimbursement (ODR). They also did not find distance from ODR to be a problem.

If the transfer should result in increased costs, and there may not be an increase, all provider costs will be reimbursed according to established Medicare reimbursement principles to the extent they are reasonable, allocable, and verified by the intermediary. If the HHA's costs exceed the limits on home health agency costs that may be reimbursed under the Medicare program as a result of the required transfer to a designated regional intermediary, an exception to the limits may be granted in accordance with the provisions for handling exceptions requested under 42 CFR 405.460(f)(2).

While face-to-Face provider/intermediary contacts may be less frequent, experience has shown that most issues can be resolved timely and satisfactorily either by telephone or written correspondence.

2. *Comment:* One hundred forty-seven commenters recommended selection of an intermediary other than the tentative designee. Most of the commenters supported selection of their current intermediaries as the regional HHA intermediaries. The largest number of these comments came from HHA providers in New York State and recommended the designation of Blue Cross/Blue Shield of Greater New York (BC/BSGNY) instead of The Prudential Insurance Company of America (Prudential). They pointed out BC/BSGNY's excellent performance in the areas of timeliness of bill processing and provider relations, as well as lower-than-average bill processing unit cost.

Response: We are pleased to hear that providers have been satisfied with the service given by their current intermediaries. We are confident that many intermediaries, other than those selected, would do a good job as an HHA regional intermediary. We are, however, required by statute to reduce the number of intermediaries serving freestanding HHAs to no more than ten. This means that some intermediaries, while capable, will not be selected. We believe, however, that our selectees are equally capable and, based on all considerations, are the best choices. We also believe that, in general, the provider community agrees. While commenters wrote to request that their current intermediary be designated in place of another intermediary, we received few negative comments about our tentatively designated intermediaries.

Regarding the selection of Prudential, a prime consideration was Prudential's role as an alternative designated intermediary. In this capacity, Prudential serves 185 HHAs, 109 of which were transferred to it as a result of the phaseout of ODR. We did not wish to require these HHAs to be reassigned again. Nonetheless, we proposed Prudential as a designated regional intermediary only after a review of the performance data and other criteria listed in the proposed notice supported its selection. We also noted that while we received negative comments about Prudential from HHA providers that supported the selection of their current intermediary, we received a negative comment from only one HHA provider currently served by Prudential. Furthermore, in 1982 Prudential demonstrated its ability to assume a unique type of national workload when it became the single intermediary for comprehensive health centers (CHC). Prudential has also demonstrated (e.g., in the assumption of ODR provider workload) that it is capable of assuming a large workload with little disruption to its operations and without lowering the quality of performance or service.

3. *Comment:* Twenty-one commenters stated that they agree with out tentative designation.

Response: Although we received relatively few comments in support of our tentative intermediary selections, we assume that such support exists. We received extremely few negative comments about our tentatively selected intermediaries from providers that are currently served by them. We are interpreting this lack of comment as support for the tentatively designated intermediaries.

4. *Comment:* Sixty-six commenters questioned whether some of the tentatively designated intermediaries could satisfactorily absorb the additional workload. We received one comment regarding South Caroline Blue Cross and three regarding Iowa Blue Cross. The majority, however, concerned Maine Blue Cross and New Mexico Blue Cross. Some of the comments concerned Maine Blue Cross' ability to accommodate HHAs that receive the periodic interim payment (PIP) method of reimbursement.

Response: It is true that the above intermediaries will be assuming a substantial increase in their home health workload. This would be true for any of the intermediaries considered viable choices in the respective regions. The assumption of this workload will be a gradual one, taking place over a period of one year, since providers will be transferred based on their fiscal year ending dates.

In the case of selecting an intermediary for Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), we considered all intermediaries that are currently designated HHA intermediaries in the Region. A review of long term performance and cost data indicated that Maine Blue Cross is an effective and efficient intermediary. Additionally, the FY84 CPEP ranked Maine Blue Cross as the best intermediary in Region I. After making our tentative selections, we asked the involved intermediaries to submit an implementation plan. Based on the plan submitted by Maine Blue Closs, we are confident that Maine Blue Cross will be able to assume the additional workload without disruption of service to the HHA providers.

All intermediaries have the capability to pay providers on the PIP method. Determining the rate of interim payment is a simple accounting procedure. The volume of HHAs on PIP transferring to Maine potentially could have highlighted the need for intensified accounting activities. However, a recent study of HHAs in Region I shows that of the 300 freestanding HHAs, only 16 use the PIP method. Our plan of action to assure no slippage in payments is discussed in the Transition Issues section of this notice.

Many commenters expressed concern that Maine Blue Cross is unable to accept electronic media claims (EMC). They point out that no HHAs in Maine submit bills via EMC. This indicates a misunderstanding. Maine Blue Cross has the capability and will accept EMC bills in the standard billing format. Maine Blue Cross could not have been under consideration as a regional intermediary had it not had this capability. No intermediary in Region I receives automated bills from HHAs.

Regarding the selection of New Mexico Blue Cross, some commenters felt that Texas Blue Cross would be a more appropriate choice given the large number of HHAs currently served by them. We do not agree. Texas Blue Cross has been experiencing problems in implementing HCFA initiatives timely when such initiatives require systems changes. To add a larger home health workload to this contractor would, in our view, be inappropriate.

We are confident that New Mexico Blue Cross will be able to assume the additional workload without disruption in service to the HHA providers. This view is also shared by the Texas Association of Home Health Agencies, which, following discussions with the staffs of Texas Blue Cross, Iowa Blue Cross, and New Mexico Blue Cross, has written to us in support of New Mexico Blue Cross designation. They believe, as do we, that New Mexico Blue Cross understands the requirements of HHAs and is able to meet them.

With the exception of Aetna, Prudential, California Blue Cross and Iowa Blue Cross, which already service providers in more than one State, all of the designated intermediaries must prepare themselves to service providers in a multi-State area. New Mexico Blue Cross has demonstrated the ability to reach beyond State boundaries. In the spring of 1984, New Mexico was designated the single Medicare intermediary for Indian Health Service (IHS) facilities located across the country, including Alaska. The intermediary successfully assumed the IHS workload and continues to work well with those facilities.

5. *Comment:* Fifty-five commenters were concerned about the criteria that were used to select our tentative designees. We received:

(A) Comments about vagueness of criteria, absence of a numerical ranking and unavailability of data;

(B) Suggestions for additional criteria;

(C) Statements that we used criteria that were not specified; i.e., the results of HCFA's Recovery Review Program, intermediary handling of exception requests for cost limits, and "cost and performance criteria under the competitive contracting provision of section 2326 of Pub. L. 98–369;"

(D) Comments about lack of opportunity for input;

(E) Suggestions that we use competitive bidding in selecting the intermediaries; and

(F) Requests that we issue a new proposed notice (with comment period), publishing scores and rankings of intermediaries.

(A) *Comment:* Comments were made that our criteria were vague, that a numerical ranking should have been developed and that commenters were not able to make informed comments because the data we used were not available to them.

Response: We do not agree with most of the comments made on this issue. We listed several very specific criteria in the proposed notice. Some of these criteria, such as responsiveness to HCFA initiatives and minimum disruption to providers, do not lend themselves to a strict ranking process. In addition, the weights that could be assigned to various criteria are subjective and would not be uniformly accepted. Also,

the FY83 CPEP did not rank intermediaries, but placed intermediaries in three groupings. This lack of a ranking tended to blur the differences in performance among intermediaries within each grouping and complicated arriving at a definitive ranking for purposes of selecting the regional HHA intermediaries.

Regarding the unavailability of data (that is, the data were not published in the proposed notice), the volume of data made this impractical. The data were available upon request and were, in fact, furnished to requestors, such as the National Association for Home Care.

(B) *Comment:* Commenters suggested the use of additional criteria, such as denial rates, timeliness of processing HHA interim payment rate changes, timeliness of making payments, and current staffing capabilities.

Response: Denial rates are subject to ambiguous interpretation; e.g., a high denial rate may indicate an assiduous application of coverage policy or it may indicate that the intermediary has been deficient in relaying coverage policy to the providers. Generally, denial rates need to be looked at in conjunction with reversal rates upon reconsideration and hearing. Finally, it has recently come to our attention that some errors in reporting these data have been made and that comparable figures for all intermediaries do not exist.

We did not use other additional criteria suggested, such as timeliness of processing HHA interim payment rate changes and timeliness of making payments (vs. timeliness of bill processing) because we do not maintain performance data on these areas. We made every effort to identify and include all relevant data specific to HHAs, and we believe we have done so. Additionally, there are areas where, while data are not available specific to HHA providers, overall performance for all types of providers is included as part of the CPEP, results of which were used as one of the criteria.

One commenter stated that we did not assess an intermediary's data processing system capability, but only looked at the intermediary's current level of electronic media claims (EMC) submissions. This apparently reflects a misunderstanding of the criteria listed in our proposed notice. As stated in the proposed notice, we considered each intermediary's electronic data processing capability. This meant we evaluated the capacity of the current data processing system of our tentative selections to be sure the system could handle the increased workload. While a high level of EMC submission of HHA bills was a plus, we also looked at EMC submissions in connection with assessing an intermediary's responsiveness to HCFA initiatives; that is, whether the intermediary achieved its EMC goal.

One commenter also suggested that we should have looked at and included as a criterion an intermediary's current staffing capabilities. We do not agree. In most cases, a selected intermediary's total bill processing workload will be increased by more than 30 percent. We would not expect an intermediary to have the "excess" staff on board to assume an additional workload of this magnitude. We do expect hiring and training of additional staff to be necesary by most, if not all, of our designated intermediaries.

One agency suggested that sound financial statements from the potential intermediaries be one of the selection criteria used. Such a criterion is not necessary. Solvency is required of all Medicare contractors before they can administer any functions of the Medicare program (42 CFR 421.110(b)(2) and 421.202(b)).

(C) *Comment:* We received comments stating that we used criteria that were not specified; i.e., the results of HCFA's Recovery Review Program, intermediary handling of exception requests for cost limits, and "cost and performance criteria under the competitive contracting provision of section 2326 of Pub. L. 98–369."

Response: While the commenter stated that we used the results of the Recovery Review Program, since no such program exists, we assume the commenter is referring to the Reimbursement Review Program. We did not use the results of the Reimbursement Review Program because it does not include data on all intermediaries. We also did not use handling of exception requests as a criterion, since information on exception requests is anecdotal in nature.

However, the HCFR components responsible for these areas were asked if they were aware of any performance problems with our tentatively selected intermediaries in these areas.

The so-called "2326 ranking" was used in making our selections. This, however, is not a distinct performance criterion, but rather a 4-year weighted ranking of CPEP and cost performance. In this ranking greater weight is given to the most recent performance. This ranking was developed in connection with section 2326(a) of the Deficit Reduction Act, which, allows us to replace, via a competitive bidding process, two intermediaries and two carriers whose longterm performance and cost has caused them to be ranked in the lowest 20th percentile of intermediaries and carriers. It was used as a tool to aid us in "narrowing in" on viable choices by eliminating from further consideration those intermediaries whose long-term performance had placed them in the bottom 20th percentile.

Comment: Some commenters stated that they did not have an opportunity to provide input into our selection process.

Response: The very purpose of the proposed notice was to solicit input on all aspects of the assignment of HHAs to designated intermediaries, including criteria for selection. In addition, in making the tentative selections, we took into consideration comments received from HHAs and their associations, including a survey of the home health industry conducted by the American Federation of Home Health Agencies, Inc. We have met with staff from the National Association for Home Care and the American Hospital Association and have been willing to meet with other involved parties upon request.

Comment: Some commenters suggested we use competitive bidding in selecting the designated intermediaries.

Response: HCFA is, in selecting intermediaries, exempt by operation of law from the requirement of competition that governs most Federal procurements. Historically, with the exception of a few contracts entered into under an experimental contracting authority, intermediaries have been administratively selected without competition. Because administrative designation of regional home health intermediaries is specifically permitted by law and is consistent with existing policy, we decided not to solicit competitive bids for taking over the HHA workloads, but to base our selections on demonstrated performance.

(F) *Comment:* We received requests that we issue a new proposed notice with comment period publishing scores and ranking of intermediaries.

Response: We are not issuing a new proposed notice for the purpose of publishing scores and rankings and soliciting comments on them. As explained above, the criteria do not lend themselves to the development of a ranking, scores are too voluminous to publish, and we have provided ample opportunity for input.

6. *Comment:* Three commenters were concerned about a possible conflict-of-interest situation existing if Blue Cross and Blue Shield of South Carolina becomes a designated intermediary since it owns a home health agency.

Response: We agree that the above situation has the potential for creating a conflict of interest. This however, is now a moot issue since Blue Cross and Blue Shield of South Carolina has agreed to take steps to divest itself of the HHA immediately.

7. *Comment:* We received several comments regarding subcontracting. Three commenters suggested we allow subcontracting of some intermediary functions. Twelve commenters opposed subcontracting on the grounds that it would have a negative effect on the goal of achieving consistency.

Response: We prefer that the designated intermediary perform all intermediary functions. However, if necessary to maintain cost effectiveness and efficiency, we will allow subcontracting of cost report field audit work. Such subcontracting must have he concurrence of the appropriate HCFA Regional Office. In all circumstances, including those instances in which a subcontractor performs some of the intermediary duties, the designated regional intermediary is accountable for the quality of the service performed.

Regarding consistency, it is our goal to achieve consistency in coverage determinations. Making these determinations is a part of the claims processing function. Since this function will not be subcontracted, unless exceptional circumstances arise, we will achieve consistency in coverage determinations. Also, prior to their designation as regional intermediaries, some of the designated intermediaries subcontracted the processing of requests for reconsideration (i.e., the reexamination of a determination). All of the designated regional intermediaries will now process HHA reconsideration requests themselves.

8. *Comment:* We received 121 comments recommending that we also assign provider-based HHAs to the designated intermediaries. The commenters pointed out that unless we do so, we will not achieve the prime goal of the DRA, which is more consistent coverage determinations and application of policy.

We received three comments, including two from hospital associations, supporting the current policy of provider-based HHAs being serviced by the intermediary that services the parent provider. One of the associations stated that it believes this arrangement is the most effective and efficient relationship for claims processing, cost reporting and audit activities. It pointed out that having a single intermediary servicing both the parent provider and HHA permits streamlined communication on coverage, payment, and cost settlement issues.

Response: One of the important goals of the legislation on which this notice is based is to reduce the number of intermediaries making coverage decisions within a given area so that we can achieve greater consistency. We recognize that, while this notice will result in more consistent coverage determinations for the freestanding HHAs, assigning only freestanding HHSs to the designated intermediaries will not achieve complete consistency in HHA determinations within a geographic area. Consequently, we are seriously considering proposing amendments to regulations in order to assign provider-based HHAs to the designated intermediaries. The statutory authority to do this is contained in section 1816(e)(4) of the Act.

We do not share the concern of the hospital association that assigning provider-based HHAs to the designated intermediaries would complicate communication. Although the HHA and parent may be served by a different intermediary, audit and cost report settlement for both will remain the responsibility of the intermediary servicing the parent provider. Claims processing (and the concomitant function of making coverage determinations) will be done by the servicing intermediary for each facility. We believe that we can clearly delineate responsibilities and authorities.

9. *Comment:* We received two similar comments from 55 commenters concerning choice of alternative designated regional intermediaries. One comment was that HHAs should be allowed to elect to be serviced by the appropriate alternative designated regional intermediary without having to demonstrate that such assignment would be consistent with the effective and efficient administration of the Medicare program. The other comment was that those HHAs whose designated regional intermediary is also currently the alternative designated regional intermediary for its area should be able to choose among all alternative designated regional intermediaries.

Response: We are continuing to make provision for alternative designated intermediaries. We believe, however,that HHAs should be governed by the same policy regarding change of intermediaries that applies to other providers. Therefore, we will approve requests to be serviced by the alternative designated regional intermediary only if, after evaluation in accordance with the provisions of 42 CFR 421.106, it is determined to be in the best interest of the Medicare program to do so.

Because of the reconfiguration of the HHA workload and the reduction in the number of designated intermediaries, HHAs in New York, Puerto Rico, the Virgin Islands, Kansas, Missouri, Nebraska, Arizona, California, Hawaii, Nevada, Idaho, Oregon, Washington, and Alaska will now have as their designated intermediary the intermediary we had previously designated (49 FR 3656, January 30, 1984) as their alternative intermediary for their State. In order to make an alternative intermediary available to these providers, we have made changes in the service areas of the alternative designated intermediaries. In the section discussing the final selection of intermediaries, we list the alternative designated regional intermediary for each State.

10. *Comment:* We received 21 comments concerning the effect of designation of regional intermediaries on beneficiaries. A concern was expressed that it will be confusing for beneficiaries to have claims for different services going to different intermediaries. One commenter raised the concern that some beneficiaries currently receiving services covered by their current intermediary may be denied coverage by their new intermediary because of the variability of "covered services" from one intermediary to another.

Response: It is true that one result of this initiative is that claims for services provided an individual beneficiary by various providers may be processed by different intermediaries. This situation cannot be completely avoided, given the legislative mandate to reduce the number of intermediaries servicing HHAs. This should not be a problem for most beneficiaries, however. Claims for services are submitted to the intermediaries by the providers and reimbursement is made to the providers. There is usually very little direct communication between the beneficiary and the intermediary, unless the beneficiary wishes to request a reconsideration or appeal a decision.

It is possible that a beneficiary may find that a service that was determined to be covered by the former intermediary is denied by the designated regional intermediary. We expect that these situations will be rare. Should this occur and the beneficiary believes an error has been made, a reconsideraiton or hearing (as appropriate) may be requested. Our main concern is that payment be made for covered services and not for

noncovered services. By reducing the number of intermediaries, we will be able to more easily communicate coverage policy and monitor their performance in educating providers.

11. *Comment:* One commenter suggested instituting a beneficiary appeals process that would begin upon a telephone request and conclude within ten calendar days of that request.

Response: We see no need to change the current beneficiary appeals mechanisms, which are working in a satisfactory manner for all types of services. We view it as inappropriate to single out one class of services for special treatment. It is necessary and appropriate that a beneficiary submit requests for a reconsideration or a hearing in writing along with the medical or other information he or she believes will support the claim. Given the potential need to request additional information before making a decision, we view it as unrealistic to require this process to be completed within ten working days. Our primary objective is that the process be accurate and thorough.

12. *Comment:* We received three comments suggesting that regionalization of intermediaries for home health agencies may affect Medicaid negatively; i.e., it may complicate communication and affect common audit arrangements that exist between Medicare and Medicaid.

Response: The commenters are correct that regionalization of intermediaries will require that some State Medicaid agencies establish releationships with an additional intermediary. However, we do not see this as presenting a difficulty. Given the present alternative designated regional intermediary configuration, there already exists a need for Medicaid coordination with more than one intermediary. We are unaware of any additional administrative costs resulting from this situation.

13. *Comment:* We received three comments requesting that HHAs in Puerto Rico be serviced by the designated intermediary for Region II. There were indications given earlier that these providers would continue to be serviced by Cooperative de Seguros de Vida under a subcontracting arrangement.

Response: Prudential Insurance Company of America is the designated intermediary for freestanding HHAs in Puerto Rico. Prudential intends to service these providers directly.

14. *Comment:* One commenter did not believe it appropriate to reassign the chain home office intermediary responsibilities automatically to the designated regional intermediary based on the geographic location of the home office. The commenter suggested that the final notice specify that HCFA will retain authority to reassess these assignments based on existing (prior to April 10, 1985) guidelines.

Response: In implementing the reduction in HHA intermediaries, we have selected those intermediaries we believe can best service the providers in a given geographic territory. It is our view that overall performance and service to HHAs will improve as a result of this intitiative. All responsibilities related to the chain home office function will, therefore, become the jurisdiction of the designated regional intermediary for a geographic locality and all provider chains whose home offices are within a specifically assigned territory will be serviced by the designated regional intermediary. Providers that wish to avail themselves of the lead/local provisions contained in 42 CFR 421.117(d) or the alternative designated regional intermediary provisions contained in § 421.117(e) may continue to do so. We will evaluate any request for change of servicing intermediary in terms of whether the change is consistent with the effective and efficient administration of the Medicare program. We will continue to monitor the performance of the designated HHA intermediaries to assure that their performance is acceptable and retain our option to make future changes, if the change would improve service in a given geographic locality.

15. *Comment:* Two commenters noted that the proposed notice explained that, in the future, one or more of the ten selected intermediaries may cease to serve as an HHA intermediary and that HCFA reserves the right to either fill the vacancy or vacancies or to operate with fewer than ten intermediaries. The commenters asked what criteria HCFA would use to change intermediaries and/or reduce the number of HHA intermediaries, whether the affected intermediaries would have an opportunity for a hearing and a right to a judicial review, and whether HCFA plans to give all affected HHAs, their trade association representatives and other affected parties advance notice of the proposed changes and opportunity to comment.

Response: The effective and efficient administration of the Medicare program is the most important factor in a decision to either reduce the number of designated HHA intermediaries or replace an intermediary. Should it become evident, at some future date, that having fewer designated intermediaries would be in the best interest of the Medicare program, we would take steps, based on careful analysis, to reduce the number of intermediaries. How this would be accomplished would depend on the circumstances. Ordinarily, we do not issue **Federal Register** notices and solicit public comments when we change intermediaries or make other decisions involving our contracting activities. However, in connection with determining whether an intermediary is effective and efficient, we do publish in the **Federal Register** our standards and criteria for evaluating intermediaries and carriers and provide an opportunity for public comment before implementation.

A situation may arise where, because of deterioration in performance or unacceptable increases in cost, an intermediary's voluntary withdrawal from the program, or a decision by HCFA to run an experimental procurement, it may become necessary to replace one or more designated intermediaries. At this time we contemplate that we would select a replacement intermediary using basically the same cirteria we have used in making the selections annouced in this notice.

We reserve the right to either select a new designated regional intermediary, or, should it be determined to be the better course of action, to transfer the workload to an already existing designated intermediary. We would continue to examine the operation of the designated intermediaries and to assess the appropriate number of intermediaries.

In the event it becomes necessary to replace and/or reduce the HHA intermediaries, we reserve the right to do so without first publishing a notice. We would, however, give all affected HHAs reasonable advance notice of proposed changes.

The designation of regional intermediaries is based on section 1816(e)(4) of the Act. This section contemplates an exception to the hearing and review process, so that affected intermediaries would not have a right to a hearing or judicial review.

16. *Comment:* We received 118 comments about the following transition issues:

A. Assurance of cash flow;

B. Transition costs;

C. Transition schedule;

D. Delineation of responsibilities during the change over period;

E. Waiver of liability status during the change over period; and

F. Subcontracting.

A. *Comment:* Many HHAs were concerned that delays in cash flow could seriously hamper the agencies abilities to meet payrolls and other expenses.

Response: We will make every effort to assure that there will be no interruption of cash flow to HHAs. We have identified each home health agency, its method of reimbursement and its frequency of receiving that reimbursement so that we could identify potential problem areas. As we have done in past transitions, we will work closely with the intermediaries and HHAs to resolve problems that could interrupt cash flow. Additionally, we will use existing payment procedures to meet provider cash flow requirements under special circumstances.

In related comments, HHAs questioned whether the new intermediary could accommodate providers using the periodic interim payment method of reimbursement (PIP). All intermediaries have the capability to pay providers on the PIP method. Determining the rate of interim payment is a simple accounting procedure. We have identified those HHAs currently on PIP that are moving to a new intermediary. This information will be forwarded to the new intermediary. Consequently, the new intermediary will know, before the actual transfers, each affected agency's amount and payment schedule so that we can assure no slippage in payments.

B. *Comment:* Several commenters believed that transition costs should not be incorporated into an HHA's request for an exception to the cost limits. They believe that such an inclusion distorts per visit costs and does not accurately reflect a normal visit cost. Additionally, one commenter stated that exception requests can take a significant time to process.

Response. The amount of incremental administrative cost attributable to the transition should not be a significant percentage of an HHA's total administrative cost. The incremental cost will be incurred for a short period of time, but will be averaged in with all other costs for the entire 12 months of an HHA's fiscal year. This small amount of cost should not produce a measurable distortion in any per visit cost. Reasonable transition costs incurred by HHAs under the limits will be included on the cost report and reimbursement by intermediaries. However, for those providers with costs in excess of the limits, the exception provided at 42 CFR 405.460(f)(2) is designed to recognize higher costs due to extraordinary circumstances beyond the control of the provider. In our experience, the average HCFA processing time for an adequately documented exception request, accompained by a properly completed cost report, is less than 30 days. Therefore, concerns about excessive processing time do not appear to be warranted.

C. *Comment:* Commenters had several problems with the proposed transition schedule. They believed that (1) 60 days was inadequate notice; (2) the transfers should be delayed until the uniform bill (UB–82), Form HCFA–1450, has been implemented; (3) the transfers should be delayed until the HCFA Forms 485–488 have been implemented; and (4) tranfers should be delayed when the intermediary is not ready to handle the HHA's particular automated billing. The commenters urged that we carefully plan and monitor the transitions.

Response: Shortly following the publication of this notice, HCFA will formally notify each affected HHA of its designated intermediary and its transfer date. Those in the first group of HHAs to be moved will have a minmum of 60 days notice; the remainder will have additional time. We do not expect this to create a hardship for the HHAs, as past experience has shown that 60 days notice is adequate to facilitate smooth transfers. We hope all HHAs will be able to transfer at the beginning of their fiscal year. However, transfers will be delayed if the intermediary is not ready to assume the additional claims workload.

The uniform bill (UB–82), Form HCFA–1450, had to be implemented in all States by October 1, 1985, and the HCFA Forms 485–488 had to be completed for all starts of care and recertifications starting September 1, 1985. Thus, we do not need to delay HHA transfers to accommodate these two HCFA initiatives as they were fully operational well before HHA transfers were to begin.

Regarding delays while an intermediary adjusts to a particular automated biller: We do not expect the providers to forego the benefits of automation, but there usually will be no need for a delay. We are not guaranteeing that there will be absolutely no need for systems changes; rather, during the transition, the HHAs and the intermediary will have to accommodate each other. The HHAs will accommodate the intermediary in the format used, content and submission requirements. The HHAs will be trained before transfer in proper billing procedures. The intermediary will accommodate the HHAs' billing media (tape cassette, disk, etc.). We will grant delays in transfer if the intermediary is not able to accommodate the HHA's billing medium.

We follow a transition procedure whenever providers are transferred from one intermediary to another. This procedure requires implementation plans for the incoming intermediary, HCFA approval of the plans and subsequent close HCFA monitoring throughout the transition.

Comment: HHAs questioned whether the facilities with pending requests to use discrete costing, and those that have received interim approval to use discrete costing from their current intermediary, should receive a ruling from the new intermediary on the acceptability of their methodology before transfer to the new intermediary.

Response: Since all providers will be given at least 60 days advance notice of transfer to a new intermediary, HHAs using, or desiring to use, discrete costing will have adequate time to request interim approval of their methodology from their intermediary. Receiving intermediaries are expected to process such requests expeditiously, and will be so advised.

However, we do not agree that transfers should be contingent upon intermediary determination of the acceptability of a discrete costing scheme. Providers are also cautioned that interim approval of a discrete costing methodology is subject to verification, by audit, that all elements of the methodology approved by the intermediary have been followed. Failure to maintain required records will result in a disapproval of the discrete costing request for that fiscal year.

Comment: New intermediaries should be required to rule on corporate reorganization proposals prior to transfer.

Response: This comment involves similar issues to those in discrete costing, discussed above. The minimum 60-day advance notice to be given each HHA should provide adequate time to request a decision on the HHAs' corporate structure from the new intermediary. Intermediaries will be advised to process such requests timely. However, we cannot agree to making transfers to the new intermediary contingent upon such approval. We also note that approval of a structure involving two or more entities (corporations, sole proprietorships or partnerships) assumes that separate books and records will be kept for each of the entities. Should the intermediary find, on audit, a commingling of the assets, books and records of two or more reputedly separate entities, these operations will be considered a single

entity for Medicare cost reporting purposes.

D. *Comment:* The proposed notice stated that each HHA would be notified of procedures to follow during the change over process. One commenter suggested that we identify who would notify the HHAs.

Response: HCFA will notify the HHAs of their new designated intermediary and will give the HHAs a contact in the HCFA regional office should they have any questions. Following these notifications, the designated intermediary will notify each facility, give an intermediary contact, schedule meetings and training date, etc..

E. *Comment:* Two of the national HHA associations and one trade association that represents some intermediaries offered suggestions on the handling of HHAs' limitation of liability status. Two of these commenters recommended that all transferring HHAs' automatically be given a "favorable presumption" for the first calendar quarter with their new intermediary. The other commenter suggested that only those HHAs with a favorable presumption at the time of transfer should retain this status through the first calendar quarter with the new intermediary.

Response: We agree with the latter approach. Use of the favorable presumption was established as an administrative device to assure payment under special circumstances to providers (in this case HHAs) that closely follow Medicare coverage guidelines. The HHAs must have no more than a 2.5 percent denial rate of their bills submitted per quarter for payment. If an HHA does not exceed this denial rate and a submitted claim is denied because the services furnished were not medically reasonable and necessary and there is no clear evidence in the file to show that the HHA should have known of the noncoverage, a finding will be made that the HHA did not know that the services were not covered. In these instances where both the beneficiary and the provider are found not to have knowledge of the noncoverage of the services, Medicare will pay for the services provided. Any HHA that has a favorable presumption at the time of transfer will retain it throughout the first full calendar quarter with the new intermediary. Other providers will not be given a favorable presumption automatically. This is the normal procedure used whenever a provider changes from one intermediary to another.

All providers should take note that we published a proposed rule on February 12, 1985 (50 FR 5787) concerning limitation of liability policies. Current budget estimates assume final implementation of this regulation. A general change in limitation of liability regulations could alter the application of existing procedures when final rules are published during the transition period.

F. *Comment:* Some commenters who recognized the potential need for subcontracting suggested that we list those activities that may be subcontracted.

Response: As we have stated elsewhere in this notice, to the extent practicable, the designated intermediary will perform all functions. However, where it is more cost effective and efficient and with HCFA regional office concurrence, the designated regional intermediary may subcontract cost report field audits. Field audit work may be subcontracted to either the local intermediary or an approved CPA firm. The final decisions in cost reporting settlements are the responsibility of the servicing intermediary. We expect the ten designated intermediaries to perform all compliance review functions.

17. Comment: We received three comments regarding our voluntary impact analysis. These included a question about the accuracy of the $3 million estimate of administrative costs contained in the impact analysis, concern that a local intermediary's loss of the HHA workload would hurt the State's economy and requests that we do a full scale inpact analysis.

Response: The $3 million is our best estimate (based on our experience in the transfer of providers to other intermediaries from the Office of Direct Reimbursement) of intermediary administrative costs that will be incurred as a direct result of this initiative.

While some intermediaries may find it cost effective to reduce staff because of the loss of the HHA workload, this should not generally be the case. Intermediaries have the option of reducing staff by attrition or deploying staff to their private health insurance business. In most instances, HHA bills account for only a small portion of an intermediary's Medicare workload. This small decrease in the workload of one organization within a State should have insignificant consequences for the economy.

The commenter did not provide any information to substantiate a need for a full regulatory impact analysis. See the Regulatory Impact Statement section in this notice for further discussion of this issue.

Final Selection of Intermediaries

HCFA is designating ten intermediaries to service freestanding HHAs in the indicated States, the District of Columbia, Puerto Rico and the Virgin Islands as follows:

1. Associated Hospital Service of Maine—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

2. The Prudential Insurance Company of America—New Jersey, New York, Puerto Rico and the Virgin Islands.

3. Blue Cross of Greater Philadelphia—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia.

4. Blue Cross and Blue Shield of South Carolina—Kentucky, North Carolina, South Carolina and Tennessee.

5. Aetna Life and Casualty—Alabama, Florida, Georgia and Mississippi.

6. Blue Cross and Blue Shield United of Wisconsin—Wisconsin, Michigan and Minnesota.

7. Health Care Service Corporation (Chicago, Illinois)—Illinois, Indiana and Ohio.

8. New Mexico Blue Cross and Blue Shield, Inc.—Arkansas, Louisiana, New Mexico, Oklahoma and Texas.

9. Blue Cross of Iowa, Inc.—Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.

10. Blue Cross of California—Alaska, Arizona, California, Hawaii, Idaho, Oregon, Nevada and Washington.

Note that there is some variance from the designations and service areas listed in the proposed notice of April 10, 1985. As we indicated we would do in the proposed notice, we have reevaluated our tentative selections based on more recent data, including the results of the FY84 CPEP. These data supported the tentative selections, with one exception.

Since conversion to the Uniform Bill format (UB–82), excessive claims backlogs have developed at Blue Cross and Blue Shield of Michigan. Additionally, we have concerns regarding dollar returns in the areas of audit, medical review, and Medicare secondary payer identification. While we are working with the intermediary to correct these problems we are fearful that adding the HHA workload at this time would only exacerbate them. Therefore, we have concluded that selecting Blue Cross and Blue Shield of Michigan as a designated regional intermediary would be inappropriate. We are selecting instead Blue Cross and Blue Shield United of Wisconsin as a designated regional intermediary.

A review of the most recent performance and cost data indicates that Blue Cross and Blue Shield United of Wisconsin is the best intermediary in Region V to assume the role of a designated intermediary for Region V, along with Health Care Service Corporation.

This change from our tentative designation also makes advisable a change in the service areas of the two intermediaries that will serve in Region V. HHAs in Minnesota and Wisconsin (which we had proposed be serviced by Health Care Service Corporation) and in Michigan (which we had proposed be serviced by Blue Cross and Blue Shield of Michigan) will be serviced by Blue Cross and Blue Shield United of Wisconsin. HHAs in Indiana and Ohio (which we had proposed be serviced by Blue Cross and Blue Shield of Michigan) will be serviced by Health Care Service Corporation. These changes are being made in order to achieve a more balanced distribution of providers and workload.

The current provisions of 42 CFR 421.117(e), which allow HHAs to request to receive payment from a alternative designated regional intermediary, depending upon the State in which the HHA is situated, are not affected by this notice. Those HHAs that do not wish to be serviced by the designated regional intermediary may request to be serviced by the alternative designated regional intermediary. We will, in accordance with the provisions of 42 CFR 421.106, evaluate the request to determine whether the change is consistent with the effective and efficient administration of the program. An HHA that has already been approved to use an alternative designated regional intermediary, as provided in section 421.117, is not affected by this notice (since we are not selecting new alternative designated intermediaries), unless such an HHA wishes to be serviced by the new designated regional intermediary.

The alternative designated intermediaries and where they will be available as alternates are as follows:

The Prudential Insurance Company of America—Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia;

Blue Cross of Iowa, Inc.—Alaska, Arizona, Arkansas, California, Hawaii, Idaho, Illinois, Indiana, Louisiana, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Puerto Rico, Texas, Virgin Islands, Washington, and Wisconsin; and

Blue Cross of California—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Under 42 CFR 421.117, an HHA chain not desiring to receive payment from more than one designated regional intermediary has the opportunity to request to be serviced by a single designated regional intermediary. Alternatively, the chain may request to be serviced by one lead intermediary with the assistance of the local designated regional intermediary. These options will also continue to be made available. The lead, local, or a single intermediary must, as required by the regulations, be a currently designated regional intermediary.

Under 42 CFR 421.117(c)(2), a hospice that is based in another Medicare provider is required to be serviced by the same intermediary that services its parent provider. In accordance with that provision, a hospice that is based in an HHA will also be assigned to the designated HHA intermediary which services its parent.

Implementation

A. Notification to HHAs

HCFA will send a notice to each affected HHA provider, advising it of the name of its designated regional intermediary and the date each HHA is scheduled to transfer.

B. Transfer Schedule

Home health agencies will receive at least 60 days' notice prior to the date of their transfer. The transfer date will generally be based on the HHAs cost report year ending date. We will consider other transfer dates only if extraordinary circumstances exist.

C. Procedures During the Change-Over Period

Each HHA will be notified by mail of procedures to follow during the change-over process. We plan to arrange for an orderly transition of service.

1. HHAs will submit bills for services provided before the transfer date to the outgoing intermediary. The intermediary will be responsible for the processing of reconsideration claims arising from the denial of payment for services provided before the transfer date.

This same intermediary will be responsible for the settlement of the currently due cost report, prior unsettled cost reports, and any appeals arising from those cost reports.

2. All bills for services provided on and after the transfer date will be submitted to the receiving intermediary.

3. We are continuing ombudsmen-type positions that have been established in each HCFA regional office to assist HHAs in resolving and problems encountered during the transition or thereafter.

D. Assurance of Cash Flow

We will make every effort to assure that there will be no interruption of cash flow to HHAs. We will work closely with the designated intermediary and HHAs to identify and resolve problems that could potentially interrupt HHAs' cash flow.

E. Transition Cost

Provider costs incurred due to the transfer will be allowable and reimbursable under established Medicare reimbursement principles. If the HHA's costs exceed the applicable HHA cost limits as the result of the required transfer to a designated regional intermediary, an exception to the limits may be granted under the usual rules; that is, to the extent that the costs are reasonable, attributable to the circumstances specified, separately identified by the provider and verified by the intermediary. Request for transition cost exception will be processed by HCFA consistent with the provisions for handling other exceptions requested under 42 CFR 405.460(f)(2).

Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any rules that are considered major rules because they would be likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or have an adverse impact on competition, employment, productivity, or innovation. This document is not a rule. It contains our general statement of policy about how we propose to interpret and implement section 1816(e)(4) of the Act and implementing regulations. As such, it is not subject to the Executive Order. Nevertheless, in the spirit of the Excutive Order, we are voluntarily providing the following information.

Approximately 3,000 freestanding HHAs will be reassigned from their present intermediary to a different regional intermediary. We project that we will incur one-time administrative costs of $3 million for extensive travel, training, and system changes related to the reassignment of these HHAs. We expect to achieve some savings as a result of the consolidation of HHAs and the reduction in the number of intermediaries servicing HHAs. Savings will be associated with economies-of-

scale that will lower unit processing costs. The potential savings, coupled with the one-time costs, will not exceed the $100 million threshold and will not produce a major increase in cost or prices.

Generally, we consider an adverse effect on employment, productivity, innovation, or competition to be significant only if that effect is equivalent to an economic loss of $10 million or more, and the adverse effect results in a 10 percent of greater change in a year for a common measurement of an economic variable of the affected entities. For the reasons discussed above, we expect these proposed reassignments to have beneficial, rather than adverse, effects on productivity, and possibly on innovation. Further, although the reassignment of HHAs to fewer intermediaries may result in a reduced level of employment by those intermediaries that will not longer service freestanding HHAs, we do not believe this will be of a significant magnitude. Finally, we have determined that this notice will not have an adverse effect on competition. Section 1816 of the Act gives providers the right to nominate their servicing intermediary. Because of this, HCFA is, in selecting intermediaries, exempt by operation of law from the requirement of competition the governs most Federal procurements. Historically, with the exception of a few contracts entered into under an experimental contracting authority, intermediaries have been administratively selected without competition. This designation of regional home health intermediaries is consistent with this existing policy.

For these reasons, we have determined that the assignment and reassignment of HHAs to the designated regional intermediaries does not meet any of the criteria for identifying major rules. Therefore, we have not prepared a regulatory impact analysis.

B. Regulatory Flexibility Act

Consistent with the Regulatory Flexibility Act (5 U.S.C. 601–612) we perform and publish a regulatory flexibility analysis unless the Secretary certifies that the rule will not result in a significant impact on a substantial number of small entities. This document is not a rule. It contains our general statement of policy about how we interpret and implement section 1816(e)(4) of the Act and implementing regulations. We believe it is not subject to the Regulatory Flexibility Act. Nevertheless, in the spirit of the Regulatory Flexibility Act, we are voluntarily providing the following information.

We are requiring reassignment of a substantial number of freestanding HHAs to designated regional intermediaries, and, for purposes of regulatory flexibility analysis, we consider all providers and other entities participating in Medicare to be small entities. However, we have determined that the impact on the affected entities will not be significant.

We are minimizing the impact on the affected HHAs. We will try to assure a continued cash flow for each of the affected HHAs, to base reassignment dates upon the provider cost report year ending dates and to provide an exception for those HHAs whose costs exceed their limits as a result of transition costs incurred through the redesignation. For these reasons, we believe, and the Secretary certifies, that this notice will not result in a significant impact on a substantial number of small entities. Therefore, we have not prepared a regulatory flexibility analysis.

(Sec. 1816(e)(4) of the Social Security Act; 42 U.S.C. 1395h(e)(4); 42 CFR 421.117)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: February 6, 1986.

Henry R. Desmarais,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 86–3099 Filed 2–12–86; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. D–86–811; FR–2201]

Redelegation of Authority To Execute Legal Instruments in the Name of the Secretary

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

ACTION: Amendment of notice of redelegation of authority.

SUMMARY: The Assistant Secretary for Community Planning and Development, on July 26, 1982 redelegated authority to execute written instruments relating to section 312 Rehabilitation Loans to certain officials, 47 FR 33324, August 2, 1982. A subsequent redelegation added other officials, 50 FR 13667, April 5, 1985. This amendment adds to those officials the Rehabilitation Program Specialist in the Office of Urban Rehabilitation, appointed as Government Technical Representative to the section 312 Loan Servicing Contract.

FOR FURTHER INFORMATION CONTACT: Robert I. Dodge, III, Director, Office of Urban Rehabilitation, Room 7170, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–5685 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under section 312 of the Housing Act of 1964, 42 U.S.C. 1452b, the authority to execute legal instruments under the section 312 Loan Program has been delegated to the Assistant Secretary for Community Planning and Development, except for those legal instruments which relate to the property management and disposition functions delegated to the Assistant Secretary for Housing (see 45 FR 54143, August 14, 1980). In order to expedite property foreclosures and judgments against section 312 borrowers in default, the Assistant Secretary for Community Planning and Development has determined that his authority to execute legal instruments should be redelegated to the Rehabilitation Program Specialist in the Office of Urban Rehabilitation, appointed as Government Technical Representative to the Section 312 Loan Servicing Contract.

Accordingly, the Assistant Secretary's delegation of July 26, 1982, 47 FR 33324, is amended as follows:

A. Authority Redelegated

The Deputy Assistant Secretary for Program Management, Office of Community Planning and Development; the Director and Deputy Director of the Office of Urban Rehabilitation; the Director of the Relocation and Real Estate Division and the Rehabilitation Program Specialist, in the Office of Urban Rehabilitation, appointed as Government Technical Representative to the section 312 Loan Servicing Contract, are hereby redelegated the authority to execute in the name of the Secretary written instruments relating to section 312 Rehabilitation Loans, including deeds of release, substitutions of trustees, assignments, and satisfactions of mortgages and deeds of trust. However, this redelegation does not cover the execution of written instruments that relate to certain section 312 loan-related property management and disposition functions that have been delegated to the Assistant Secretary for Housing (see 45 FR 54143, August 14, 1980).

B. Effect

This Redelegation adds to, and does not modify or supersede, the redelegation of authority to field officials at 46 FR 21244 (April 9, 1981).

Authority: Sec. 312 of the Housing Act of 1984, 42 U.S.C. 1452b.

Dated: January 3, 1986.

Alfred C. Moran,

Assistant Secretary for Community Planning and Development.

[FR Doc. 86-3230 Filed 2-12-86; 8:45 am]

BILLING CODE 4210-29-M

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-86-1588; FR-2176]

Urban Development Action Grants; Revised Minimum Standards for Large Cities and Urban Counties

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

ACTION: Notice.

SUMMARY: In accordance with 24 CFR 570.452(b)(1), the Department is providing Notice of the most current minimum standards of physical and economic distress for large cities (metropolitan cities and other cities over 50,000 population), and urban counties for the Urban Development Action Grant program.

This Notice revises the Notice published February 9, 1984 (47 FR 5050).

The minimum standards of distress have changed generally as a result of applying new data from the Bureau of the Census, the Department of Labor/Bureau of Labor Statistics, and the Department of Labor/Employment Training Administration.

This Notice contains three lists: The first list identifies all those cities and urban counties which qualify as distressed communities based upon the new minimum standards; the second list identifies those cities and urban counties which did not qualify when the February 9, 1984 list was published but which do qualify now; the third list identifies those cities and urban counties which were classified as distressed on the February 9, 1984 list, but which no longer qualify under the new minimum standards.

EFFECTIVE DATE: February 13, 1986.

FOR FURTHER INFORMATION CONTACT: Frank Ridenour, Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, Telphone: 202/755-6784. for information on minimum distress standards or the data used to determine whether a community qualifies as distressed contact: Wendy Mellinger, Telephone: 202/755-7390.

SUPPLEMENTARY INFORMATION: A Notice published by the Department on February 9, 1984 provided the minimum standards of physical and economic distress which were applicable up to the effective date of this Notice for large cities and urban counties.

Part I of this Notice specifies the new minimum standards of physical and economic distress. Part II of this Notice contains a revised list of all the large cities and urban counties which meet the new standards. Part III of this Notice lists those large cities and urban counties which, based upon the new minimum standards, appear on the list in Part II but did not qualify when the February 9, 1984 list was published. Part IV is a list of those cities which were classified as distressed on the February 9, 1984 list but which no longer qualify under the new minimum standards. These cities listed in Part IV have a period of time as specified in Part IV, during which they may submit Action Grant applications.

The seven minimum standards of distress have been changed as a result of new data from the Bureau of the Census, the Department of Labor/Employment Training Administration, and the Department of Labor/Bureau of Labor Statistics. The data cover units of government incorporated through June 1984. The updated census data are 1982 population, 1981 per capita income, 1980 housing and poverty (adjusted for boundary changes through 1982) and 1982 retail and manufacturing jobs (which reflect the change over the period from 1977 to 1982, instead of 1972 to 1977). The previous Census data were 1980 population, 1979 per capita income, 1980 housing and poverty (reflecting boundary changes through the 1980 Census) and 1972 retail and manufacturing jobs. The Bureau of Labor Statistics data are updated from 1982 unemployment rates to 1984 unemployment rates. The updated data from the Employment and Training Administration are Labor Surplus Areas designated as of October 1, 1984. The specified unemployment rate for the 1982–1983 period is 10 percent. A list of eligible labor surplus areas was published in the **Federal Register** on September 26, 1984 (49 FR 37865). The previous Labor Surplus Area were designated as of October 1, 1983.

This Notice is published pursuant to 24 CFR 570.452(b)(1).

I. A large city or urban county must past three minimum standard of physical and economic distress, except that if the percentage of poverty is less than half the minimum standards identified in paragraph I. F. below, the city or urban county must pass four standards. As in the past years, the minimum standards of distress for age of housing, per capita income change, population growth lag/decline, unemployment, job lag/decline and poverty are based on the median for all large cities. The minimum standards of distress for Labor Surplus Area is based on the national average unemployment rate over a two year period. The most current minimum standards of physical and economic distress are:

A. *Age of Housing.* At least 20.6 percent of the applicant's year-round housing units must have been constructed prior to 1940, based on 1980 U.S. Census data, in order to meet this minimum standard;

B. *Per Capita Income Change.* The net increase in per capita income for the period of 1969–1981 must have been $5,467 or less, based on U.S. Census data, in order to meet this minimum standard;

C. *Population Growth Lag/Decline.* For the period 1960–1982 the percentage rate of population growth (based on corporate boundaries in 1960 and as of 1982) must have been 23.9 percent or less, based on U.S. Census data, in order to meet this minimum standard;

D. *Unemployment.* The average rate of unemployment for 1984 must have been 7.0 percent or greater, based on data compiled by the Bureau of Labor Statistics, in order to meet this minimum standard;

E. *Job Lag/Decline.* The rate of growth in retail and manufacturing employment for the period 1977–1982 must have increased by 3.4 percent or less, based on U.S. Census data, in order to meet this minimum standard. If data are not available for both retail and manufacturing employment, the percentage used will be the median for either retail employment (8.3%) or manufacturing employment (0.0%), based upon the data available. If neither data source is available, this standard will not be considered.

F. *Poverty.* The percentage of persons within the applicant's jurisdiction at or below the poverty level must be 12.3 percent or more, based on 1980 U.S. Census data, in order to meet this minimum standard;

G. *Labor Surplus Area.* The city or urban county must either coincide with or be within or be partially within an area which meets the criteria for

designation as a Labor Surplus Area as of October 1984. These areas include cities with populations of 50,000 or more, counties or county balance with an unemployment rate of 10 percent for calendar years 1982–1983.

II. A. The following cities and urban counties meet the current minimum standards of physical and economic distress:

State and Place	
AL	Anniston
AL	Bessemer
AL	Birmingham
AL	Dothan
AL	Florence
AL	Gadsden
AL	Mobile
AL	Montgomery
AL	Tuscaloosa
AR	Pine Bluff
AR	Texarkana
AR	West Memphis
CA	Alhambra
CA	Baldwin Park
CA	Bellflower
CA	Berkeley
CA	Chico
CA	Compton
CA	El Cajon
CA	El Monte
CA	Fresno
CA	Inglewood
CA	Lodi
CA	Lompoc
CA	Long Beach
CA	Los Angeles
CA	Lynwood
CA	Napa City
CA	National City
CA	Norwalk
CA	Oakland
CA	Oxnard
CA	Pasadena
CA	Pico Rivera
CA	Pomona
CA	Porterville
CA	Richmond
CA	Sacramento
CA	Salinas
CA	San Bernadino
CA	San Francisco
CA	Santa Cruz
CA	Seaside
CA	South Gate
CA	Stockton
CA	Tulare
CA	Turlock
CA	Woodland
CA	Yuba
CO	Denver
CO	Greeley
CO	Pueblo
CT	Bridgeport
CT	Hartford
CT	Meriden
CT	Middletown
CT	New Britain
CT	New Haven
CT	New London
CT	Norwich
CT	Waterbury
DE	Willmington
DC	Washington
FL	Fort Pierce
FL	Hialeah
FL	Lakeland
FL	Miami
FL	Miami Beach
FL	Panama City
FL	Pensacola
FL	Tampa
FL	West Palm Beach
FL	Winterhaven
GA	Albany
GA	Athens
GA	Atlanta
GA	Augusta
GA	Columbus
GA	Macon
GA	Savannah
IL	Alton
IL	Aurora
IL	Belleville
IL	Berwyn
IL	Bloomington
IL	Champaign
IL	Chicago
IL	Chicago Heights
IL	Cicero
IL	Decatur
IL	East St Louis
IL	Elgin
IL	Evanston
IL	Granite City
IL	Joliet
IL	Kankakee
IL	Moline
IL	Pekin
IL	Peoria
IL	Rantoul
IL	Rockford
IL	Rock Island
IL	Springfield
IL	Urbana
IL	Waukegan
IN	Anderson
IN	Bloomington
IN	East Chicago
IN	Elkhart
IN	Evansville
IN	Fort Wayne
IN	Gary
IN	Hammond
IN	Indianapolis
IN	Kokomo
IN	Lafayette
IN	Mishawaka
IN	Muncie
IN	New Albany
IN	South Bend
IN	Terre Haute
IL	West Lafayette
IA	Cedar Falls
IA	Cedar Rapids
IA	Council Bluffs
IA	Davenport
IA	Des Moines
IA	Dubuque
IA	Sioux City
IA	Waterloo
KS	Kansas City
KS	Lawrence
KS	Leavenworth
KY	Ashland
KY	Covington
KY	Hopkinsvills
KY	Louisville
KY	Owensboro
LA	Alexandria
LA	Houma
LA	Lake Charles
LA	Monroe
LA	New Orleans
LA	Shreveport
LA	Thibodaux
ME	Auburn
ME	Bangor
ME	Lewiston
ME	Portland
MD	Baltimore
MD	Cumberland
MD	Hagerstown
MA	Attleboro
MA	Boston
MA	Brockton
MA	Cambridge
MA	Chicopee
MA	Fall River
MA	Fitchburg
MA	Gloucester
MA	Haverhill
MA	Holyoke
MA	Lawrence
MA	Leominster
MA	Lowell
MA	Lynn
MA	Malden
MA	New Bedford
MA	Northampton
MA	Pittsfield
MA	Quincy
MA	Salem
MA	Somerville
MA	Springfield
MA	Waltham
MA	Westfield
MA	Worcester
MI	Ann Arbor
MI	Battle Creek
MI	Bay City
MI	Benton Harbor
MI	Dearborn Heights
MI	Detroit
MI	East Lansing
MI	Flint
MI	Grant Rapids
MI	Holland
MI	Jackson
MI	Kalamazoo
MI	Lansing
MI	Lincoln Park
MI	Muskegon
MI	Muskegon Heights
MI	North Shores
MI	Potiac
MI	Port Huron
MI	Roseville
MI	Royal Oak
MI	Saginaw
MI	Taylor
MI	Westland
MI	Wyoming
MN	Duluth
MN	Minneaspolis
MN	St Cloud
MN	St Paul
MS	Biloxi
MS	Gulfport
MS	Moss Point
MS	Pascagoula
MO	Columbia
MO	Joplin
MO	Kansas City
MO	St Joseph
MO	St Louis
MO	Springfield
MT	Great Falls
NE	Omaha
NH	Dover
NH	Manchester
NH	Portsmouth
NJ	Asbury Park
NJ	Atlantic City
NJ	Bayonne
NJ	Bridgeton
NJ	Camden
NJ	East Orange
NJ	Elizabeth
NJ	Hoboken
NJ	Irvington
NJ	Jersey City
NJ	Long Branch
NJ	Millville
NJ	Newark
NJ	New Brunswick
NJ	Passaic
NJ	Paterson
NJ	Perth Amboy
NJ	Trenton
NJ	Union City
NJ	Vineland
NM	Las Cruces
NY	Albany
NY	Binghamton
NY	Buffalo
NY	Elmira
NY	Glen Falls
NY	Middletown
NY	Mount Vernon
NY	Newburgh
NY	New Rochelle
NY	New York
NY	Niagara Falls
NY	Poughkeepsie
NY	Rochester
NY	Rome
NY	Schenectady
NY	Syracuse
NY	Troy
NY	Utica
NY	White Plains
NY	Yonkers
NC	Ashville
NC	Burlington
NC	Concord
NC	Durham
NC	Fayetteville
NC	Gastonia
NC	Hickory
NC	High Point
NC	Salisbury
NC	Wilmington
OH	Akron
OH	Barberton
OH	Bowling Green
OH	Canton
OH	Cincinnati
OH	Cleveland
OH	Cleveland Heights
OH	Columbus
OH	Dayton
OH	Elyria
OH	Hamilton City
OH	Kent
OH	Lakewood
OH	Lancaster
OH	Lima
OH	Lorain
OH	Mansfield
OH	Marietta
OH	Massillon
OH	Middletown
OH	Newark
OH	Springfield
OH	Steubenville
OH	Toledo
OH	Warren
OH	Youngstown
OK	Shawnee
OR	Eugene
OR	Medford
OR	Portland
OR	Salem
OR	Springfield
PA	Allentown
PA	Altoona
PA	Bensalem Township
PA	Bethlehem
PA	Bristol Township
PA	Carlisle
PA	Chester
PA	Easton
PA	Erie
PA	Harrisburg
PA	Hazleton
PA	Johnstown
PA	Lancaster
PA	Lebanon
PA	McKeesport
PA	Norristown
PA	Penn Hills Township
PA	Philadelphia
PA	Pittsburgh
PA	Reading
PA	Scranton
PA	Sharon
PA	State College
PA	Upper Darby Township
PA	Wilkes-Barre
PA	Williamsport
PA	York
RI	Cranston
RI	East Providence
RI	Pawtucket
RI	Providence
RI	Woonsocket
SC	Anderson
SC	Charleston
SC	Columbia
SC	Florence
SC	Greenville
SC	North Charleston
SC	Rock Hill
SC	Spartanburg
TN	Bristol
TN	Chattanooga
TN	Clarksville
TN	Jackson
TN	Johnson City
TN	Kingsport
TN	Knoxville
TN	Memphis
TN	Murfreesboro
TN	Nashville-Davidson
TX	Beaumont
TX	Brownsville
TX	Edinburg
TX	El Paso
TX	Galveston
TX	Harlingen
TX	Killeen
TX	Laredo
TX	McAllen
TX	Marshall
TX	Mission
TX	Orange
TX	Pharr
TX	Port Arthur
TX	San Benito
TX	Texarkana
TX	Waco
UT	Ogden
UT	Provo
UT	Salt Lake City
VT	Burlington
VA	Bristol
VA	Charlottesville
VA	Danville
VA	Hopewell
VA	Lynchburg
VA	Newport News
VA	Norfolk
VA	Petersburg
VA	Portsmouth
VA	Richmong
VA	Roanoke
VA	Suffolk
WA	Bellingham
WA	Bremerton
WA	Everett
WA	Olympia
WA	Pasco
WA	Seattle
WA	Spokane
WA	Tocoma
WA	Vancouver
WA	Yakima
WV	Charleston
WV	Huntington
WV	Parkersburg
WV	Weirton
WV	Wheeling
WI	Beloit
WI	Eau Claire
WI	Green Bay
WI	Kenosha
WI	La Crosse
WI	Madison
WI	Milwaukee
WI	Oshkosh
WI	Racine
WI	Superior
WI	Waukesha
WI	Wausau
WI	West Allis
PR	Aguadilla Municipio
PR	Arecibo Municipio
PR	Bayamon Municipio
PR	Caguas Municipio
PR	Carolina Municipio
PR	Fajardo Municipio
PR	Guaynabo Municipio
PR	Mayaguez Municipio
PR	Ponce Municipio
PR	San Juan Municipio
PR	Toa Baja Municipio
PR	Trujillo Alto Municipio

II. B.

State and Place	
CA	Fresno County
CA	Kern County
CA	San Bernardino County
CA	San Joaquin County
FL	Polk County
IL	Madison County
IL	St Clair County
KY	Jefferson County
MI	Genesee County
NJ	Hudson County
NY	Erie County
NY	Orange County
PA	Allegheny County
PA	Beaver County
PA	Luzerne County
PA	Washington County
PA	Westmoreland County
PA	York County
WA	Clark County
WA	Pierce County

III. A. The following large cities and urban counties which have been added to the list under Section II, above, meet the new standards of physical and economic distress:

State and Place	
CA Bellflower	MI Taylor
CA El Cajon	MI Westland
CA Lodi	MI Wyoming
CA Napa City	MO Columbia
CA Woodland	MT Great Falls
CO Greeley	NM Las Cruces
GA Athens Macon	NY White Plains
IL Bloomington	NC Durham
IL Elgin	NC Fayetteville
IL Evanston	OH Lakewood
IL Rantoul	OR Eugene
IA Cedar Falls	OR Medford
KS Leavenworth	OR Salem
LA Houma	PA Bensalem Township
LA Shreveport	PA Penn Hills
MA Leominster	Township
MA Westfield	TN Jackson
MI Ann Arbor	TN Nashville-Davidson
MI Dearborn Heights	TX Beaumont
MI Norton Shores	WI Madison
MI Roseville	WI Waukesha
MI Royal Oak	WI West Allis

III. B.

State and Place	
CA San Bernardion County	NY Orange County
	PA York County
CA San Joaquin County	WA Clark County
KY Jefferson County	WA Pierce County
MI Genesse County	

IV. The following list contains the names of those large cities and urban counties which met the minimum standards of physical and economic distress on February 9, 1984 but which no longer meet those standards. The final date for submission of an application by the cities listed below is November 30, 1985.

State and Place	
AL Huntsville	MD Annapolis
AZ Tucson	MA Brookline
CA Ontario	MA Medford
CT Norwalk	MI St Clair Shores
CT West Haven	NH Rochester
FL Cocoa	NC Jacksonville
FL Jacksonville	NC Winston Salem
FL St Petersburg	OH Stark County
GA Marietta	OK Lawton
IN Goshen	TX Denison

Other Cities Over 50,000
Guam
Virgin Islands

Dated: February 5, 1986.

Alfred C. Moran,

Assistant Secretary for Community Planning and Development.

[FR Doc 86-3229, Filed 2-12-86; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Facilities Improvement and Repair (FI&R) Priority Ranking System

February 4, 1986.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. Pub. L. 98-473 requires the Bureau to revise the FI&R Priority System by publishing in the **Federal Register** by October 1 of each year, the national list of projects expected to be accomplished that fiscal year within the available funds. The priorities must be based on published criteria to be used systemwide. This notice provides the criteria by which a national list of FI&R projects will be developed within available funds.

A facilities construction operations and maintenance system (FACCOM) has been developed and includes a listing of all unfinished facilities work for each location throughout the Bureau. This listing is used by Agency and Area staff to identify their priority needs. Priorities are then developed by these staff and ranked in priority order for construction using the following FACCOM class code categories:

1—Safety—related work of a critical nature
2—Sanitary—related work
3—Safety—related work of a non-critical nature
4—Work required because of a violation of code or regulation
5—Work required or desired because of functional deficiencies

The projects included in these categories will be evaluated according to the degree of severity of problems in these categories. At the Agency and Area levels, project development and rank is coordinated with the user client(s), i.e. Education, Law Enforcement, Administration, etc. The Areas' ranking lists are then reviewed by BIA Central Office staff responsible for facilities management and the Office of Construction Management which advises the Assistant Secretary—Indian Affairs on facilities matters. A nationwide list is then developed by BIA facilities staff and forwarded to the Assistant Secretary—Indian Affairs for decision-making.

EFFECTIVE DATE: February 13, 1986.

INFORMATION CONTACT: Alfred H. Barth, Office of Construction Management, 18th & C Streets, NW., Room 5145, Washington, DC 20240, (202) 343-3403.

Ronal D. Eden,

Acting Deputy Assistant Secretary-Indian Affairs (Operations).

[FR Doc. 86-3118 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Conveyance or Leasing of Public Lands; Arizona; Correction

Conveyance of Lease of Public Land in Mohave County, Arizona (originally published in the **Federal Register** January 27, 1986 on page 3435, columns two and three).

In column two after the first paragraph, the first and second line should read:

Gila and Salt River Meridian, Arizona (not Sale River)

T. 13 N., R. 20 W. (not 22)

In the third column under Gila and Salt River Meridian, Arizona change the next line to read T. 13 N., R. 20 W., (not 22).

Dated: February 7, 1986.

J. Darwin Snell

District Manager.

[FR Doc. 86-3205 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-32-M

Exchange of Lands; Arizona; Correction

Exchange of Public Land; Mohave County, Arizona (originally published in the **Federal Register** January 27, 1986 on page 3436, columns one and two).

In column one in the third paragraph, under the subheading *Gila and Salt River Meridian*, delete the last sentence which reads "The State will apply for the remaining lands under State Indemnity Selections." and replace it with "The Bureau of Land Management will offer the remaining lands in satisfaction of State Indemnity Selections."

Dated: February 7, 1986.

J. Darwin Snell,

District Manager.

[FR Doc. 86-3206 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-32-M

[NM 58259]

Issuance of Land Exchange Conveyance Document; New Mexico

The United States has issued an exchange conveyance document to C. L. Crowder Investment Company, Box 1, Santa Teresa, NM 88008, under the provisions of the Navajo-Hopi Settlement Act (Pub. L. 93-531, 88 Stat. 1712), as amended by the Navajo and Hopi Relocation Amendments Act of 1980 (Pub. L. 96-305, 94 Stat. 929).

The conveyance is for the surface estate only in Sec. 16, T. 29 S., R. 3 E.,

NMPM, in Dona Ana County and lands in Sierra County and for the surface and nonleasable mineral estates in all other lands in Dona Ana County as described in Notice of Realty Action published in the **Federal Register**, Volume 49, No. 131, dated July 6, 1984 and amended Notices published in Volume 49, No. 192, dated October 2, 1984, Volume 49, No. 211, dated October 30, 1984, and Volume 50, No. 48, dated March 12, 1985.

In exchange for these lands, the United States acquired the surface estate only in lands in Apache County, Arizona, from C. L. Crowder Investment Company as described in amended Notices of Realty Actions published in the **Federal Register**, Volume 49, No. 211, dated October 30, 1984, and Volume 49, No. 226, dated November 21, 1984.

The purpose of this exchange was to acquire the non-Federal land selected by the Navajo Tribe for relocation purposes and transfer it without cost to the Navajo Tribe into trust status.

The values of the Federal public land and the non-Federal land in the exchange were equal.

Dated: February 3, 1986.

Monte G. Jordan,

Associate State Director.

[FR Doc. 86-3120 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-FB-M

Proposed Reinstatement of Terminated Oil and Gas Lease; Carter County, MT

Under the provisions of Pub. L. 97-451, a petition for reinstatement of oil and gas lease M 49991, Carter County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔% respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: February 5, 1986.

Karen L. Skauge,

Chief, Leasing Unit.

[FR Doc. 86-3169 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-DN-M

[U-52625-FE]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease U-52625-FE for lands in Carbon County, Utah, was timely filed and required rentals and royalties accruing from May 1, 1985, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16 2/3 percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this Notice.

Having met all the requirements for reinstatement of lease U-52625-FE as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective May 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-3170 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-DQ-M

[SERIAL NO. I-8360]

Idaho; Order Providing for Opening of Public Lands

The Blaine County Commissioners have relinquished their lease which was issued under the authority of the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869; 869-4) for the following-described lands:

Boise Meridian, Idaho

T. 3 N., R. 18 E.

Sec. 15, S½NE¼SW¼NW¼, N½SE¼SW¼NW¼.

Containing 10 acres.

The lands are located in Blaine County, Idaho.

Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, the lands will at 9:00 a.m. on February 18, 1986, be open to the operation of the public land laws.

Inquiries concerning the lands should be addressed to the Chief, Realty Operations Section, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: February 7, 1986.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 86-3171 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-GG-M

[NM 56102]

Order Providing for Opening of Public Lands; New Mexico

A **Federal Register** notice published on January 3, 1986 (Vol. 51, No. 2, Pg. 257), inadvertently failed to include the time and date. The last paragraph is amended to read as follows:

At 10:00 a.m. on March 17, 1986, the reconveyed lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on March 17, 1986, shall be considered as simultaneously filed at that time.

Dated: February 3, 1986.

Monte G. Jordan,

Associate, State Director.

[FR Doc. 86-3121 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-FB-M

[C-40760]

Lease and Sale of Public Lands; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action C-40760, Recreation and Public Purposes Classification and Application for Lease and Sale of Public Lands in Fremont County, Colorado.

SUMMARY: The following described public land has been examined and found suitable for public recreation use and is hereby classified for lease and sale under the Recreation and Public Purposes Act pursuant to 43 CFR Parts 2740 and 2912.

Sixth Principal Meridian

T. 19 S., R. 72 W.

Tract 46—95.72 acres less 1.02 acres in the southeast corner previously leased to the Deer Mountain Volunteer Fire Department.

This tract is in sections 30 and 31 of the township. The Grand Encampment of the Independent Order of Odd Fellows has applied for this land, case number C-40760, to construct a recreation area to include camping, picnicking, baseball, volleyball,

horseshoes, toilets, barbecue grills, and shelter.

Classification of this land under the Recreation and Public Purposes Act will segregate it from all appropriations, including location under the mining laws, except as provided for by this classification. This will provide necessary protection of the land from interference on development of the recreation area as described above and the orderly disposal.

DATES: Interested Parties may submit comments or protests until 45 days after receipt of this notice. Send comments to the District Manager, Bureau of Land Management, P.O. Box 311, Canon City, Colorado 81212.

Comments will be evaluated and the classification may be vacated or modified. The proposed lease and sale may also be rejected or modified as a result of comments.

Details

For further information relating to this Recreation and Public Purposes application contact the above office.

Donnie R. Sparks,

District Manager.

[FR Doc. 86-3168 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-JB-M

[NM 56613-OK]

Public Land Sale in Latimer County, OK

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of Public Land Encompassing 77.82 Acres in Latimer County, Oklahoma.

SUMMARY: This Notice of Realty Action cancels the sale of public land in Latimer County, Oklahoma as published in the **Federal Register**, Volume 50, No. 143, on July 25, 1985, at page 30303 and herewith changes the method of sale for the subject land from modified competitive to competitive. The land will be sold competitively, due to increased interest in the Bureau of Land Management's (BLM) lands disposal program in Oklahoma.

DATE: For a period of 45 days after the date of publication of this Notice, all persons who wish to submit comments may do so in writing to the District Manager, Bureau of Land Management, 9522-H East 47th Place, Tulsa, Oklahoma, 74145.

FOR FURTHER INFORMATION CONTACT: Hans Sallani, 405-231-5491.

The following described lands have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2743, 43 U.S.C. 1701) at no less than the appraised fair market value of $19,500.00:

LATIMER COUNTY (LT)

Tract	Legal Description	Acres
LT-2 and LT-3.....	T. 6 N., R. 21 E., I.M. Sec. 31: NE¼SW¼ and Lot 3.	77.82

The proposed sale is consistent with the Bureau's planning system and the FLPMA of 1976. Public interest will be served by disposition of these isolated tracts that are difficult and uneconomical to manage as part of the public lands, and are not suitable for management by another Federal department or agency. The tracts do not have legal access and the BLM will not guarantee legal access.

Patents, when issued, will contain the following reservations:

1. All minerals (or partial or specific mineral interests, where applicable) shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this Bureau of Land Management office.

2. The sale of the lands will be subject to all valid existing rights and reservations of record.

3. The tracts will be subject to a floodplain restriction under Executive Order 11988.

4. The successful bidder agrees that he takes the real estate subject to the existing grazing use of Mr. Vernon D. Lyons, holder of grazing authorizing No. 0757. The rights of Mr. Lyons to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. 0757 shall cease on February 28, 1991. The successful bidder is entitled to receive annual grazing fees from Mr. Lyons in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

The patent to parcel number LT-2 (section 31) will contain a wetland protection patent restriction. The type, location, and size of the wetland will appear in the patent as well as the following restrictive language:

In accordance with section 209 of the FLPMA of 1976, 43 U.S.C. 1718 (1976) and section 4 of Executive Order 11990 (1978), 3 CFR 121 (1978), the patentee's use of the patented lands is restricted as follows:

1. Restrictions on use of wetlands contained in applicable Federal, state, or local wetlands regulations are incorporated hereby as if set forth fully herein.

2. The patentee may not use the patented land, or authorize its use, in such a manner that would directly or indirectly result in an adverse alteration of the wetland characteristics or category of that portion of the lands identified above as wetlands.

The patent restrictions are binding upon the patentee and his successors, heirs, and assigns.

The tracts offered for disposal will be sold by sealed bid. Federal law requires that bidders be United States citizens or, in the case of a corporation, subject to the laws of any State of the United States. Sealed written bids will be considered only if received by the BLM, Oklahoma Resource Area Headquarters, 200 N.W. Fifth Street, Oklahoma City, Oklahoma, 73102, prior to 10:00 a.m., Monday, March 31, 1986. The tract numbers should be printed on the lower left hand corner of the mailing envelope (example, Land Sale—Tract LT-2 and LT-3). Each written sealed bid must be accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Department of the Interior, Bureau of Land Management, for at least twenty percent of the amount bid. The written, sealed bids will be opened and publicly declared at the beginning of each sale. If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be the highest bid shall be by supplemental sealed bids.

Once a high bid price is accepted, the successful bidder shall submit the remainder of the full bid price within 180 days of the sale. Failure to pay the full bid price within 180 days shall result in cancellation of the sale of the tracts, and the deposit shall be forfeited and disposed of as other receipts of sale. All bids will be either returned, accepted, or rejected within 30 days of the sale date.

If Tracts LT-2 and LT-3 are not sold on the indicated sale date, they will be available for sale by sealed bid for a period of six months. Sealed bids will be opened and the high bidder will be publicly declared on the first Monday of each month at 10:00 a.m. as follows: (1) April 7, 1986; (2) May 5, 1986; (3) June 2, 1986; (4) July 7, 1986; (5) August 4, 1986; (6) September 8, 1986.

For a period of 45 days after the date of issuance of this Notice, interested parties may submit comments to the District Manager, Tulsa District Office. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence

of any objections, this realty action will become the final determination of the Department of the Interior.

Jim Sims,

District Manager.

[FR Doc. 86-3122 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-FB-M

Sale of Public Land in Grand County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The sale of public land (U-54698), described as T. 26S., R. 22E., SLM, Section 6, Lot 9, as announced in 50 FR 25791, June 21, 1985 and postponed in 50 FR 32116, August 8, 1985 is hereby resumed. In response to a protest of the proposed direct sale, the 2.5-acre parcel has been divided into three parcels to be offered by direct sale to three adjacent landowners at no less than the appraised fair market value.

Parcel No.	Acreage	Appraised fair market value	Adjacent landowner
A	0.18	$100	A.R. Stocks.
B	0.5	$250	George P. Johnson.
C	1.81	$850	Loren H. Johnson.

The terms and conditions applicable to the sale are:

1. The sale of the parcels will be subject to valid existing rights including the following:

Parcels A, B, and C: a. A 100' wide right-of-way for powerline U-058195.

Parcel C: Flood control structures owned by the City of Moab.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM office.

3. A right-of-way for ditches and canals shall be reserved to the United States (43 U.S.C. 945).

The sale will be held at 10:00 AM on March 28, 1986 at the Bureau of Land Management, Grand Resource Area Office, Sand Flats Road, Moab, Utah 84532. Each of the adjacent landowners above, or his designated agent, must submit a deposit for no less than one-fifth of the fair market value. This can be a personal check, certified check, postal money order, bank draft or cashier's check made payable to the Department of the Interior, Bureau of Land Management. The remainder of the purchase price must be paid prior to 4:30 PM on September 24, 1986 (180 days from the date of the sale). The segregative effect of the June 21, 1985 notice will remain until such time that the parcels are sold or it expires under provisions of 43 CFR 2711.1-2(d).

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: February 4, 1986.

Gene Nodine,

District Manager.

[FR Doc. 86-3123 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-DQ-M

[ES-035926, Group 80]

Filing of Plat of Dependent Resurvey; Arkansas

February 7, 1986.

1. The plat of the dependent resurvey of a portion of the east boundary, Township 14 North, Range 20 West, the south boundary, Township 15 North, Range 19 West, and a portion of the subdivisional lines, Township 14 North, Range 19 West, Fifth Principal Meridian, Arkansas, will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m., on March 24, 1986.

2. The dependent resurvey was made at the request of the U.S. Forest Service.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., March 24, 1986.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey.

[FR Doc. 86-3124 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-GJ-M

Filing of Survey Plat; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey.

SUMMARY: Plats of survey of the lands described below accepted December 9, 1985, were officially filed in the Montana State Office effective 10 a.m. on January 16, 1986.

Principal Meridian, Montana

T. 7 N., R. 1 E.

This plat represents the dependent resurvey of portion of the subdivisional lines, Township 7 North, Range 1 East, Principal Meridian, Montana. The area described is in Broadwater County.

Principal Meridian, Montana

T. 11 N., R. 9 W.

This plat represents the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines, and the survey of the subdivision of section 34, Township 11 North, Range 9 West, Principal Meridian, Montana. The area described is in Powell County.

Principal Meridian, Montana

T. 10 N., R. 9 W.

This plat represents the retracement of a portion of the Deer Lodge Guide Meridian and a portion of the north boundary; and the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, and the survey of the subdivision of section 6, Township 10 North, Range 9 West, Principal Meridian, Montana. The area described is in Powell County.

Principal Meridian, Montana

T. 11 N., R. 16 W.

This plat represents the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, and the survey of the subdivision of section 2, Township 11 North, Range 16 West, Principal Meridian, Montana. The area described is in Missoula County.

These surveys were executed at the request of the Butte District Office for the administrative needs of the Bureau.

EFFECTIVE DATE: December 9, 1985.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: January 29, 1986.

Saundra L. Porenta,

Chief, Branch of Records.

[FR Doc. 86-3125 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-DN-M

Filing of Survey Plat; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plat of Survey.

SUMMARY: Plats of survey of the lands described below accepted January 6, 1986, were officially filed in the

Montana State Office effective 10 a.m. on January 29, 1986.

Principal Meridian, Montana

T. 14N., R. 12 W.

This plat represents the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of section 18, Township 14 North, Range 12 West, Principal Meridian, Montana. The area described is in Powell County.

Principal Meridian, Montana

T. 14 N., R. 13 W.

This plat represents the dependent resurvey of a portion of the south and east boundaries and a portion of the subdivisional lines, and the survey of the subdivision of sections 14 and 24, Township 14 North, Range 13 West, Principal Meridian, Montana. The area described is in Powell County.

Principal Meridian, Montana

T. 13 N., R. 14 W.

This plat represents the dependent resurvey of a portion of the Third Standard Parallel North, a portion of the east boundary and a portion of the subdivisional lines, and the survey of the subdivision of sections 25, 26, 27, 34, and 35, Township 13 North, Range 14 West, Principal Meridian, Montana. The area described is in Missoula County.

These surveys were executed at the request of the Butte District Office for the administrative needs of the Bureau.

EFFECTIVE DATE: January 29, 1986.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: January 30, 1986.

Saundra L. Porenta,

Chief, Branch of Records.

[FR Doc. 86-3126 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-DN-M

[Serial No. I-14962]

Idaho; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, Department of Agriculture proposes a 160.00 acre withdrawal for the Kaufman Administrative Site continue for an additional 30 years, which is the anticipated time the site will continue to be used as an administrative site. These lands will remain closed to surface entry, mining and mineral leasing.

DATE: Comments should be received on or before May 14, 1986.

ADDRESS: Comments should be sent to: Idaho State Director, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, Idaho State Office, 208-334-1735.

The Forest Service proposes that the existing land withdrawal made by Secretarial Order of November 14, 1908, be continued for a period of 30 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is located in the following-described township and section:

Boise Meridian, Idaho

T. 11 N., R. 29 E.,
Sec. 35, SW¼.

The area involved totals 160.00 acres in Clark County.

The withdrawal is essential for the administration of remote backcounty, watershed, range and protection of valuable riparian habitat far removed from District Ranger Offices. The withdrawal closed the described land to surface entry, mining and to mineral leasing. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued, and if so, for how long. The final determination on continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: February 7, 1986.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 86-3172 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-GG-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the Main Pass Block 40 Field Federal Unit Agreement No. 14-08-001-3847, submitted on January 31, 1986, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the Main Pass Block 40 Federal unit

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document availabe to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 6, 1986.

J. Rogers Pearcy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-3173 Filed 2-12-86; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; Exxon Co.

AGENCY: Minerals Management Service; Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1619, Block 93, South Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to

be conducted from an onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on February 7, 1986.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979. (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: February 7, 1986.

J. Rogers Pearcy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–3174 Filed 2–12–86; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted DOCD describing the activities it proposes to conduct on Lease OCS 074, Block 20, South Pelto Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Dulac and Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on February 3, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to secton 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of effected states, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: February 6, 1986.

J. Rogers Pearcy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–3175 Filed 2–12–86; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 3328, Block 261, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intercoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on February 4, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd. Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of effected states, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: February 6, 1986.

J. Rogers Pearcy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–3176 Filed 2–12–86; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–60]

Import Investigation; Steel Fork Arms

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: Following receipt of a petition filed on January 17, 1986, on behalf of the Ad Hoc Committee of Steel Fork Arm Producers, the United States International Trade Commission instituted investigation No. TA–201–60 under section 201 of the Trade Act of 1974 to determine whether steel arms for fork-lift trucks and similar vehicles, provided for in item 692.40 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic

industry producing an article like or directly competitive with the imported article. The Commission will make its determination in this investigation by July 17, 1986 (see section 201(d)(2) of the act (19 U.S.C. 2251(d)(2))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 206, Subparts A and B (19 CFR Part 206), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: January 17, 1986.

FOR FURTHER INFORMATION CONTACT: Maria Papadakis (202–523–0439), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Participation in the investigation.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on May 7, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary of the Commission not later than the close of business (5:15 p.m.) on April 23, 1986. All persons desiring to appear at the hearing and make oral presentations, with the exception of public officials and persons not represented by counsel, should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on April 28, 1986, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is May 1, 1986. Posthearing briefs must be submitted not later than the close of business on May 14, 1986. Confidential material should be filed in accordance with the procedures described below.

Parties are encouraged to limit their testimony at the hearing to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 14, 1986. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Remedy.—In the event that the Commission makes an affirmative injury determination in this investigation, remedy briefs will be due to the Secretary no later than the close of business on June 16, 1986, and must conform with the requirements of § 201.6 of the Commission's rules. Parties are reminded that no separate hearing on the issue of remedy will be held. Those parties wishing to present oral arguments on the issue of remedy may do so at the hearing sheduled for May 7, 1986.

Authority: This investigation is being conducted under the authority of section 201 of the Trade Act of 1974. This notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Issued: February 7, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–3119 Filed 2–12–86; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30773]

Elgin, Joliet and Eastern Railway Co.; Trackage Rights; Baltimore and Ohio Chicago Terminal Railroad Co.

Baltimore and Ohio Chicago Terminal Railroad Company has agreed to grant overhead trackage rights to Elgin, Joliet and Eastern Railway Company between Calumet Tower, IN, and Burnham, IL, a distance of approximately 3.8 miles. The trackage rights will be effective on January 31, 1986.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: February 5, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86–3269 Filed 2–12–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Revocation of Registration; John M. Thorkelson, M.D.

Correction

In FR Doc. 86–2487 appearing on page 4543 in the issue of Wednesday, February 5, 1986, make the following corrections:

In the first column, first line, "1085" should read "1985" and in the second line, "Administration" should read "Administrator".

BILLING CODE 1505-01-M

[Docket No. 85-52]

Rex A. Pittenger, M.D.; Revocation of Registration

On October 15, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Rex A. Pittenger, M.D. (Respondent) of 369 Sunset Road, Pittsburgh, Pennsylvania 15237 and Hancock Brooke M.H. Service, P.O. Box 2010, Weirton, West Virginia 26062, an Order to Show Cause proposing to revoke his DEA Certificates of Registration, AP1657569 and AP4685155, and to deny any pending applications for renewal of these registrations. The proposed action regarding DEA Certificate of Registration AP1657569, issued to Dr. Pittenger at his Pennsylvania address, was predicated upon his lack of state authorization to handle controlled substances in the Commonwealth of Pennsylvania. The proposed action regarding DEA Certificate of Registration AP4685155, issued to Dr. Pittenger at his West Virginia address, was predicated upon Dr. Pittenger's controlled substance-related felony conviction on June 8, 1984, in the Court of Common Pleas, Allegheny County, Commonwealth of Pennsylvania.

By letter dated November 12, 1985, Respondent's 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. Judge Young held a prehearing conference on November 25, 1985, and ordered that prehearing statements be submitted by January 6, 1986. By letter dated January 3, 1986, Respondent's counsel withdrew Dr. Pittenger's request for a hearing and consented to the revocation of both of the DEA Certificates of Registration. Consequently, Judge Young entered an Order Terminating Proceedings before him. Accordingly, the Administrator enters his final order in this matter based on the investigative file. 21 CFR 1301.57.

The Administrator first considers whether there is a lawful basis for the revocation of DEA Certificate of Registration AP4685155, issued to Dr. Pittenger at his West Virginia address. The Administrator finds that an agent of the Pennsylvania Bureau of Narcotics Investigation and Drug Control began an investigation in August 1982, of Dr. Pittenger's indiscriminate prescribing practices. The investigation revealed that Respondent prescribed numerous controlled substances for no apparent legitimate medical reason. In some instances, Dr. Pittenger prescribed these controlled substances to known drug addicts. Dr. Pittenger rarely performed any physical examination on his "patients" before prescribing them controlled substances. The investigation further revealed that Respondent prescribed large quantities of morphine and methadone to one of his "patients". This "patient" died of a drug overdose. The autopsy revealed that the death occurred as a result of a combined drug overdose of morphine, methadone and cocaine.

As a result of this investigation, on October 13, 1983, the December 1981, Allegheny County Investigating Grand Jury returned a seventeen count criminal complaint against Dr. Pittenger charging him with one count of involuntary manslaughter, eleven counts of prescribing not in accordance with accepted medical treatment principles and five counts of prescribing to drug dependent persons. On May 23, 1984, in the Court of Common Pleas, Allegheny County, Pennsylvania, Respondent pled *nolo contendere* to one count of involuntary manslaughter and pled guilty to the remaining 16 counts of the criminal complaint. These are felony offenses related to controlled substances. Therefore, there is a lawful basis for the revocation of Dr. Pittenger's West Virginia DEA Certificate of Registration. 21 U.S.C. 824(a)(2).

The Administrator next considers whether there is a lawful basis for the revocation of DEA Certificate of Registration AP1657569, issued to Dr. Pittenger at his Pennsylvania address. In response to Dr. Pittenger's convictions, in an Order dated September 4, 1985, the State Board of Medical Education and Licensure for the Commonwealth of Pennsylvania revoked Respondent's license to practice medicine and surgery in the Commonwealth of Pennsylvania. Therefore, there is lawful basis for the revocation of Dr. Pittenger's Pennsylvania DEA Certificate of Registration. 21 U.S.C. 824(a)(3).

The Drug Enforcement Administration cannot register a practitioner to handle controlled substances who is not duly authorized to handle controlled substances in the state in which he does business. 21 U.S.C. 823(f). This Administrator and all of his predecessors have consistently held that they cannot register practitioners who lack state authorization to handle controlled substances. See *Avner Kauffman, M.D.*, Docket No. 85-8, 50 FR 34208 (1985); *Sam S. Misasi, D.O.*, 50 FR 11469 (1985) and cases cited therein.

The Administrator concludes that both of Dr. Pittenger's DEA Certificates of Registration should be revoked. There is a lawful basis for the revocation of both of the registrations. Additionally, Dr. Pittenger has consented to such revocations. Accordingly, 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 AP4685155 and AP1657569, previously issued to Dr. Rex A. Pittenger M.D., be, and they hereby are revoked. The Administrator further orders that any pending applications for registration are hereby denied. This order is effective March 17, 1986.

Dated: February 7, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86-3196 Filed 2-12-86; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

1. Date: March 6-7, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: M-14.
Program: This meeting will review applications submitted for the "Humanities Instruction in Elementary and Secondary Schools" programs, for project beginning after January 1987.

2. Date: March 6-7, 1986.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the Exemplary Projects and Teaching Materials Programs, Division of Education Programs, for projects beginning after July 1986.

3. Date: March 14, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review State Humanities Council applications for

Exemplary Project awards for activities beginning after November 1, 1986.

4. Date: March 10, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for support of editions of non-Anglo-American materials submitted to the Editions category of the Texts Program in the Division of Research Programs, for projects beginning after July 1, 1986.

5. Date: March 3, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for support of editions in the fields of Musicology and British Literature and History submitted to the Editions category of the Texts Program in the Division of Research Programs, for projects beginning after July 1, 1986.

6. Date: March 7, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review Literature and Fine Arts applications submitted to the Tools category, Reference Materials Program, Division of Research Programs, for projects beginning after July 1, 1986.

7. Date: March 7, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 730.
Program: This meeting will review applications for preservation projects, Office of Preservation, for projects beginning after July 1, 1986.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation of applications for financial assistance under the National Foundation of the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 86-3178 Filed 2-12-86; 8:45 am]

BILLING CODE 7536-01-M

Long-Term Enhancement to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Ad Hoc Meeting on Long-Term Enhancement to the National Council on the Arts will be held on February 24-25, 1986 from 9:00 a.m. to 5:30 p.m. in Room MO-9 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topic for discussion will be Overview of the Challenge Grant Program and discussion of Long-Term Enhancement.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5469 at least seven (7) days prior to the meeting.

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.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

February 4, 1986.

[FR Doc. 86-3127 Filed 2-12-86; 8:45 am]

BILLING CODE 7537-01-M

Design Arts Advisory Panel; 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 Design Arts Advisory Panel (Design Demonstration Section) will be held on Wednesday and Thursday, February 26-27, 1986 from 9:00 a.m. to 5:30 p.m., Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on Thursday, February 27, 1986 from 3:30 p.m. to 5:30 p.m. Topic for discussion will be policy.

The remaining sessions of this meeting on Wednesday, February 26, 1986 from 9:00 a.m. to 5:30 p.m., 1986 and Thursday, February 27, 1986 from 9:00 a.m. to 3:30 p.m. are for the purpose of Council review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. 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.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

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.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

February 4, 1986.

[FR Doc. 86-3128 Filed 2-12-86; 8:45 am]

BILLING CODE 7537-01-M

Expansion Arts Advisory Panel; 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 Expansion Arts Advisory Panel (Visual/Media/Design/Literature Section) will be held on Thursday, February 27, 1986 from 9:00 a.m. to 6:00 p.m. and Friday, February 28, 1986 from 9:00 a.m. to 5:30 p.m., Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

A portion of this meeting will be open to the public on Thursday, February 27, 1986 from 9:00 a.m. to 10:15 a.m. and Friday, February 28, 1986 from 3:30 p.m. to 5:30 p.m. Topic for discussion will be general program overview and policy issues.

The remaining sessions of this meeting on Thursday February 27, 1986 from 10:15 a.m. to 6:00 p.m., and Friday February 28, 1986 from 9:00 a.m. to 3:30 p.m. are for the purpose of Panel review, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as

amended, including discussion of information given in confidence to the Agency by grant applicants. 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.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

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.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

February 6, 1986.

[FR Doc. 86–3129 Filed 2–12–86; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel; 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 Museum Advisory Panel (Special Exhibitions Section) to the National Council on the Arts will be held on February 24–27, 1986 from 9:00 a.m.–5:30 p.m., in Room M–14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. 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.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 3, 1986

[FR Doc. 86–3130 Filed 2–12–86; 8:45 am]

BILLING CODE 7537-01-M

President's Committee on the Arts and Humanities; Meeting

Wednesday, February 26, 1986 at nine o'clock in the morning has been designated by the President's Committee on the Arts and the Humanities for Plenary meeting XI which will be open to the public. This meeting has been scheduled in the Council Room, Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, in Washington, DC. This is a regularly scheduled meeting at which committee activities will be reviewed and progress reported. The meeting is expected to adjourn before lunch.

The Committee, charged with exploring ways to increase private support for the arts and the humanities, has generated private funds which augment their operational costs and support projects and programs which have been initiated by the President's Committee.

The primary presentation of the meeting will be that of J. Carter Brown, Director of National Gallery of Art on the needs of the National Gallery. In addition, there will be a discussion of the role of the State Humanities Councils.

For further information individuals may call 202–682–5409.

John H. Clark,

Director, Office of Council & Panel Operations, National Endowment for the Arts.

February 3, 1986.

[FR Doc. 86–3131 Filed 2–12–86; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel; 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 Theater Advisory Panel (Mime Section) to the National Council on the Arts will be held on February 27, 1986, from 10:00 a.m. 5:30 p.m., in Room MO–7 of the Nancy Hanks Center, 100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. 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.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 6, 1986.

[FR Doc. 86–3132 Filed 2–12–86; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel; 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 Theater Advisory Panel (Overview Section) to the National Council on the Arts will be held on Friday, February 28, 1986 from 9:00 a.m.–5:30 p.m., in Room M–07 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, February 28, 1986 from 12:00 noon to 5:30 p.m. Topics for discussion will include 5-Year Planning, Presenters, Second Homes, Actor/Designer Fellows, Multi-Year Funding, Institution Development & Guidelines.

The remaining session of this meeting on Friday, February 28, 1986 from 9:00 a.m.–12:00 noon is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants, and for discussion and development of confidential materials and projections regarding FY 1987 and future year budget levels to be submitted to the Office of Management and Budget and the Congress. 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.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

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.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 6, 1986.

[FR Doc. 86-3133 Filed 2-12-86; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Class 9 Accidents (Severe Accident Phenomena); Rescheduled Meeting

The ACRS Subcommittee on Class 9 Accidents (Severe Accident Phenomena) published in the **Federal Register** dated February 4, 1986 (51 FR 4448) scheduled for February 19, 1986 *has been changed to Monday, February 24, 1986,* 8:30 A.M., Room 1046, 1717 H Street, NW, Washington, DC. All other items regarding this meeting remain the same as previously published.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

The Subcommittee will review the NRR implementation plan for the Severe Accident Policy.

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. Dean Houston (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: February 10, 1986

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-3238 Filed 2-12-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Revised Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on February 13-15, 1986, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the Federal Register on January 21, 1986. This revised notice reflects changes in the timing and scope of some activities previously noticed.

Thursday, February 13, 1986

8:30 A.M.-8:45 A.M.: Report of ACRS Chairman (Open—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 A.M.-10:45 A.M.: Radioactive Waste Management and Reactor Radiological Effects (Open)—The members will hear and discuss activities considered during the January 15-17, 1986 subcommittee meeting on radioactive waste management and control, including proposed *de minimis* levels for radioactive releases to the environment, as well as features related to research, regulation, and policy coordination on this subject. Representatives of the NRC Staff, DOE, and the nuclear industry will participate as appropriate.

10:45 A.M.-11:45 A.M. ACRS Procedures and Administration (Open)—The ACRS members will hear and discuss the remainder of the report of its Subcommittee on Procedures and Administration regarding the recommendations of the Panel on ACRS Effectiveness and other aspects of ACRS procedures and practices.

11:45 A.M.-12:15 P.M.: Future Activities (Open—The members will discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee.

1:15 P.M.-3:15 P.M.: Safety Research Program (Open)—The members will discuss the proposed ACRS Annual Report to the U.S. Congress regarding the proposed NRC safety research program and budget for FY 1987.

3:15 P.M.-5:15 P.M.: Three Mile Island Unit 2 Core Criticality (Open)—Members of the Committee will hear and discuss the report of its subcommittee regarding the actions being taken to prevent criticality of the Three Mile Island Unit 2 core during the defueling operation.

5:15 P.M.-6:30 P.M.: San Onofre, Unit 1 Nuclear Generating Station (Open)—The Committee members will hear and discuss the report of its subcommittee and the NRC Staff regarding the November 21, 1985 loss of AC power/water hammer event at this Station. Representatives of the Licensee will participate in the discussion as appropriate.

Friday, February 14, 1986

8:30 A.M.-9:30 A.M.: NRC Outage Inspection Program (Open)—The members will hear and discuss a briefing by representatives of the NRC Staff regarding an NRC Outage Inspection Program.

9:30 A.M.-11:45 A.M.: Security Provisions at Nuclear Power Plants (Open)—The Committee will consider proposed changes in NRC regulations regarding protection of nuclear plants from sabotage by insiders. Representatives of the NRC and the nuclear industry will take part in the discussion as appropriate.

11:45 A.M.-12:00 Noon: ACRS Subcommittee Activities (Open)—The members will hear and discuss the report of its Subcommittee regarding the proposed resolution of USI A-46, "Seismic Qualification of Equipment in Operating Plants."

1:00 P.M.-3:30 P.M.: Use of the "Check-Operator" Concept for Requalification of Reactor Operators (Open)—The members will hear and discuss reports from representatives of the NRC Staff, the FAA, and the nuclear industry regarding the use of a "check-operator" for requalification of nuclear power plant operators.

3:30 P.M.-5:00 P.M.: DOE High-Level Radwaste Program (Open)—The members will hear and discuss a briefing by representatives of DOE regarding the anticipated DOE program for the management and disposal of civilian, high-level, radioactive wastes.

5:00 P.M.-6:30 P.M.: Reactor Operations (Open/Closed))—The members will hear and discuss reports from the designated ACRS subcommittee, members of the NRC Staff, and representatives of the nuclear industry as appropriate regarding recent operating events and incidents at nuclear power stations. The subcommittee will also report to the full Committe regarding NRC proposed changes in requirements for nuclear power plant technical specifications.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the topics being considered.

Saturday, February 15, 1985

8:30 A.M.–11:40 Noon—Preparation of ACRS Reports (Open)—Discuss proposed reports to the U.S. Congress and to the NRC regarding items considered during this meeting.

11:40–12:00 Noon—DOE Advanced Reactors (Open/Closed)—The members will hear and discuss the report of its subcommittee meeting on January 30, 1986 regarding DOE development of advanced nuclear steam supply systems.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

1:00 P.M.–3:30 P.M.—ACRS Subcommittee Activities (Open)—Discuss ACRS reports regarding safety-related matters proposed by ACRS Members including: NRC programs on the quantification of seismic design margins; the state of nuclear power plant safety; reactor pressure vessel pressurized thermal shock-related transients; containment sump performance in nuclear stations; *de minimis* levels of radiation dose in risk calculations; venting of nuclear power plant containments.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1985 (50 FR 191). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questons may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portons of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R. F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduing would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)] applicable to the matters being discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M.

Dated: February 11, 1986.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 86–3314 Filed 2–12–86; 10:20 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A86–10, Order No. 664]

South Grafton, Arthur H. Boutiette, et al., Petitioners; Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued: February 6, 1986.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; Bonnie Guiton; Patti Birge Tyson.

Docket number: A86–10

Name of affected post office: South Grafton, Massachusetts 01560

Name(s) of petitioner(s): Arthur H. Boutiette, *et al.*

Type of determination: Consolidation

Date of filing of initial appeal papers: February 3, 1986

Categories of issues apparently raised:

1. Effect on the community [39 U.S.C. 404(b)(2)(A)].

2. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

3. Economic Savings [39 U.S.C. 404(b)(2)(D)].

4. Observance of procedural requirements [39 U.S.C. 404(b)(5)(B)].

5. Substantial of procedural requirements [39 U.S.C. 404(b)(5)(C)].

Other legal issues may be disclosed by the record when it is filed; or conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before February 18, 1986.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Feb. 3, 1986	Filing of Petition.
Feb. 6, 1986	Notice and Order of Filing of Appeal
Feb. 28, 1986	Last day for filing petitions to intervene [*see* 39 CFR 3001.111(b)].
Mar. 10, 1986	Petitioners' Participant Statement or Initial Brief [*see* 39 CFR 3001.115(a) and (b)].
Mar. 31, 1986	Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
Apr. 15, 1986	(1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(d)].
Apr. 22, 1986	(2) Deadline for motions by any party requesting oral argument. The Commission will schedule oral arguement only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].
June 3, 1986	Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 86–3177 Filed 2–12–86; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-24014; 70-7222]

Central and South West Corp.; Proposed Issuance of Options To Purchase Common Stock and Stock Appreciation Rights, and Issuance and Sale of Common Stock Pursuant to Stock Option Plan; Exception From Competitive Bidding; Order Authorizing Solicitation of Proxies

February 6, 1986.

Central and South West Corporation ("CSW"), 2121 San Jacinto Street, Suite 2500 Dallas, Texas 75222, a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 50, 62, and 65 thereunder.

CSW seeks authority to issue options to purchase shares of its common stock ("CSW Common Stock") and stock appreciation rights, and to issue and sell shares of CSW Common Stock pursuant to a Stock Option Plan ("Plan"). CSW also seeks authority to solicit proxies for approval of the Plan.

The purpose of the Plan is to aid in securing and retaining key executive employees of outstanding ability for CSW and its subsidiaries. Employees selected by a committee of the Board of Directors ("Committee") will be eligible from time to time during the term of the Plan to be awarded options to purchase shares of CSW Common Stock and stock appreciation rights. The number of options and stock appreciation rights granted pursuant to the Plan, and all of the associated terms and conditions, are to be determined by the Committee. Without further authorization by the shareholders of CSW and by this Commission under the Act, no more than 1,500,000 shares of CSW Common Stock will be issued and sold under the Plan, subject to certain adjustments to reflect combinations, reclassifications or subdivisions of such shares. The maximum number of shares with respect to which stock appreciation rights may be granted pursuant to any particular award shall not exceed 50% of the shares subject to the options granted under such award. The exercise price for options granted under the Plan will not be less than the fair market value of the shares covered by the option at the time the option is granted. The Plan also permits CSW to grant stock appreciation rights which would permit an optionee to receive from CSW, upon exercise, cash or shares of CSW Common Stock with an aggregate fair market value equal to the aggregate appreciation in value of the shares in respect of which the right was exercised.

The Plan is subject to approval by CSW shareholders. CSW therefore proposes to solicit proxies in this regard, has filed its proxy solicitation material, and requests that the effectiveness of its application-declaration with respect to the solicitation of proxies be accelerated as provided in Rule 62.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 3, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

It appearing to the Commission that CSW's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It appearing to the Commission that CSW's declaration regardaing the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, that the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-3188 Filed 2-12-86; 8:45 am.]

BILLING CODE 8010-01-M

[File No. 22-14019]

Application and Opportunity for Hearing; Ford Motor Credit Co.

Notice is hereby given that Ford Motor Credit Company (The "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of Manufacturers Hanover Trust Company ("Manufacturers") with respect to certain indentures of the Applicant which were previously qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to prevent Manufacturers from acting as trustee under any of such indentures.

The Applicant has issued and outstanding the following debt securities secured by the following indentures, in each case between the Applicant and Manufacturers, as trustee, all of which are the subject of the application:

(1) Medium-Term Notes due from 9 months to 5 years from date of Issue, under an Indenture dated as of March 15, 1973, as supplemented by a First Supplemental Indenture dated as of April 15, 1977, a Second Supplemental Indenture dated as of April 1, 1979, a Third Supplemental Indenture dated as of September 30, 1981, a Fourth Supplemental Indenture dated as of October 13, 1981, a Fifth Supplemental Indenture dated as of April 30, 1982, a Sixth Supplemental Indenture dated as of September 15, 1982, a Seventh Supplemental Indenture dated as of January 1, 1983, an Eighth Supplemental Indenture dated as of August 1, 1983, a Ninth Supplemental Indenture dated as

of November 15, 1983, a Tenth Supplemental Indenture dated as of March 15, 1984, and an Eleventh Supplemental Indenture dated as of December 1, 1984;

(ii) 8.70% Debentures due April 1, 1999, under an Indenture dated as of April 1, 1974;

(iii) 10½% Debentures due January 15, 1995, under an Indenture dated as of October 1, 1974;

(iv) 9½% Debentures due January 15, 1995, under an Indenture dated as of January 15, 1975;

(v) 8.85% Notes due July 15, 1985, under an Indenture dated as of July 15, 1975;

(vi) 9.70% Debentures due January 15, 2000, under an Indenture dated as of July 15, 1975;

(vii) 8⅞% Notes due January 15, 1986, under an Indenture dated as of December 15, 1985;

(viii) 9¾% Debentures due January 15, 2001, under an Indenture dated as of December 15, 1975;

(ix) 8⅝% Notes due June 1, 1986, under an Indenture dated as of June 1, 1976;

(x) 9⅛% Debentures due June 1, 2001, under an Indenture dated as of June 1, 1976;

(xi) 8¾% Debentures due November 1, 2001, under an Indenture dated as of November 1, 1976;

(xii) 9¾% Notes due March 15, 1987, under an Indenture dated as of March 15, 1979;

(xiii) 9.85% Debentures due March 15, 2004, under an Indenture dated as of March 15, 1979;

(xiv) 9.45% Notes due June 15, 1989, under an Indenture dated as of June 15, 1979;

(xv) 15¾% Notes due December 1, 1990, under an Indenture dated as of December 1, 1980;

(xvi) 16¼% Notes due January 15, 1987, under an Indenture dated as of November 15, 1981;

(xvii) Floating Rate Notes, Under an Indenture dated as of June 1, 1982, as supplemented by a First Supplemental Indenture dated as of June 15, 1982;

(xviii) One Year Extendible Notes, under an Indenture dated as of July 15, 1982;

(xix) Capital Notes, under an Indenture dated as of September 30, 1982;

(xx) 12⅜% Notes due November 15, 1987, under an Indenture dated as of November 1, 1982;

(xxi) Floating Rate Notes, under an Indenture dated as of December 15, 1982, as supplemented by a First Supplemental Indenture dated as of March 15, 1983;

(xxii) 11¼% Notes due June 1, 1986, under an Indenture dated as January 15, 1983;

(xxiii) 12¾% Notes due January 15, 1988, under an Indenture dated as of January 15, 1983;

(xxiv) Variable Rate Notes, under an Indenture dated as of April 1, 1983, as supplemented by a First Supplemental Indenture dated as of April 15, 1984;

(xxv) Five-Year Extendible Notes, under an Indenture dated as of September 15, 1983;

(xxvi) Quarterly Variable Rate Notes and Semi-annual Variable Rate Notes, under an Indenture dated as of May 1, 1984, as supplemented by a First Supplemental Indenture dated as of May 1, 1984 and a second supplemental Indenture dated as of December 1, 1984;

(xxvii) Annual Adjustable Rate Notes due March 1977, 11¾% Notes due April 1, 1990, 11⅞% Notes due April 15, 1990, Extendible Notes due April 15, 2000, Annual Adjustable Rate Notes due June 1999 and 11% Notes due June 1, 1995, under an Indenture dated as of February 1, 1985;

(xxviii) 8⅞% Debentures due April 15, 1990, under an Indenture dated as of April 15, 1970 (the "April 15, 1990 Debentures Indenture"); and

(xxix) 8⅞% Debentures due November 1, 1990, under Indenture dated as of November 1, 1970 (the "November 1, 1990 Debentures Indenture", which together with all the previously mentioned Indentures, shall hereinafter be referred to collectively as the "Indentures" and individually as an "Indenture").

The original trustee under each of the Indentures except for the April 15, 1990 Debentures Indenture and the November 15, 1990 Debentures Indenture is Manufacturers. The original trustee under the April 15, 1990 Debenture Indenture and the November 15, 1990 Debentures Indenture was Morgan Guaranty Trust Company of New York ("Morgan") who resigned and the Company duly appointed Manufacturers as successor trustee, which appointment Manufacturers accepted, all pursuant to Instruments of Appointment and Acceptance of Successor Trustee and Appointment of Agent among the Applicant, Morgan and Manufacturers.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (b)(1) of this section provides, with certain exceptions stated herein, that a trustee under a qualified indenture of a company shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of such company are outstanding.

The application, filed pursuant to clause (ii) of section 310(b)(1) of the Act seeks to exclude the Indenture from the operation of section 310(b)(1) of the Act.

The effect of clause (ii) of section 310(b)(1) of the Act on the application is such that the Indentures may be excluded from the operation of section 310(b)(1) of the Act if the Applicant shall have sustained the burden of proving, by this application to the Commission and after opportunity for hearing thereon, that the trusteeship of Manufacturers under the Indentures is not so likely to involve such a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as trustee under any Indenture. In support of its application the Applicant alleges that:

(1) The Indentures are wholly unsecured and the debt securities secured by the Indentures rank *pari passu inter se*. The only material differences among the Indentures and among the rights of the holders of the debt securities secured by the Indentures relate to aggregate principal amounts, dates of issue, Events of default as defined in the Indentures, maturity and interest payment dates, interest rates, redemption prices and procedures, sinking fund provisions, and other provisions of a similar nature.

(2) Each Indenture under which Manufacturers is the original trustee specifically describes each previously executed Indenture under which Manufacturers is the original trustee, in accordance with one of the exceptions provided in section 310(b)(1) of the Act and the corresponding section of each such Indenture.

(3) No default has at any time existed under any Indenture.

(4) Such differences as exist among the Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as trustee under any one or more of the Indentures.

The Applicant waives (a) notice of hearing, (b) hearing on the issues raised by this Application and (c) all rights to specify procedures unde Rule 8(b) of the Commission Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all

persons are referred to said application, File No. 22–14019, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, DC.

Notice is further given that any interested person may, not later than March 3, 1986 request in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed; Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or in the interest of investors, unless a hearing is ordered by the Commission.

For the Commission by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

Service List

Hurley D. Smith, Ford Motor Credit Company, The American Road, P.O. Box 1732, Dearborn, Michigan 48121–1732

David H. Potel, Esq., Securities and Exchange Commission, Stop 3–3, 450 Fifth Street, NW., Washington, DC 20549

Kingdon Kase, Esq., Securities and Exchange Commission, Stop 7–2, 450 Fifth Street, NW., Washington, DC 20549

[FR Doc. 86–3189 Filed 2–12–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14932; File No. 812–6280]

Merrill Lynch Retirement Benefit Government Securities Fund, Inc.; Application for an Order Granting Exemption

February 5, 1986.

Notice is hereby given that Merrill Lynch Retirement Benefit Government Securities Fund, Inc. ("Applicant"), P.O. Box 9011, Princeton, New Jersey 08540–9011, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on January 13, 1986, requesting an order of the Commission pursuant to section 6(c) of the Act, exempting Applicant, and any other registered mutual fund or series thereof which has a contingent deferred sales charge substantially the same as that which Applicant proposes herein, and which Merrill Lynch Asset Management, Inc. ("MLAM"), or its affiliate, Fund Asset Management, Inc., may serve as investment adviser or manager, or any such company for which Merrill Lynch Funds Distributor, Inc. ("Distributor"), also a wholly-owned subsidiary of MLAM, serves as principal underwriter or distributor (such other mutual funds, together with Applicant, may hereinafter be referred to as "Funds"), from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act, and Rule 22c–1 thereunder, to the extent necessary to permit the Funds to assess a contingent deferred sales charge on certain redemptions of their shares, and to permit the Funds to waive the contingent deferred sales charge in certain cases. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

According to Applicant, mutual funds sold with a sales charge, have traditionally imposed a front-end charge, so that the purchase payments are invested after the deduction of any applicable sales charge. Applicant proposes the Funds' shares be offered without an initial sales charge so that investors will have the entire amount of their purchase payments fully invested when made. However, Applicant also proposes to pay the Distributor a contingent deferred sales charge from the proceeds of certain redemptions of its shares. Applicant states that in no event could the amount of such charges, in the aggregate, exceed 4% of the aggregate purchases made by the investor.

Applicant represents that the contingent deferred sales charge will not be imposed on redemptions of a Fund's shares which were purchased more than four years prior to redemption, or which were derived from reinvestment of distributions. Also, with respect to shares purchased during the preceding four years, no contingent deferred sales charge would be imposed on an amount which represents an increase in the value of the particular shares being redeemed due to capital appreciation. Applicant states that, for purposes of determining whether a contingent deferred sales charge would be imposed, it will be assumed that a redemption is made, first, of shares purchased more than four years prior to the redemption, second, of shares derived from reinvestment of distributions and, third, of shares purchased less than four years prior to the redemption. Where a contingent deferred sales charge is imposed, the amount of the charge would depend upon the number of years elapsed since the investor made the purchase payment from which an amount is being redeemed. Such charge would be 4% in the first year, reducing by 1% per year.

Applicant states further that, in determining the rate of any applicable contingent deferred sales charge, it will be assumed that a redemption is made of a Fund's shares held by the investor for the longest period of time within the applicable four-year period.

Applicant believes that the imposition of the contingent deferred sales charge would be fair and in the best interests of the Fund's shareholders. Applicant submits that the proposed transaction permits shareholders to enjoy the advantages of greater investment dollars working for them from the time of their purchase of shares of a Fund. Moreover, Applicant states that, because the contingent deferred sales charge would apply only to redemptions of amounts representing purchase payments, it does not apply to increase in net asset value per share, or to amounts representing reinvestment of distributions.

Applicant proposes, as well, to finance the Fund's distribution expenses pursuant to a plan adopted under Rule 12b–1 under the Act ("Plan"). Under the Plan, the Funds will pay an annual fee to the Distributor, in order to defray certain costs incurred in connection with the offering of Fund shares, including advertising and promotional costs, sales administration and related sales expenses such as the costs of printing and distributing prospectuses to prospective investors, and sales commissions and incentive compensation. Applicant's distribution fee will be calculated on the basis of 1% per annum of the average daily net assets of a Fund. The distribution fee will be treated as an expense by the Funds.

Where amounts attributable to purchase payments are redeemed (and thus no longer contribute to the annual distribution charge), Applicant believes that it is fair: (1) To impose on the withdrawing shareholder a lump-sum payment reflecting expenses which have not been recovered through payments by a Fund, and (2) to remove the assets on which the contingent deferred sales charge was imposed from the base amount on which the Fund's distribution

fee is calculated. Applicant asserts that the amount, computation and timing of the contingent deferred sales charge thus are designed to promote fair treatment of all shareholders, while permitting the Funds to offer investors the advantage of having purchase payments fully invested on their behalf immediately. Applicant states that, in its review of the Plan pursuant to Rule 12b–1, Applicant's board of directors will consider the use by the Distributor of revenue raised by the contingent deferred sales charge.

Applicant proposes to waive the contingent deferred sales charge on any redemption following the death or disability of a shareholder. An individual will be considered disabled for this purpose if he meets the definition thereof set forth in section 72(m)(7) of the Internal Revenue Code of 1954 ("Code"). Applicant states that the waiver is applicable where the decedent or disabled person is either an individual shareholder or owns the shares with his or her spouse as a joint tenant with right of survivorship, and where the redemption is made within one year of the death or initial determination of disability. In addition, the Funds may provide for certain exchange privileges with certain Merrill Lynch-sponsored mutual funds.

Applicant also proposes to waive the contingent deferred sales charge when a total or partial redemption is made in connection with certain distributions from IRA's or other qualified retirement plans. It is proposed that the charge be waived for any redemption in connection with a lump-sum or other distribution following retirement or, in the case of an IRA or Keogh Plan or a custodial account pursuant to section 408(d) (4) or (5) of the Code, or upon the death or disability of the employee.

Applicant submits that the proposed contingent deferred sales charge is consistent with all provisions of the Act and that no exemptive relief is required in order to to implement the proposed transactions. However, to avoid any possibility that questions may be raised as to the potential applicability of various definitional and regulatory sections of the Act, and to permit the charge to be waived, Applicant requests an exemption from the provisions of the Act denoted above.

Applicant asserts that imposition of the contingent deferred sales charge in the manner described above would not cause shares of the Funds to fall outside the definition of "redeemable securities" in section 2(a)[32] of the Act. Applicant believes that imposition of the contingent deferred sales charge in no way restricts a shareholder from receiving his proportionate share of the current net assets of the Fund, but merely defers the deduction of a sales charge and makes it contingent upon an event which may never occur. However, in order to avoid uncertainty in this regard, Applicant requests an exemption from the operation of section 2(a)[32] of the Act to the extent necessary to permit implementation of the proposed contingent deferred sales charge.

Applicant submits that the proposed contingent deferred sales charge is consistent with the intent of the definition "sales load" contained in the Act. The contingent deferred sales charge will be paid to the Distributor for sales compensation and to reimburse it for expenses related to offering the Funds' shares for sale to the public, and, therefore, Applicant submits that this arrangement is within the section 2(a)[35] definition of sales load, but for the timing of the imposition of the charge. Applicant contends that deferral of the sales charge, and its contingency upon the occurrence of an event which might not occur, does not change the basic nature of this charge, which is in every other respect a sales charge.

Applicant further submits that implementation of the proposed contingent deferred sales charge is in no way violative of section 22(c), or Rule 22c–1 thereunder. When a redemption of shares of a Fund is effected, the price of the shares on which redemption will be effected will be based on current net asset value. The contingent deferred sales charge will merely be deducted at the time of redemption in order to determine the shareholder's proportionate redemption proceeds. However, in order to resolve any question that might be raised as to the potential applicability of section 22(c) and Rule 22c–1, Applicant requests an exemption from the provisions of Rule 22c–1 to permit Applicant to implement the proposed contingent deferred sales charge. Applicant will disclose the contingent deferred sales charge in its prospectus. Applicant submits, in addition, that, because the proposed contingent deferred sales charge and the waiver thereof will be applied as described in the Funds' registration statements, Rule 22d–1 exempts the contingent deferred sales charge and the waiver thereof from the prohibitions of section 22(d) of the Act. Nonetheless, to preclude any assertion that Rule 22d–1 is inapplicable to the waiver and the contingent deferred sales load, Applicant requests an exemption from section 22(d) to the extent necessary to implement the contingent deferred sales load and waiver thereof as described above. In this regard, Applicant asserts that the waiver of the contingent deferred sales charge in the extraordinary circumstance of death or total disability of the investor is justified on basic consideration of fairness. It is stated that such a reduction in or elimination of the sales load has not been proposed with respect to investment companies having traditional initial sales loads because the impact of such a charge is not sustained by the shareholder at the time of redemption (as it is with a contingent deferred sales charge).

Furthermore, the waiver of the contingent deferred sales charge under the circumstances contemplated would not, it is claimed, adversely affect existing shareholders. Waiver of the charge would not result in the loss of any revenue to the Funds because proceeds from the charge would, be paid to the Distributor. Moreover, Applicant asserts that, because the 1% distribution fee payable pursuant to the Plan is based on the average daily net assets of a Fund, amounts redeemed, including amounts upon which the contingent charge is waived, will be removed from the base upon which the fee is calculated.

Applicant submits that the exemptions it has requested are appropriate and in the public interest, consistent with the protection of investors and the purpose fairly intended by the Act. Applicant further submits that waiver of the contingent deferred sales charge under the above-described circumstances will not harm the Funds or their remaining shareholders or purchasers. Additionally, Applicant represents that it will fully disclose the waiver provision in the Funds' prospectuses.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 26, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued as a course unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-3190 Filed 2-12-86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-14373]

Application and Opportunity for Hearing; Sohio/BP Trans Alaska Pipeline Capital Inc., et al.

Notice is hereby given that Sohio/BP Trans Alaska Pipeline Capital, Inc. has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the proposed trusteeship of The Chase Manhattan Bank (National Association) ("Chase") under an Indenture, dated as of December 1, 1974 (the "1974 Indenture"), between Sohio/BP Trans Alaska Pipeline Capital Inc. (the "Company") and Morgan Guaranty Trust Company of New York, which was heretofore qualified under the Act, relating to the Company's 9¾% Debentures Due 1999 (the "9¾% Debentures") and (i) an Indenture, dated as of January 1, 1970 (the "1970 Indenture"), between The Standard Oil Company, an Ohio corporation ("Sohio"), and Chase; (ii) and Indenture, dated as of May 1, 1976 (the "1976 Indenture"), among Sohio Pipe Line Company ("Sohio Pipe Line"), Sohio, as Guarantor, and Chase; (iii) and Indenture, dated as of July 1, 1982 (the "1982 Indenture"), between Sohio and Chase; (iv) and Indenture, dated as of August 15, 1975 (the "1975 Indenture"), among BP North American Finance Corporation ("Finance"), The British Petroleum Company Limited (now The British Petroleum Company p.l.c.), as Guarantor ("BP"), and Chase; (v) an Indenture, dated as of February 1, 1976 (the "1976 Finance Indenture"), among Finance, BP, as Guarantor, and Chase; and (vi) and Indenture, dated as of June 15, 1983 (the "1983 Indenture"), among Finance, BP, as Guarantor, and Chase (the 1970 Indenture, the 1976 Indenture, the 1982 Indenture, the 1975 Indenture, the 1976 Finance Indenture and the 1983 Indenture are sometimes referred to collectively as the "Existing Indentures") is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as Trustee under the 1974 Indenture and the Existing Indentures (the 1974 Indenture and the Existing Indentures are sometimes referred to collectively as the "Indentures").

The provisions of section 310(b) of the Act, which are among those of the Indentures, provide in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the same issuer are outstanding.

The present application, filed pursuant to clause (ii) of section 310(b)(1) of the Act, seeks to exclude the 1974 Indenture from the operation of section 310(b)(1) of the Act with respect to the Existing Indentures.

The effect of the proviso contained in clause (ii) of section 310(b)(1) of the Act on the matter of the present application is such that the 1974 Indenture may be excluded from the operation of section 310(b)(1) of Act with respect to the Existing Indenture if the Company shall have sustained the burden of proving, by application to the Commission and after opportunity for hearing thereon, that the trusteeship of Chase under the 1974 Indenture and under the Existing Indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as trustee under the 1974 Indenture and the Existing Indentures. In support of its application the Company alleges that:

(1) As of July 30, 1985, the Company had outstanding $218,830,000 aggregate principal amount of its 9¾% Debentures issued under the 1974 Indenture. The 9¾% Debentures were registered (File No. 2-52263) under the Securities Act of 1933, as amended (the "1933 Act"), and the 1974 Indenture was qualified under the Act. As of July 30, 1985, Sohio had outstanding $109,636,000 aggregate principal amount of its 8½% Debentures Due 2000 (the "8½% Debentures") issued under the 1970 Indenture. The 8½% Debentures were registered under the 1933 Act (File No. 2-35722) and the 1970 Indenture was qualified under the Act. As of July 30, 1985, Sohio Pipe Line had outstanding $250,000,000 aggregate principal amount of its 8¾% Guaranteed Debentures Due 2001 (the "8¾% Guaranteed Debentures") issued under the 1976 Indenture.

The 8¾% Guaranteed Debentures were registered under the 1933 Act (File No. 2-56041) and the 1976 Indenture was qualified under the Act. As of July 30, 1985, Sohio had outstanding $150,000,000 aggregate principal amount of its 13⅜% Notes Due September 15, 1992 (the "13⅜% Notes") issued under the 1982 Indenture and %150,000,000 aggregate principal amount of 10⅞% Debentures Due May 1, 2013 (the "10⅞% Debentures") issued thereunder. The 13⅜% Notes and 10⅞% Debentures were registered under the 1933 Act (File No. 2-78399) and the 1982 Indenture was qualified under the Act. As of July 30, 1985, BP North American Finance Corporation ("Finance") has outstanding $75,000,000 aggregate principal amount of 10% Guaranteed Debentures Due 2000 (the "10% Guaranteed Debentures") issued under the 1975 Indenture, The 10% Guaranteed Debenture were registered under the 1933 Act (File No. 2-54233) and the 1975 Indenture was qualified under the Act. As of July 30, 1985, Finance had outstanding $126,000,000 aggregate principal amount of 9¼% Guaranteed Debentures Due 2001 (the "9¼% Guaranteed Debentures") issued under the 1976 Finance Indenture. The 9¼% Guaranteed Debentures were registered under the 1933 Act (File No. 2-55357) and the 1976 Finance Indenture was qualified under the Act. As of the date hereof, Finance had not issued any indebtedness under the 1983 Indenture which was qualified under the Act;

(2) No debt securities other than the securities listed in paragraph (1) above have been issued under any of the Existing Indentures;

(3) The 1974 Indenture and the Existing Indentures are wholly unsecured, and will rank *pari passu inter se*. The Company alleges in particular with respect to the 9¾% Debentures and the 1974 Indenture that:

a. The Company, a Delaware corporation, is jointly owned by Sohio and BP. Sohio beneficially owns 67.8% of Pipeline's common stock and BP beneficially owns 32.2% of such common stock.

b. In connection with the issuance of the 9¾% Debentures by the Company, Sohio Pipe Line, a Delaware corporation and a wholly-owned subsidiary of Sohio ("Sohio Pipe Line"), entered into a Note Purchase Agreement, dated December 1, 1974 (the "Sohio Pipe Line Note Purchase Agreement"), with the Company, BP and Morgan, under which Sohio Pipe Line issued to the Company its 9¾% Guaranteed Note Due 1999 (the "Sohio Pipe Line Note") in the aggregate principal amount of $169,500,000,

representing 67.8% of the aggregate principal amount of the 9¾% Debentures isued under the 1974 Indenture. The Sohio Pipe Line Note is unconditionally guaranteed as to payment of principal thereof and premium, if any, and interest thereon by Sohio (the "Sohio Guarantee"). The Sohio Guarantee is endorsed on the Sohio Pipe Line Note.

c. In addition, Sohio and Sohio Pipe Line entered into a Completion Agreement and a Financing Agreement, each dated as of December 1, 1974 (respectively, the "Sohio Completion Agreement" and the "Sohio Financing Agreement"), pursuant to which Sohio agreed to guarantee the obligations of Sohio Pipe Line relating to the costs of the pipeline project, including the costs of any indebtedness incurred in order to finance such project. Each of the Sohio Financing Agreement and Sohio Completion Agreement creates general unsecured obligations of Sohio without any pledge or mortgage of any assets of Sohio. By Assignments' each dated as of December 1, 1974, the rights of Sohio Pipe Line to receive payments from Sohio under the Sohio Completion Agreement and the Sohio Financing Agreement were assigned to Morgan by Sohio Pipe Line for the equal and ratable benefit of the holders of the 9¾% Debentures.

d. Likewise, in connection with the issuance of the 9¾% Debentures by the Company, BP Pipeline Inc., a Delaware corporation and a wholly-owned subsidiary of BP ("BP Pipelines"), entered into a Note Purchase Agreement, dated December 1, 1974 (the "BP Pipeline Note Purchase Agreement"), with the Company, BP and Morgan, under which BP Pipelines issued to the Company its 9¾% Guaranteed Note Due 1999 (the "BP Pipeline Note") in the aggregate principal amount of $80,500,000 representing 32.2% of the aggregate principal amount of the 9¾% Debentures isued under the 1974 Indenture. The BP Pipeline Note is unconditionally guaranteed as to payment of principal thereof and premium, if any, and interest thereon by BP (the "BP Guarantee"). The BP Guarantee is endorsed on the BP Pipelines Note.

e. In addition, BP and BP Pipelines entered into a Completion Agreement and a Financing Agreement, each dated as of December 1, 1974 (respectively, the "BP Completion Agreement" and the "BP Financing Agreement"), pursuant to which BP agreed to guarantee the obligations of BP Pipelines relating to the costs of the pipeline project, including the cost of any indebtedness issued in order to finance such project. Each of the BP Completion Agreement and the BP Financing Agreement creates general unsecured obligations of BP without any pledge or mortgage of any assets of BP. By assignments, each dated as of December 1, 1974, the rights of BP Pipelines to Sohio Pipe Line to receive payments from BP under the BP Completion Agreement and the BP Financing Agreement were assigned to Morgan by BP Pipelines for the equal and ratable benefit of the holders of the 9¾% Debentures.

f. Under the 1974 Indenture, the term "Obligors" means (i) the Company, as obligor on the 9¾% Debentures; (ii) BP Pipelines, as obligor on the BP Pipelines Note; (iii) BP, as obligor on the BP Guarantee; (iv) Sohio Pipe Line, as obligor on the Sohio Pipe Line Note; and (v) Sohio, as obligor on the Sohio Guarantee. The 1974 Indenture also provides that the term "Obligor on the Debentures" includes, but is not limited to, BP and Sohio as a result of their "indirect obligation" to pay 32.2% and 67.8%, respectively, of the principal of, premium, if any, and interest on the 9¾% Debentures under the BP Guarantee and the Sohio Guarantee.

g. The Sohio Guarantee with respect to the 9¾% Debentures will rank *pari passu* with the 8½% Notes, the 8¾% Notes, the 13⅜% Notes, the 10⅞% Debentures, and any indebtedness issues under the 1983 Indenture. The BP Guarantee with respect to the 9¾% Debentures will rank *pari passu* with the 10% Guaranteed Debentures and the 9¼% Guaranteed Debentures.

(4) The Company's obligation to make payments on the 9¾% Notes issued under the 1974 Indenture will not be superior or inferior in right of payment to: (i) The obligation of Sohio to make payments on the 8½% Debentures; (ii) the obligation of Sohio Pipe Line or Sohio to make payments on the 8¾% Debentures; (iii) the obligation of Sohio to make payments on the 13⅜% Notes or the 10⅞% Debentures; (iv) the obligation of Finance or BP to make payments on the 10% Guaranteed Debentures or the 9¼% Guaranteed Debentures; or (v) any indebtedness issued under the 1983 Indenture;

(5) The Company is not in default under the 1974 Indenture or the 9¾% Debentures;

(6) Sohio is not in default under the 1970 Indenture or the 8½% Debentures. Sohio Pipe Line and Sohio are not in default under the 1976 Indenture or the 8¾% Guaranteed Debentures. Sohio is not in default under the 1982 Indenture, the 13⅜% Notes or the 10⅞% Debentures. Finance and BP are not in default under (i) the 1975 Indenture or the 10% Guaranteed Debentures; (ii) the 1976 Finance Indenture or the 9¼% Guaranteed Debentures; or (iii) the 1983 Indenture;

(7) Such differences as exist between the 1974 Indenture and the Existing Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors or holders of the 9¾% Debentures, the 8¾% Guaranteed Debentures, the 8¾% Guaranteed Debentures, the 13⅜% Notes, the 10⅞% Debentures, the 10% Guaranteed Notes or the 9¼% Guaranteed Debentures to disqualify Chase from acting as trustee under the 1974 Indenture and the Existing Indentures.

(8) Such differences as exist between the 1983 Indenture, the 1984 Indenture and the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of any of the investors to disqualify Bankers from acting as Trustee under one of the Indentures. The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22–14373, which is on file in the offices of the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549.

Notice if further given that an order granting the application may be issued by the Commission at any time on or after March 6, 1986, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of section 310(b)(i) of the Trust Indenture Act of 1939. Any interested person may, not later than March 1, 1986 at 5:30 p.m., Eastern Time, in writing, submit to the Commission his views of any additional facts bearing upon this application or request a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

Service List

Sullivan & Cromwell, 125 Broad Street, New York, New York 10004
Scott Nemeroff, Esq., Securities & Exchange Commission, 450 5th Street, NW., Room 7019 Stop 7–2, Washington, DC 20549
David Potel, Esq., Securities & Exchange Commission, 450 5th Street, NW., Stop 3–3, Washington, DC 20549

[FR Doc. 86–3191 Filed 2–12–86; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–22865; File No. SR–CBOE–86–03]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change

The Chicago Board Options Exchange, Incorporated ("CBOE") submitted on January 22, 1986, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1) and Rule 19b–4 thereunder, to revise the Exchange's Committee system.

I. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self/regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item II below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to streamline the Exchange's committee system. Rules 2.1 through 2.3 have been combined and amended. Rule 2.1 becomes Rule 2.1(a), with the Appeals, Floor Officials and Market Performance Committees added to the list of committees in the first sentence. The new rule 2.1(a)-(d) reads as follows:

Committees of the Exchange

Rule 2.1. (a) Establishment of Committees. In addition to committees specifically provided for in the constitution, there shall be the following committees: Appeals, Arbitration, Business Conduct, Equity Floor Procedure, Floor Officials, Market Performance, Membership, Product Development and such other committees as may be established in accordance with the Constitution. The Chairman of the Executive Committee, with the approval of the Board, with the approval of the Board, shall appoint the chairmen and members of such committees to serve for terms expiring at the regular meeting of the Board following the next succeeding Annual Election Meeting or until successors are appointed. Consideration shall be given to continuity and to having, where appropriate, a cross section of the membership represented on each committee. The Chairman of the Executive Committee may, at any time, with or without cause, remove any member of such committees. Any vacancy occurring in one of these committees shall be filled by the Chairman of the Executive Committee for the remainder of the term. Notwithstanding the foregoing, the Chairman of the Board, with the approval of the Board, shall appoint Directors to serve on the Audit and Compensation Committees, whose members shall not be subject to removal except by the Board.

(b) Committee Procedures. Except as otherwise provided in the Constitution, the Rules or a resolution of the Board, each committee shall determine its own time and manner of conducting its meetings, and the vote of a majority of the members of a committee present at a meeting at which a quorum is present shall be the act of the committee. Committees may act informally by written consent of all of the members of the committee.

(c) Interested Persons. No member of a committee shall participate in the adjudication of any matter in which he is personally interested, although his presence at a meeting at which such matter is considered shall count toward the quorum requirements for the meeting.

(d) General Duties and Powers of Committees. Each committee shall administer the provisions of the constitution and the rules of the Exchange pertaining to matters within its jurisdiction. Each committee shall have such other powers and duties as may be delegated to it by the Board of Directors. Each committee is subject to the control and supervision of the Board of Directors.

In Rule 2.1 and in other rules, the Floor Procedure and the Securities Committee have been renamed respectively the Equity Floor Procedure and the Product Development Committees. A new sentence emphasizes the importance of continuity and representation of Exchange constituencies in committee appointments. The last sentence of Rule 2.1(a) also is new and simply makes clear that appointments to the Audit and Compensation Committees are recommended by the Chairman, because the Vice Chairman recommends appointments to other committees. Rule 2.2 concerning procedures becomes Rule 2.1(b). Rule 2.3 concerning interested persons becomes Rule 2.1(c). Rule 2.1(d) is new; it makes clear that Exchange committees are committees of the Board of Directors.

Rules 2.4 through 2.13, concerning specific committees, have been eliminated as unnecessary. Rule 2.1 establishes those committees that have significant responsibilities under Exchange rules and makes their procedures uniform. There is no reason to list every Exchange committee in the rules. The requirements that: (1) At least two floor officials must agree on an application or interpretation of trading rules and (2) floor officials must file written reports of actions taken pursuant to Exchange rules, have been moved from Rule 2.10 to the end of Rule 6.20(b). All references to the pit official pilot program, which has ended, have been removed from Rules 2.10 and 6.20.

Several functions have been moved from one committee to another. The CBOE believes it is more appropriate for the Market Performance Committee (instead of the Membership Committee) to register floor brokers and market makers under Rules 6.71 and 9.2, because the Market Performance Committee will have centralized authority (instead of both the Market Performance and the Floor Procedure Committees) to: (1) Suspend or terminate floor broker and market maker registrations under Rules 6.71 and 8.2 and (2) make, suspend or terminate market maker appointments under Rule 8.3.

The statutory basis for this proposed rule change is section 6(b)(1) and (3) of the Act, in that it streamlines the Exchange's committee system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

II. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(g)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act because it is concerned solely with the administration of the exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Publication of the submission is expected to be made in the **Federal Register** during the week of February 2, 1986. Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR–CBOE–86–03.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the CBOE.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 5, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–3192 Filed 2–12–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22855; File No. SR–PHLX–85–33]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Accelerated Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(91), notice is hereby given that on December 30, 1985 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("Exchange" or "PHLX") proposes to amend Exchange Rule 1047, Commentary .01(c), as follows:

(Brackets indicate material proposed to be deleted; italics indicate material to be added.)

Exchange Rule 1047 Trading Rotations, Halts and Suspensions (a) through (c) No change.

Commentary:

.01 (a) and (b) No change.

.01 (c) On the last trading day with respect to expiring stock option contracts a closing rotation in each series of expiring options shall be commenced at 4:[0] 10 p.m., *or after a closing price of the stock in its primary market is established, whichever is later.* On the last trading day with respect to expiring foreign currency option contracts a closing rotation in each series of expiring options shall be commenced at 1:30 p.m. Except as otherwise provided by the Exchange, if both puts and calls covering the same underlying security or the same underlying foreign currency are traded, the Specialist may determine which type of expiring options series should close first, any may alternate the close of put series and call series or may close all series of one type before closing any series of the other type, depending on current market conditions.

.02 No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The Exchange is proposing to change its rule requiring closing rotations on expiring option series to begin at 4:00 p.m. on the business day before the expiration. The proposed rule change would require a closing rotation to begin at 4:10 p.m., but not until a final price for the underlying stock is etablished in the primary market, on the business day before expiration in all expiring series of options.

When existing Exchange Rule 1047 was originally established, one underlying purpose was to coordinate the closing rotation with the close of trading of the underlying stock in its primary market, to obtain an established final price. Under this current rule, however, the Exchange must commence closing rotations at 4:00 p.m., even if closing prices for the underlying stock are not yet available. As a result, prices established during closing rotations in expiring series of individual stock options may not be correctly priced in relationship to the closing price of the underlying stock in the primary market.

If the proposed rule change is adopted, option market participants will be able to execute option transactions in expiring option series with prices known to be in relationship to the final closing price of the underlying stock on the primary market.

The Chicago Board Options Exchange ("CBOE") and the American Stock Exchange ("AMEX") have adopted this proposed change and filed it with the Securities and Exchange Commission.[1]

---

[1] *See* Securities Exchange Act Release Nos. 21597, December 2, 1984, 49 FR 50850, December 31, 1984, and 20832, April 6, 1984, 49 FR 14612, April 12, 1984, in which the Commission approved substantially identical rule filings by the CBOE adn the AMEX.

The Exchange believes it is important to maintain uniformity in this regard.

The proposed rule change is consistent with section 6(b)(5) of the Securities Exchange Act of 1934 in that it is intended to foster cooperation and coordination amony persons engaged in facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change is not expected to be a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Securities Exchange Act of 1934 ("Act") because the Amex and CBOE currently employ similar rules, and the Exchange seeks to maintain uniformity of rules where practicable.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because the rule change is substantially identical to the rule proposals filed previously by Amex and CBOE. The CBOE proposal was published for notice and comment and no comments were received by the Commission.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 6, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 4, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-3193 Filed 2-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22856; File No. SR-Phlx-86-02]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 15, 1986 Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Change

The Philadelphia Stock Exchange, Inc. ("PHLX") or ("Exchange") hereby proposes to extend the applicability of its allocation and evaluation rules (Rules 500 through 506) through July 1, 1986.[1] The Exchange has been applying these rules and intends to continue to apply them until a permanent rule proposal is approved by the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

(1) *Purpose.* The purpose of the proposed rule change is to extend the Exchange's allocation and evaluation pilot program to enable it to study alternative rule proposals regarding these topics. The Exchange has appointed a subcommittee which is in the process of formulating a rule proposal concerning this matter. The Exchange expects that such a proposal will be filed with the Commission by the end of February.

(2) *Basis.* The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that the proposed pilot is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

B. Self-Regulatory Organizations Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act to enable it to continue its allocation and evaluation pilot without interruption.

The Commission finds the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6

[1] The Exchange originally requested an extension through February 28, 1986. The Exchange subsequently filed Amendment No. 1 to the proposed rule change to request an extension through July 1, 1986.

and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because of the necessity to allow the Phlx to continue its allocation and evaluation pilot. The Exchange needs the extension to further evaluate the pilot and to develop any changes and amendments to the program which may be appropriate.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 6, 1986.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the proposed rule change referenced above be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 4, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-3194 Filed 2-12-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 86-2-19; Docket 43781]

Revocation of the Section 418 Certificate of Aero Union Corporation

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the section 418 certificate of Aero Union Corporation.

DATE: Persons wishing to file objections should do so no later than February 28, 1986.

ADDRESSES: Responses should be filed in Docket 43781 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street, SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Patricia T. Szrom, Special Authorities Division, DC 20590, (202) 755-3812.

Dated: February 7, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-3231 Filed 2-12-86; 8:45 am]

BILLING CODE 4910-62-M

[Docket 43754; Order 86-2-21]

Joint Application of NWA Inc. and Republic Airlines, Inc. for an Exemption or Approval of Acquisition of Control

Issued by the Department of Transportation on the 7th day of February, 1986.

Order

On January 28, 1986, NWA Inc. ("NWA") and Republic Airlines, Inc. ("Republic") filed a joint application for an exemption from, or prior approval under, section 408 of the Federal Aviation Act of 1958, 49 U.S.C. 1378, for NWA's proposed acquisition of Republic, a certificated air carrier. NWA controls another certificated air carrier, Northwest Airlines, Inc. ("Northwest"). The application included information concerning NWA, Northwest, and Republic required to be filed by the Department's rules, 14 CFR Part 303, 50 FR 31134, 31144-31146 (July 31, 1985).

NWA also submitted an application for approval to acquire ten percent or more of the voting securities of Republic, and to place all shares in excess of 9.9 percent of Republic's voting securities in an independent voting trust pending the completion of the Department's review of the joint application.

Based on our preliminary review of the application and supporting material filed by the applicants, it appears to contain in substantial part the information required for analysis under section 408. We have, therefore, determined that we should not reject the application as incomplete.

Under the Department's rules, answers to section 408 applications are due twenty-one days after filing of the application (in this case, February 18, 1986). 14 CFR 303.42, 50 FR 31148 (July 31, 1985). Comments on applications for exemption under section 416 of the Act are normally due fifteen days after the application is filed, or February 12, 1986. 14 CFR 303.54, 50 FR 31149 (July 31, 1985). Applicants have requested that those response dates be accelerated to February 7, 1986. Their request for expedition is based on their desire to close the proposed transaction and hold a shareholder vote by April 30, 1986, and their desire to consolidate the two carriers' operations in time for the peak travel season.

While we are sensitive to the need to avoid undue delay in reviewing section 408 transactions, the applicants have not shown that a reduction of the answer period to ten days is advisable or necessary. The proposed consolidation would eliminate a substantial amount of overlap service between the two carriers. *See* Ex JA-225. Even if the applicants are correct in their assertions that closer examination, in light of section 408 precedent, will reveal no anticompetitive effect, interested parties should be afforded a reasonable opportunity to examine the proposed transaction and formulate their comments. Moreover, advancing the comment period will not materially increase the likelihood that our review will be completed by the dates applicants desire. If the issues are as clear as the applicants assert, expedited exemption or show-cause procedures can likely be completed before the applicants' target date without shortening the comment period. If, on the other hand, a more intensive inquiry is required, it will be difficult to complete our section 408 review within the time requested by applicants, regardless of the time permitted for comments.

With respect to the application for approval of a voting trust, NWA has asked generally for expedition, but has not requested a shortening of the comment period. Therefore, we see no current need to disturb the twenty-one day comment period provided for in the regulations.

Accordingly, we will not shorten the comment periods provided by our rules, and will make comments on the request for exemption due at the same time as comments on the application for section 408 approval. Interested parties shall submit comments on the merits of the

joint application, additional information that should be required, procedures that should be followed, the advisability of exercising our exemption authority, or other matters, by February 18, 1986. Comments on NWA's voting trust application shall be submitted by that date as well.

Part of the supporting information filed by Northwest and Republic was filed under the cover of Rule 39 motions for confidential treatment. Northwest's and Republic's motions request that only attorneys of record and outside experts of other parties be permitted access to the confidential documents, and then only upon submission of an affidavit indicating that the affiant will preserve the documents' confidentiality and use the information only in connection with this proceeding. Northwest asks that in-house experts of other parties be denied access to the documents. In the alternative, Northwest requests that in addition to the expert's submission of a confidentiality affidavit, an in-house expert be permitted access only after: (1) The expert indicates his/her posiition, job responsibilities, area of expertise and area of proposed testimony; (2) an attorney screens and sorts the documents and submits an affidavit averring that the in-house expert needs the information contained in the identified documents to prepare his or her testimony in this proceeding; and (3) Northwest and Republic have five days in which to object to release of the documents to the in-house expert.

Northwest also requests permission to withhold from filing three documents that it claims are highly sensitive and only marginally relevant.[1] Northwest argues that the highly sensitive nature of these documents justifies exempting them from the usual filing requirements.

We will grant Northwest's and Republic's motions to treat the documents submitted pursuant to 14 CFR 303.10(g) and 303.13(b)–(d) as confidential, subject to reconsideration at any time for good cause shown. We have not completed our evaluation of the requests to deny access to in-house experts and Northwest's request to exempt three documents from the filing requirements of 14 CFR Part 303. As to both requests, applicants have raised valid concerns about the sensitivity of corporate planning documents. The resolution of those requests depends on a balancing of those concerns against the needs of interested parties to develop and present their cases, and the relevance of the sensitive documents to the issues in this case. We will be in a much better position to weight those competing considerations after we have more closely evaluated the issues presented here in light of the comments of interested persons on the application in general and on the confidentiality motions in particular.

Pending resolution of applicants' motion to deny access to in-house experts, we will allow only attorneys of record and *outside* experts of other parties to inspect *in camera* the documents for which we granted confidential treatment. Counsel and outside experts may inspect those documents at the offices of the Department of Transportation, Room 4107, 400 Seventh Street, SW., Washington, DC, upon submission of an affidavit indicating the party by whom, and the capacity in which, they have been retained, and that they will preserve the confidentiality of the information contained therein and will use the information only in connection with this proceeding. Any answer or other filing raising matters contained in the confidential documents must be accompanied by a Rule 39 motion requesting confidential treatment.

Accordingly, 1. Answers and comments on the joint application and on NWA's application for approval of a voting trust are due February 18, 1986;

2. We grant, subject to reconsideration at any time for good cause shown, the motion of Northwest and Republic for confidential treatment of certain documents;

3. We grant Northwest's and Republic's request for waiver of: (1) The requirements of Rule 302.3(c) regardng the number of copies of certain documents to be filed and (2) because of their volume, the requirement to serve copies of publicly available financial information, collective bargaining agreements, and current fares;

4. Pending Department resolution of Northwest's and Republic's motion to deny access to in-house experts, attorneys of record and *outside* experts may veiw the confidential documents *in camera* at the Department, upon submission of an appropriate affidavit; and

5. This order will be published in the **Federal Register.**

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 3232 Filed 2–12–86; 8:45 am]

BILLING CODE 4910-62-M

[1] Northwest has submitted a copy of the documents to the Department's Assistant General Counsel for Litigation, as we have required in similar circumstances. Order 85–10–65 at 3 (October 22, 1985).

Federal Aviation Administration

Organization and Functions; Martha's Vineyard, MA

Notice is hereby given that on May 15, 1986, through October 30, 1986, the airport traffic control tower at the Martha's Vineyard Airport, Martha's Vineyard, Massachusetts, will be commissioned as a part-time Federal Aviation Administration (FAA) facility. Tower hours of operation will be established in advance by a Notice to Airmen, and thereafter published in the Airman's Information Manual. The designated facility identification for the FAA airport control tower will be: VINEYARD TOWER.

This information will be reflected in the FAA organization statement.

Communications to the tower should be directed to: Federal Aviation Administration, Airport Traffic Control Tower, P.O. Box 369, Vineyard Haven, Massachusetts 02568.

(Secs 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Issued in Burlington, Massachusetts, on February 4, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86–3140 Filed 2–12–86; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[FRA General Docket No. H–85–4]

Train Air Brake Test Program; Burlington Northern Railroad Co.

In accordance with 49 CFR 211.9 and 211.41, notice is given that the Burlington Northern Railroad Company (BN) has requested a waiver until March 31, 1991, of certain provisions of the Federal Railroad Administration's (FRA's) power brake regulations (49 CFR Part 232) in order to use and test trains with air repeater units. Air repeater units (repeaters) are freight cars and locomotives that have been outfitted with a power source (usually a diesel engine), an air compressor, reservoir, and a special valve rack. The valve rack is designed: (i) To provide control of the air supply to charge the rear brake pipe and (ii) to relay pneumatic signals from the engineer's brake equipment to the rear portion of the train to apply and release the train air brakes. On a conventional train, the brake pipe is charged from the hauling locomotive. When a repeater is placed in a train, however, only the brake pipe forward of

the repeater is charged by the hauling locomotive; the brake pipe to the rear of the repeater is charged by the repeater.

BN's specific request is for relief from the obligation to conduct a leakage test on the portion of the train to the rear of the air repeater unit. See 49 CFR 232.12(b)(1), (d)(1), (d)(3), (e), (i)(2), (i)(3); 232.13(d)(1), (d)(2). Test trains would operate on various subdivisions of the BN's Chicago, Twin Cities, Billings, Seattle, and Denver Regions.

In response to BN's request, FRA has granted a temporary, conditional waiver, pending receipt and evaluation of public comments. The waiver is conditioned on BN's adherence to the parameters of the test program set forth in this notice.

In support of its application for relief, BN states that it is not possible to make a standard leakage test with a repeater in operation. In the past, in order to assure full compliance with the regulations, FRA has required that repeaters be isolated during train air brake tests by manually repositioning three valves at the valve rack and then restoring them to their original position after the test is completed. BN regards this activity as too time consuming and unnecessary.

In further support of its request, BN states that it has been experimenting with repeaters for several years and that safety and train operations are enhanced by their use, especially during very cold weather. BN contends that the improvement in brake pipe gradient provides for better train handling, and the benefits in time saved in charging trains for initial testing far exceed the benefits derived from a leakage test on the rear portion of the trains. For example, on June 3, 4, and 5, 1985, BN conducted tests of a 120-car train that included a repeater. These tests showed definite improvements in gradient, recharge times, release times, and application times as a result of employing a repeater.

On review of BN's test data and other data obtained through FRA's field investigation, FRA has determined that granting the required waiver would be consistent with railroad safety, provided that BN adheres to the following conditions:

A. At least 50 percent of the test trains shall receive a separate leakage and gradient test on the portion of the train forward of the repeater and the portion to the rear of the repeater, and the repeater must be isolated and a leakage and gradient test be performed on these trains for comparison purposes;

B. All mechanical and operating personnel involved with repeater equipment must be given training and be provided with a copy of BN instructions concerning repeater operations and maintenance, train brake test procedures, and procedures to be followed when a repeater unit fails;

C. All test trains must be provided with an end-of-train monitoring system (telemetry device); and

D. For each month of the test period, a written report shall be submitted to FRA providing the following information:

1. A list of repeater locomotives and cars by indentification number;

2. A list of test trains operated each day during the month, including the number, symbol, initial terminal, and final destination of each train;

3. The results of the tests described in paragraph A of this Notice;

4. Any air brake problems found during train air brake testing of test trains;

5. Any air brake problems experienced en route;

6. Any train handling problems; and

7. All failures of repeaters, including

a. Identification number

b. Reason for failure

c. Action taken at time of failure.

FRA responded promptly to the BN petition, granting a conditional waiver of compliance on a temporary basis. That temporary waiver was granted with the understanding that FRA's decision would be reviewed in the light of any public comments received in response to this public notice. The decision to grant a temporary waiver, pending receipt and consideration of public comment, was based on the determination that immediate action was required in the public interest. In particular, the determination reflects FRA's desire that the test program be conducted during very cold weather. BN's prior experiments with repeaters indicates that safety and train operations are especially enhanced by their use during very cold weather.

FRA is now seeking information and comments of all interested parties on this waiver request. As noted, FRA intends to review its initial decision in light of these comments. All interested parties are invited to participate in this proceeding through written submissions. FRA does not anticipate scheduling an opportunity for oral comment because the facts do not appear to warrant it. An opportunity to present oral comments will be provided, however, if, by April 3, 1986, the party submits a written request for hearing that demonstrates that his or her position cannot be properly presented by written statements.

All written communications concerning this petition should reference "FRA General Docket No. H–85–4" and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, 400 7th ST., SW., Washington, DC 20590.

Comments received by April 3, 1986 will be considered before final action is taken in this proceeding. All comments received will be available for examination by interested persons at any time during regular working hours in Room 8201, Nassif Building, 400 7th St., SW., Washington, DC 20590.

Issued in Washington, DC., on February 7, 1986.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 86–3233 Filed 2–12–86; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

[Docket No. IP86–03; Notice 1]

Chrysler Corp.; Receipt of Petition for Determination of Inconsequential Noncompliance

Chrysler Corporation, of Detroit, Michigan has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This Notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S4.1.1 of Federal Motor Vehicle Safety Standard No. 108, in essential part lists the required items of motor vehicle lighting equipment. A backup lamp is required, designed to conform to SAE J593C. Paragraph S4.1.1.22 of FMVSS No. 108 specifies an alternative method of photometric compliance for backup lamps. In essence, this section requires that each backup lamp meet minimum total candela measurements at six grouped test points. In Group 4 the total minimum reading of the six test points within that group is 360 candela.

The petitioner produced approximately 800 Chrysler New Yorker passenger cars between August 12 and August 23, 1985, with backup lamps that do not meet the photometric requirements of paragraph S4.1.1.22.

Chrysler states that:

Specifically, the discrepancy is that the Group 4 photometric value exhibited by each of the dual backup lamps installed on an affected vehicle is 292 candela, whereas the required minimum value is 360 candela—four of the six points in Group 4 are below the minimum values. All other group and point photometric values exceed the specified minimum by substantial margins.

Chrysler's position that the subject discrepancy is inconsequential in relation to motor vehicle safety is based on the following evaluation factors:

1. The overall candela output level provided by the subject backup lamps exceeds the minimum required by FMVSS 108.

• The sum of the candela measured at all 22 test points (or all six groups of test points) is 881 for the subject lamp, as compared with the required minimum total of 650—35% more than required.

• The central portion of the lamp output pattern, which includes both the discrepant Group 4 and the Group 3 immediately above it, provides an overall candela output which is 20% greater than the minimum required for the two groups combined.

2. The performance of the installed backup lamps is adequate in all regards, specifically including their illumination capability for both rear field of view visibility and signaling of reverse gear operation. Chrysler's comparative jury evaluation concluded that the lamp's photometric performance for both rearward illumination and signal warning is at least equal to a lamp which provides candela output that marginally exceeds FMVSS 108 minimum requirements.

3. The closest ground level point visible to the driver when the roadway is indirectly viewed through the inside rearview mirror is 50 feet from the rear of the vehicle. The ground intercept point of the backup lamp center line (V)-five degree down (5D) discrepant test point light ray is 25 feet from the rear of the vehicle. Therefore, the driver's visibility to the rear is not benefited by the light cast upon the roadway by the V–5D test point.

4. Of the four test points having discrepant photometric values, only one (the H–V point) affects illumination on the field of view target seen indirectly through the inside rearview mirror and the backlight at a distance of 25 feet behind the vehicle. The sum of the photometric values for the six test points which affect illumination of this target is 311 candela for the subject lamps as compared to the 245 required minimum—27% more than required. Influence of this discrepant test point (H–V) on field of view illumination decreases as the target is moved closer to the rear of the vehicle.

5. Chrysler is not aware of any owner complaints, field reports, or allegations of hazardous circumstances relating to the illumination or signaling capability of the subject backup lamps.

6. The discrepant condition was the result of an inadvertent design released error. A bulb socket other than the one specified for the final design was mistakenly selected from bulb socket selection charts and released. This resulted in the bulb being located 0.44 inch rearward of the design position, causing defocus of the lamp.

7. Existence of the discrepant condition was detected during routine quality control tests by the lamp supplier with production wiring harness bulb sockets. Chrysler then took immediate, expedited action to correct the condition by specifying the correct socket for harness assembly and reworking available harnesses prior to installation into cars.

Interested persons are invited to submit written data, views and arguments on the petition of Chrysler Corporation described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Adminisration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 17, 1986.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 7, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86–3141 Filed 2–12–86; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. IP86–02; Notice 1]

General Motors Corp.; Receipt of Petition for Determination of Inconsequential Noncompliance

General Motors Corporation of Detroit, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.110, Motor Vehicle Safety Standard No. 110, *Tire Selection and Rims,* on the basis that it is inconsequential as it relates to motor vehicle safety.

This Notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S4.4.1 of the Federal Motor Vehicle Safety Standard 110, *Tire Selection and Rims,* which covers rim construction dimensions, and by reference to FMVSS No. 109, *New Pneumatic Tires,* paragraph S4.4, tire and rim matching information, in essential parts requires that a listing of the approved tire and rim combinations be published in at least one of several recognized worldwide, tire and rim specification and usage guides. The publication referenced for use in the United States is by The Tire and Rim Association.

The petitioner determined that 4,100 Buick Grand National passenger cars manufactured during the 1984 and 1985 model years, with P215/65R15 tires and 7.25 inch rims do not comply with one of the requirements of FMVSS No. 110, *Tire Selection and Rims.* This tire and rim are not listed as an approved combination in The Tire and Rim Association publications.

General Motors states that—

* * * However, the P215/65R15 tire with 7 and 7.5 inch rims are both listed as approved combinations by the Tire and Rim Association. In addition, GM Engineering and GM Tire and Wheel Systems have determined that performance is not affected in any way by use of the 7.25 inch rim, with the P215/65R15 tire. Accordingly, General Motors believes that this specific noncompliance with FMVSS No. 110 is inconsequential as it relates to motor vehicle safety.

The petitioner also indicated that the 7.25 inch rim has been cancelled and is being replaced with a 7 inch rim, and is not aware of any customer complaints relative to the performance of the tire and rim combination.

Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corporation, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 17, 1986.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 7, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86–3142 Filed 2–12–86; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirement Submitted to OMB for Review

Dated: January 22, 1986.

The Department of Treasury has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Office of the Secretary

OMB Number: 1505–0023
Form Number: TIC–CM
Type of Review: Revision
Title: Dollar Deposit and Certificate of Deposit Claims on Banks Abroad

OMB Number: 1505–0024
Form Number: CQ–1 and CQ–2
Type of Review: Revision
Title: Financial and Commercial Liabilities to, and Claims on, Unaffiliated Foreigners

Clearance Officer: Joan M. Kotze (202) 566–3678, Office of the Assistant Secretary for International Affairs, Room 5453, Main Treasury Building, Washington, DC 20220

OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0128
Form Number: ATF F 3066 (5210.10)
Type of Review: Extension
Title: Record of Small Cigars and Large and Small Cigarettes

Clearance Officer: Roy J. Betsill (202) 566–7641, Bureau of Alcohol, Tobacco and Firearms, Room 7202, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Internal Revenue Service

OMB Number: New
Form Number: IRS Forms 5435 and 5434A
Type of Review: New
Title: Application for Enrollment (5434); Application for Renewal of Enrollment (5434A)

OMB Number: New
Form Number: IRS Form 23
Type of Review: New
Title: Application for Enrollment to Practice Before the Internal Revenue Service

OMB Number: 1545–0057
Form Number: IRS Form 1024
Type of Review: Revision
Title: Application for Recognition of Exemption Under section 501(a) or for Departmental Determination Under section 120

OMB Number: 1545–0534
Form Number: IRS Form 5303
Type of Review: Revision
Title: Application for Determination for Collectively-Bargained Plan

Clearance Officer: Garrick Shear (202) 566–6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 86–3143 Filed 2–12–86; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Department Circular—Public Debt Series—No. 9–86]

Treasury Bonds of 2016

Washington, January 30, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,000,000,000 of United States securities, designated Treasury Bonds of 2016 (CUSIP No. 912810 DV 7), hereafter referred to as Bonds. The Bonds will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Bonds and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Bonds may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Bonds will be dated February 15, 1986, and issued February 18, 1986. Payment for the Bonds will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from February 15, 1986, to February 18, 1986. Interest on the Bonds is payable on a semiannual basis on August 15, 1986, and each subsequent 6 months on February 15 and August 15 through the date that the principal becomes payable. They will mature February 15, 2016, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Bonds in registered definitive form will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Bonds in book-entry form will be issued in multiples of those amounts. Bonds will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Bonds, exchanges of Bonds between registered definitive and book-entry forms, and transfers will be permitted.

2.6. A book-entry Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.5. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.7. The Department of the Treasury's general regulations governing United States securities apply to the Bonds offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedure

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Standard time, Thursday, February 6, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, February 5, 1986, and received no later than Tuesday, February 18, 1986.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.750. That stated rate of interest will be paid on all of the Bonds. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations.

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submittted. Settlement must include accrued interest from February 15, 1986, to February 18, 1986. The amount of accrued interest will be determined after the auction, and investors will be notified of the amount. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, February 18, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 13, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Bonds allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, February 18, 1986. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted are not required to be assigned if the new Bonds are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Bonds are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Bonds offered by this

circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Bonds, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Bonds will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Bonds in registered definitive form will be made after the request form of registration has been validated, the registered interest account has been established, and the Bonds have been inscribed.

6. Separability of Principal and Interest

6.1 Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a book-entry Bond may be divided into its separate components and maintained as such on the bond-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of the Bond are: each future semiannual interest payment (hereafter referred to as an Interest Component); and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2. In order for a book-entry Bond to be separated into the components described in Section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering will be provided in the public announcement of the amount and yield range of accepted bids for the Bonds. The chart in Attachment B hereto provides the minimum and multiple par amounts required to separate a security into components at various stated interest rates.

6.3. Only Bonds in book-entry form may be separated into their components. Such separation may be effected at any time from the issue date until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the book-entry Bonds. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.4. The Principal Component will be payable on February 15, 2016.

6.5. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.6. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.7. Once the book-entry Bond has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.8. Interest Components and Principal Components may be held only in book-entry form.

6.9. Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Bond will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first disposition occurs. Both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.10. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.11. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Bonds on full-paid allotments, and to maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachments A and B are incorporated as part of this offering circular.

Gerald Murphy,

Fiscal Assistant Secretary.

BILLING CODE 4810-40-M

ATTACHMENT A

CUSIP NUMBERS AND DESIGNATIONS FOR THE
PRINCIPAL COMPONENT AND INTEREST COMPONENTS OF
TREASURY BONDS OF FEBRUARY 15, 2016, CUSIP NO. 912810 DV 7

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) 2016 due February 15, 2016, CUSIP No. 912803 AF 0.

INTEREST COMPONENTS

DESIGNATION	CUSIP NUMBER 912833	DESIGNATION	CUSIP NUMBER 912833
Treasury Interest (TINT) 2016 due		Treasury Interest (TINT) 2016 due	
August 15, 1986	AY 6	August 15, 2001	CE 8
February 15, 1987	AZ 3	February 15, 2002	CF 5
August 15, 1987	BA 7	August 15, 2002	CG 3
February 15, 1988	BB 5	February 15, 2003	CH 1
August 15, 1988	BC 3	August 15, 2003	CJ 7
February 15, 1989	BD 1	February 15, 2004	CK 4
August 15, 1989	BE 9	August 15, 2004	CL 2
February 15, 1990	BF 6	February 15, 2005	CM 0
August 15, 1990	BG 4	August 15, 2005	CN 8
February 15, 1991	BH 2	February 15, 2006	CP 3
August 15, 1991	BJ 8	August 15, 2006	CQ 1
February 15, 1992	BK 5	February 15, 2007	CR 9
August 15, 1992	BL 3	August 15, 2007	CS 7
February 15, 1993	BM 1	February 15, 2008	CT 5
August 15, 1993	BN 9	August 15, 2008	CU 2
February 15, 1994	BP 4	February 15, 2009	CV 0
August 15, 1994	BQ 2	August 15, 2009	CW 8
February 15, 1995	BR 0	February 15, 2010	CX 6
August 15, 1995	BS 8	August 15, 2010	CY 4
February 15, 1996	BT 6	February 15, 2011	CZ 1
August 15, 1996	BU 3	August 15, 2011	DA 5
February 15, 1997	BV 1	February 15, 2012	DB 3
August 15, 1997	BW 9	August 15, 2012	DC 1
February 15, 1998	BX 7	February 15, 2013	DD 9
August 15, 1998	BY 5	August 15, 2013	DE 7
February 15, 1999	BZ 2	February 15, 2014	DF 4
August 15, 1999	CA 6	August 15, 2014	DG 2
February 15, 2000	CB 4	February 15, 2015	DH 0
August 15, 2000	CC 2	August 15, 2015	JT 8
February 15, 2001	CD 0	February 15, 2016	KG 4

ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

[FR Doc. 86-3245 Filed 2-11-86; 11:17 am]
BILLING CODE 4810-40-C

[Department Circular—Public Debt Series—No. 6-86]

Treasury Notes of February 15, 1989, Series Q-1989

Washington, January 30, 1986.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,000,000,000 of United States securities, designated Treasury Notes of February 15, 1989, Series Q-1989 (CUSIP No. 912827 TE 2), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1 The Notes will be dated February 18, 1986, and will accrue interest from that date, payable on a semiannual basis on August 15, 1986, and each subsequent 6 months on February 15 and August 15 through the date that the principal becomes payable. They will mature February 15, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2 The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3 The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4 Notes in registered definitive form will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5 Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6 The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1 Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Standard time, Tuesday, February 4, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, February 3, 1986, and received no later than Tuesday, February 18, 1986.

3.2 The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3 A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4 Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5 Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6 Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7 Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1 The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the

amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1 Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, February 18, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 13, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, February 18, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3 Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4 Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested from of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1 As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2 The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3 The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-3246 Filed 2-11-86; 11:17 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 7-86]

Treasury Notes of February 15, 1996, Series A-1996

Washington, January 30, 1986.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,000,000,000 of United States securities, designated Treasury Notes of February 15, 1996, Series A-1996 (CUSIP No. 912827 TF 9), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated February 15, 1986, and issued February 18, 1986. Payment for the Notes will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from February 15, 1986, to February 18, 1986. Interest on the Notes is payable on a semiannual basis on August 15, 1986, and each subsequent 6 months of February 15 and August 15 through the date that the principal becomes payable. They will mature February 15, 1996, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. A book-entry Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The

provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.5. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.7. After March 22, 1986, the Treasury may issue, through the Federal Reserve Bank of New York, as fiscal agent of the United States, additional amounts of the Notes offered in this circular in exchange for equal par amounts of the Foreign-Targeted Treasury Notes of February 15, 1996, Series B–1996 (CUSIP No. 912827 TG 7). Such exchanges must be conducted in accordance with Section 10 of Department Circular, Public Debt Series—No. 8–86, dated January 29, 1986.

2.8. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Standard time, Wednesday, February 5, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 4, 1986, and received no later than Tuesday, February 18, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentages allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement must include accrued interest from February 15, 1986, to February 18, 1986. The amount of accrued interest will be determined after the auction, and investors will be notified of the amount. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, February 18, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not ðverdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 13, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, February 18, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has

been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, on amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscription or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registerred definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a book-entry Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Note are: each future seminannual interest payment (hereafter referred to as an Interest Component); and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2. In order for a book-entry Note to be separated into the components described in Section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a seminannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering will be provided in the public announcement of the amount and yield range of accepted bids for the Notes. The chart in Attachment B hereto provides the minimun and multiple par amounts required to separate a security into components at various stated interest rates.

6.3. Only Notes in book-entry form may be separated into their components. Such separation may be effected at any time from the issue date until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the book-entry Notes. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.4. The Principal Component will be payable on February 15, 1996.

6.5. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.6. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.7. Once a book-entry Note has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.8. Interest Components and Principal Components may be held only in book-entry form.

6.9. Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Note will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first disposition occurs. Both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.10. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.11. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A and B are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

BILLING CODE 4810-40-M

ATTACHMENT A

CUSIP NUMBERS AND DESIGNATIONS FOR THE PRINCIPAL COMPONENT AND INTEREST COMPONENTS OF TREASURY NOTES OF FEBRUARY 15, 1996, SERIES A-1996, CUSIP NO. 912827 TF 9

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) Series A-1996 due February 15, 1996, CUSIP No. 912820 AF 4.

INTEREST COMPONENTS

DESIGNATION	CUSIP NUMBER 912833	DESIGNATION	CUSIP NUMBER 912833
Treasury Interest (TINT) A-1996 due		Treasury Interest (TINT) A-1996 due	
August 15, 1986	AY 6	August 15, 1991	BJ 8
February 15, 1987	AZ 3	February 15, 1992	BK 5
August 15, 1987	BA 7	August 15, 1992	BL 3
February 15, 1988	BB 5	February 15, 1993	BM 1
August 15, 1988	BC 3	August 15, 1993	BN 9
February 15, 1989	BD 1	February 15, 1994	BP 4
August 15, 1989	BE 9	August 15, 1994	BQ 2
February 15, 1990	BF 6	February 15, 1995	BR 0
August 15, 1990	BG 4	August 15, 1995	BS 8
February 15, 1991	BH 2	February 15, 1996	BT 6

ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

[FR Doc. 86-3247 Filed 2-11-86; 11:47 am]
BILLING CODE 4810-40-C

[Department Circular—Public Debt Series—No. 8-86]

Foreign-Targeted Treasury Notes of February 15, 1996, Series B-1996

Washington, January 29, 1986.

Special Notice—Payment for these notes must include accrued interest. See Section 7.1.

Outside the United States, this offering circular is for informational purposes and does not constitute an offer or solicitation, and it may not be used for the purpose of or in connection with any offer or solicitation by any person in any jurisdiction in which such offer or solicitation is not authorized or to any person to whom it is unlawful to make such offer or solicitation.

Table of Contents

Section 1. Invitation For Tenders
Section 2. Definitions
Section 3. Fiscal Agent as Registrar
Section 4. Description of the Notes
Section 5. Domestic Notes
Section 6. Bidding and Sale Procedures
Section 7. Payment for Notes
Section 8. Book-Entry Notes
Section 9. Definitive Notes
Section 10. Exchange For Domestic Notes
Section 11. United States Taxation
Section 12. Sanctions
Section 13. General Provisions
Attachment A—Sample Tender Form
Attachment B—Sample Payment Instructions
Attachment C—Sample Guarantee
Attachment D—Formulas

Section 1. Invitation for Tenders

1.1. Introduction. The Secretary of the Treasury, pursuant to the authority granted him by Chapter 31 of Title 31, United States Code, invites tenders for up to $1,000,000,000 of United States securities designated Foreign-Targeted Treasury Notes of February 15, 1996, Series B-1996 (CUSIP No. 912827 TG 7) (collectively the "Notes", individually a "Note"). The Notes will be auctioned in the United States on February 5, 1986, by competitive bidding only. Payment must be made as set forth below in United States dollars. The stated interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described in Section 6.7.

1.2. Target Nature of the Notes. Treasury will sell the Notes only to Bidders as defined in Section 2.1. Bidders must acquire the Notes only for themselves or on behalf of, or for sale or other transfer to, United States Aliens as defined in Section 2.19, or foreign branches of United States Financial Institutions. In addition, any transfers by Bidders after March 22, 1986, to Qualified Holders as defined in Section 2.15, that are United States Persons must be consistent with the tax certification described in Section 11.2.

1.3. Transfer Restrictions. Before March 23, 1986, the Notes may not be sold or transferred to a United States Person as defined in Section 2.20, other than a foreign branch of a United States Financial Institution. Each Bidder for the Notes must certify on the tender form for the Notes that it will not sell, contract to sell, or otherwise transfer the Notes to a United States Person, other than a foreign branch of a United States Financial Institution, before March 23, 1986. Each Bidder further agrees that, if it sells, contracts to sell, or otherwise transfers the Notes before March 23, 1986, it will confirm to such purchaser or transferee in writing that (i) there is a restriction on sale or other transfer to United States Persons other than foreign branches of United States Financial Institutions and (ii) such confirmation is required to be given to any subsequent purchaser or transferee that acquires the Notes before March 23, 1986. The transfer restriction of this Section 1.3. is in addition to the tax certification of a Bidder described in Section 11.2. As described in Section 11.2., the Bidder must certify that, as of the date of issuance, Notes acquired by the Bidder will not be owned by a United States Person, other than a foreign branch of a United States Financial Institution, and that the Notes are not being acquired on behalf of such a person, or for offer to resell or for resale to such a person. This tax certification requirement is independent of the transfer restriction of this Section 1.3.

1.4. Tax Treatment. The Notes are subject to United States federal income tax as provided in the Internal Revenue Code as defined in Section 2.8. Interest on the Notes paid to a United States Alien is not subject to United States federal income tax if the conditions of section 871(h) or 881(c) of the Internal Revenue Code and the regulations related thereto are satisfied. The discussion in Section 11 is only a summary of the currently applicable tax requirements. The tax consequences of holding the Notes derive solely from the Internal Revenue Code and regulations now or hereafter promulgated thereunder.

Section 2. Definitions

The following terms, whenever used and capitalized in this offering circular, shall have the meanings set forth below.

2.1. Bidder. (i) A United States Alien, other than an individual, or (ii) a foreign branch of a United States Financial Institution.

2.2. Definitive Notes. Notes (as defined in Section 1.1.) evidenced by a certificate that is inscribed with the name of the Registered Owner.

2.3. Domestic Notes. Companion securities sold at auction on February 5, 1986, and designated Treasury Notes of February 15, 1996, Series A-1996 (CUSIP No. 912827 TF 9).

2.4. Exchange Adjustment. As defined in Section 10.3.

2.5. Financial Institution. A securities clearing organization, a bank, or other financial institution, other than an International Financial Organization, that holds customers' securities in the ordinary course of its trade or business, within the meaning of section 871(h)(4)(B) of the Internal Revenue Code.

2.6. FRB NY. The Federal Reserve Bank of New York, located at 33 Liberty Street, New York, New York.

2.7. Holding Institution. A Financial Institution or an International Financial Organization that has a book-entry account with FRB NY.

2.8. Internal Revenue Code. The United States Internal Revenue Code of 1954, as amended from time to time (Title 26 of the United States Code).

2.9. International Account. A book-entry account of a Holding Institution with FRB NY for which records are maintained by FRB NY that specifically identify a foreign Financial Institution, a foreign branch of a United States Financial Institution, or an International Financial Organization. A United States branch of a foreign Financial Institution may not establish an International Account. A United States subsidiary of a foreign Financial Institution may establish an International Account in accordance with the requirements of the first sentence of this Section 2.9.

2.10. International Financial Organization. A central bank or monetary authority of a foreign government or a public international organization of which the United States is a member that is characterized as a foreign corporation for United States federal income tax purposes to the extent that such central bank, authority, or organization holds Notes solely for its own account and is exempt from United States federal income tax under sections 892 or 895 of the Internal Revenue Code.

2.11. Note or Notes. As defined in Section 1.1.

2.12. Payment Guarantee. A guarantee of payment to Treasury for an amount equal to 5 percent of the par amount of Notes for which a tender is submitted by or on behalf of a Bidder.

2.13. Paying Institution. A Financial Institution that has a reserve, clearing, or other dollar account with FRB NY and that has been designated on the

tender form to pay for the Notes or an International Financial Organization designated to pay for Notes for which it is the Registered Owner.

2.14. Primary Dealer. A dealer on the list of reporting dealers published by FRB NY.

2.15. Qualified Holder. Before March 23, 1986, a United States Alien or a foreign branch of a United States Financial Institution and after March 22, 1986, a United States Alien or a United States Person.

2.16. Registered Owner. The Financial Institution or International Financial Organization specifically identified on the records of FRB NY maintained for an International Account, or, for Notes held in a book-entry account other than an International Account, the Holding Institution, or, for a Definitive Note, the person whose name is inscribed on the Note and recorded on the books of FRB NY.

2.17. Secretary. The Secretary of the United States Department of the Treasury, the legal successor of the Secretary, and delegates of the Secretary or such legal successor.

2.18. Treasury. The United States Department of the Treasury.

2.19. United States Alien. A corporation, partnership, individual, or fiduciary that for United States federal income tax purposes, as to the United States (including its territories, possessions, all areas subject to its jurisdiction and the Commonwealth of Puerto Rico), is a foreign corporation, a nonresident alien individual, a nonresident alien fiduciary of a foreign estate or trust; a foreign partnership one or more of the members of which is, for United States federal income tax purposes, a foreign corporation, a nonresident alien individual, or a nonresident alien fiduciary of a foreign estate or trust; or an International Financial Organization.

2.20. United States Person. A citizen, national, or resident of the United States; a corporation, partnership, or other entity created or organized in or under the laws of the United States or any political subdivision thereof; or an estate or trust that is subject to United States federal income tax regardless of the source of its income.

2.21. United States-Related Person. A United States Person, a controlled foreign corporation within the meaning of section 957(a) of the Internal Revenue Code, or a foreign corporation 50 percent or more of whose gross income from all sources for the three-year period ending with the close of the taxable year preceding the subject payment was effectively connected with the conduct of a trade or business in the United States.

2.22. Withholding Agent. The United States Person that would be required to deduct and withhold United States Federal income tax from interest on the Notes under sections 1441(a) or 1442(a) of the Internal Revenue Code if such interest were not portfolio interest within the meaning of sections 871(h) and 881(c) of the Internal Revenue Code.

Section 3. Fiscal Agent as Registrar

3.1. Fiscal Agent as Registrar. FRB NY is designated to act on behalf of Treasury as the exclusive fiscal agent and, as such, registrar for this issue. FRB NY is authorized to receive tender forms and payment, issue the Notes, maintain and service securities accounts, pay principal and interest, conduct exchange and conversion transactions, redeem the Notes at maturity, and otherwise act as necessary in its capacity as fiscal agent.

Section 4. Description of the Notes

4.1. The Notes. The Notes will be issued as direct obligations of the United States of America. The Notes will be dated February 15, 1986, and issued February 18, 1986, in book-entry form. They will bear interest at the stated rate determined in the manner described in Section 6.7, payable on an annual basis on February 15, 1987, and on February 15 of each subsequent year through the maturity date. The Notes will mature on February 15, 1996, and are not subject to call for redemption prior to maturity . After March 22, 1986, the Notes may be converted to Definitive Notes as described in Section 9. Interest and principal on the Notes will be paid in United States dollars in accordance with the procedures set forth in Sections 8.5. and 9.3. After March 22, 1986, the Notes will be acceptable to secure deposits of public monies of the United States.

4.2. Transfer and Exchange. Ownership of the Notes is transferable as provided in Sections 8 and 9. The Notes may be exchanged for Domestic Notes as provided in Section 10. If the applicable requirements of Section 11 have been complied with, after March 22, 1986, the Notes may be acquired and owned by a United States Person, and Domestic Notes acquired in exchange for the Notes may be acquired and owned by either a United States Alien or a United States Person.

4.3. No Gross-up. There will be no future increase in payments to offset any changes in tax requirements affecting these Notes.

4.4. Denominations. Definitive Notes will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in those denominations or in multiples of those amounts.

4.5. Governing Regulations. Treasury's general regulations governing United States securities (Part 306 of Title 31 of the Code of Federal Regulations) apply to the Notes offered in this offering circular, except as otherwise provided herein.

Section 5. Domestic Notes

5.1. Domestic Auction. On February 5, 1986, Treasury also will auction Domestic Notes that will be issued on the same day as the Notes and will have the same maturity date and stated interest rate as the Notes. After March 22, 1986, the Notes may be exchanged for Domestic Notes in accordance with the procedures set forth in Section 10.

5.2. Domestic Features. The Domestic Notes will be eligible for STRIPS (Separate Trading of Registered Interest and Principal of Securities). The Notes offered in this circular will not be eligible for STRIPS.

Section 6. Bidding and Sale Procedures

6.1. Bidders. Tender forms may be submitted only by or on behalf of Bidders. Individuals may not be Bidders. A syndicate must be comprised only of Bidders to be considered a Bidder. Tender forms may be submitted by an agent of a Bidder if the identity of the Bidder is disclosed.

6.2. Tender Submission. Bids must be submitted on the prescribed tender form and must be received at FRB NY, First Floor, before 1:00 p.m. New York time, on Wednesday, February 5, 1986. Persons submitting tender forms will receive time-stamped receipts. Beginning at 1:00 p.m. New York time on February 5, 1986, bids are irrevocable. A sample tender form is set forth at Attachment A. Tender forms may be obtained at FRB NY and at Treasury offices in Washington, DC.

6.3. Payment Instructions. Bidders are required to make arrangements to pay for the Notes before submitting a bid. Each Bidder must designate a Paying Institution on the tender form. Except as set forth below, each Paying Institution must advise FRB NY no later than 12:00 noon New York time on February 4, 1986, that it has agreed to serve as a Paying Institution for a named Bidder. That advice must be given in the form set forth at Attachment B to this offering circular. The Attachment B notice is not required if: (i), The Bidder and its designated Paying Institution are the same legal entity or (ii) the Paying Institution is submitting the tender form as agent for a Bidder,

and if the signature of the authorized signer of the Paying Institution on the tender form is on file with FRB NY as an authorized signature of the Paying Institution. The Paying Institution may withdraw or modify its agreement to serve as Paying Institution by notifying FRB NY in accordance with Attachment B. The withdrawal of a Paying Institution after a bid has been accepted does not relieve the Bidder of its obligation to pay for the Notes in funds available to Treasury at FRB NY no later than 9:00 a.m. New York time on February 18, 1986. FRB NY will retain paying instructions on file and, if not revoked by the Paying Institution, Bidders may use such instructions in subsequent auctions of Treasury foreign-targeted securities.

6.4. Payment Guarantees. A Payment Guarantee is required unless (i) the Bidder and its designated Paying Institution are the same legal entity or (ii) the Bidder is a foreign branch (not a subsidiary) of a Primary Dealer. A Payment Guarantee may be provided by a Paying Institution or by a Primary Dealer. If the Payment Guarantee is provided by a Paying Institution or a Primary Dealer that is signing the tender form, it must be provided on the tender form. If the Payment Guarantee is provided by a Paying Institution that is not signing the tender form, it must be provided in a letter in the form of Attachment C. If the Payment Guarantee is provided by a Primary Dealer that is not signing the tender form, it must be submitted in a letter in the form of Attachment C. Payment Guarantees in the form of Attachment C must be received by FRB NY no later than 12:00 noon New York time on February 4, 1986. In addition to any other remedies available to the Secretary, the amount of this Payment Guarantee is subject to forfeiture in the Secretary's sole discretion if full payment for the Notes is not made in funds available to Treasury at FRB NY no later than 9:00 a.m. New York time on February 18, 1986. FRB NY will retain Payment Guarantees on file and, if not revoked by the Paying Institution or Primary Dealer providing the Payment Guarantee, Bidders may use such Payment Guarantee in subsequent auctions of Treasury foreign-targeted securities.

6.5. Minimum Bid. The par amount of the bid must be stated on each tender form. Multiple bids by a single Bidder are permitted. Each bid, however, must be submitted on a separate tender form. All bids must be in multiples of $1,000,000, and the aggregate amount bid at the lowest yield by each Bidder must be at least $50,000,000. A bid must show the annual yield for which it is submitted to two decimals, e.g., 7.10%, based on an annual interest payment. Fractions may not be used.

6.6. Maximum Awards. A Bidder, whether bidding individually or as a member of one or more syndicates, will not be awarded Notes with a par value in excess of $350,000,000. A syndicate will not be awarded Notes in excess of $500,000,000. If a Bidder submits one or more bids with a total par value in excess of such maximum awards, the excess (starting at the highest yield bid) will be disregarded for purposes of the prorated calculations referred to in Section 6.8. A syndicate must disclose: (i) the identity of any syndicate member that is submitting one or more other bids (either individually or as a member of another syndicate) if that member's total bids exceed $350,000,000 and (ii) the available for pick-up by each successful Bidder and by its Paying Institution (and its Holding Institution, if different) at FRB NY, First Floor, by 12:00 noon New York time on February 6, 1986.

6.10. Reservations. It is the intent of the Secretary to issue $1,000,000,000 of the Notes. The Secretary expressly reserves the right to accept or reject any or all of the bids in whole or in part. If acceptable bids of less than $500,000,000 are submitted, no bids will be accepted. The Secretary's action under this Section 6.10. is final.

Section 7. Payment for Notes

7.1. Payment. Payment for the Notes will be made on February 18, 1986, by FRB NY debiting the account of each successful Bidder's Paying Institution. The amount of payment for the Notes will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from February 15, 1986, to February 18, 1986. The amount of accrued interest will be determined after the auction, using the day-count conventions (as defined in Attachment D) for securities paying annual interest, and investors will be notified of the amount.

Section 8. Book-Entry Notes

8.1. Notes Held in Book-Entry Form. On the books of FRB NY, Notes may be held only by a Holding Institution. Before March 23, 1986, Notes may be held only in a Holding Institution's International Account. After March 22, 1986, Notes may be held in any book-entry accout of a Holding Institution. Holding Notes in an account other than an International Account may affect the certifications required for tax purposes. See Section 11. A Holding Institution that has more than one available book-entry account with FRB NY may have more than one International Account. Each Bidder must identify on its tender form a Holding Institution with an International Account.

8.2. Transfer of Book-Entry Notes. Before March 23, 1986, FRB NY will transfer the Notes only between International Accounts. After March 22, 1986, the Notes may be transferred between any book-entry accounts of any Holding Institutions.

8.3. Book-Entry System. Book-entry records at FRB NY will reflect the aggregate holdings of Notes of each Holding Institution by account. The Holding Institution, and each subsequent holder in the chain to the beneficial owner, will have the responsibility of establishing and maintaining accounts for its customers. FRB NY will be responsible only for maintaining the book-entry accounts in its system, effecting transfers on its books, and ensuring that payments are made to the Holding Institution identified in its book-entry system. With respect to the Notes, FRB NY will act only upon instructions of the Holding Institution holding the Notes.

8.4. FRB NY as Fiscal Agent. FRB NY acts as fiscal agent of Treasury. All other holders in the chain between FRB NY and the beneficial owner act as agents of the beneficial owner or as agents of intermediary Financial Institutions and not as agents of Treasury.

8.5. Payment of Interest and Principal. Interest on Notes in book-entry form will be paid on the interest payment date, and Notes will be redeemed at par on the maturity date. Funds for interest or redemption payments will be credited to the Holding Institution. In the case of a Holding Institution that is an International Financial Organization, interest and redemption payments will be made at a foreign office of such International Financial Organization. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other day on which Treasury in Washington, DC, or FRB NY is not open for business, the interest or principal is payable (without additional interest) on the next day that both Treasury in Washington, DC, and FRB NY are open for business.

Section 9. Definitive Notes

9.1. Definitive Notes. After March 22, 1986, book-entry Notes held at FRB NY may be converted to Definitive Notes. Each Definitive Note will contain on its face the following legend: "This obligation has been sold at original issuance in accordance with procedures

reasonably designed to ensure that it will be sold only to a person that is not a United States person, other than a foreign branch of a United States financial institution, pursuant to sections 871(h) and 881(c) of the Internal Revenue Code of 1954, as amended."

9.2. Requests for Conversion to Definitive Notes. The request for conversion of book-entry Notes to Definitive Notes may be made to FRB NY only by a Holding Institution and must provide the name and address of the Registered Owner. The Registered Owner of a Definitive Note may be the beneficial owner or an entity (other than an International Financial Organization) holding the Note on behalf of a beneficial owner. FRB NY will deliver the Definitive Note either over the counter or via registered mail in accordance with the instructions provided by the Holding Institution submitting the request for a Definitive Note.

9.3. Payment of Interest and Principal. Interest and maturity payments will be made by check payable to the Registered Owner or by credit to the reserve, clearing, or other dollar account of a Financial Institution that is the Registered Owner, if that Financial Institution maintains such an account with FRB NY. Interest and maturity payments will be mailed or credited on the date such payments are due. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other day on which Treasury in Washington, DC, or FRB NY is not open for business, the interest or principal is payable (without additional interest) on the next day that both Treasury in Washington, DC, and FRB NY are open for business. Definitive Notes will be redeemed by FRB NY at par upon presentment by the Registered Owner or by a Holding Institution on behalf of the Registered Owner on or after the naturity date. Notes will not accrue interest after the maturity date.

9.4. Conversion to Book-Entry Form. A Registered Owner may convert a Definitive Note to book-entry form by submitting the Definitive Note to FRB NY through a Holding Institution. The signature of the Registered Owner must be guaranteed by the Holding Institution or certified by: (1) A United States diplomatic or consular representative; (2) a manager, assistant manager, or other officer of a foreign branch of a bank or trust company incorporated in the United States, its territories or possessions, or the Commonwealth of Puerto Rico; or (3) a notary public or other officer authorized to administer oaths, provided that the official position and authority of any such officer is certified by a United States diplomatic or consular representative under seal of office. An International Financial Organization may convert a Definitive Note to book-entry form by submitting the Definitive Note, duly executed by an authorized official of such International Financial Organization, to FRB NY.

9.5. Transfer of Ownership. Ownership of Definitive Notes may be transfered by assignment. In order to reflect the change of ownership on the books of FRB NY, assigned Definitive Notes must be submitted for reregistration to FRB NY, together with the name and address of the new Registered Owner. The signatures of all assignors must be guaranteed by an institution that at the time of transfer is eligible to serve as a Paying Institution or certified by an individual who may certify signatures for purposes of Section 9.4. above.

9.6. Closed-Book Periods. Transactions involving Definitive Notes will not be accepted at FRB NY during closed-book periods. Such transactions include conversions between book-entry and Definitive Notes and changes in the registration of Definitive Notes. Books for Definitive Notes will be closed for one calendar month prior to and ending on an interest payment date and the maturity date. The Definitive Note books will be reopened on the next day that FRB NY is open for business following an interest payment date. No conversions or changes in registration will be allowed after the maturity date. During periods when the books for Definitive Notes are open, conversions and changes in registration of Definitive Notes generally will be processed by FRB NY within one week of receipt.

9.7. No Fees Imposed. FRB NY will not impose any fee for the issuance, transfer, exchange, or redemption of Definitive Notes.

Section 10. Exchange for Domestic Notes

10.1. Exchange Provision. After March 22, 1986, Notes issued under this offering circular may be exchanged for Domestic Notes. Definitive Notes or Notes in book-entry form may be exchanged for Domestic Notes in an equal par amount in either book-entry or definitive form. Exchanges of Domestic Notes for Notes will not be permitted.

10.2. Taxation. Upon exchange for Domestic Notes, the holder of such Domestic Notes will be required to comply with the tax requirements (including certification requirements) applicable to Domestic Notes. See also Section 11.

10.3. Adjustment Upon Exchange. At the time of the exchange of Notes for Domestic Notes, an adjustment will be made for the difference between the present value of the Notes based on the formula in Attachment D for Treasury notes paying annual interest and the present value of the Notes based on the formula in Attachment D for Treasury notes paying semiannual interest. This net adjustment consists of the Exchange Adjustment and accrued interest, if applicable. As used in this offering circular, "Exchange Adjustment" means the difference in the present values of the Notes resulting from applying the formulas in Attachment D, after adjusting for the difference in accrued interest. In determining present values, the future payments of interest and principal will be discounted by using the weighted average yield of the Notes at the time of auction in applying the annual formula and by using the semiannual equivalent of that yield in applying the semiannual formula. Calculation of the present values will be made using the formulas shown in attachment D hereto. In the event the present value of the Notes based on semiannual interest payments exceeds the present value of the Notes based on annual interest payments, the holder must pay to Treasury an amount equal to the excess before the exchange will be processed. In the event the present value of the Notes based on the annual interest payments exceeds the present value of the Notes based on the semiannual interest payments, the holder will receive on the exchange an amount equal to the excess. The net adjustment will not reflect or take into account any market-based factor.

10.4. Closed-Book Periods. Exchange transactions involving Notes or Domestic Notes in definitive form will not be accepted during closed-book periods that will be in effect during the period of one calendar month prior to and ending on an interest payment date and the maturity date. Exchange transactions involving only Notes and Domestic Notes in book-entry form may not be accepted on the last day on which FRB NY is open for business preceding an interest payment date and the maturity date. The registration books for Notes and Domestic Notes in definitive form will be reopened on the first day following an interest payment date on which FRB NY is open for business. Except for the closed-book periods, exchange transactions involving only book-entry securities normally will be processed within one day; all other exchange transactions normally will be processed within one week of receipt of FRB NY. No

exchanges will be allowed after the maturity date of the Notes.

Section 11. United States Taxation

11.1. Taxation of Interest and Principal to United States Aliens. Payments of interest and principal on the Notes to a United States Alien will not be subject to withholding of United States federal income tax if the Withholding Agent receives an effective certificate under Sections 11.4., 11.5., 11.6., or 11.7. and the other requirements described in the applicable section are satisfied. Failure to satisfy the requirements described in this Section 11.1. may result in imposition of a withholding tax.

11.2. Certification at Initial Issuance. A Bidder will be required to provide a written certification on the tender form that, as of the date of issuance, none of the Notes acquired by the Bidder will be beneficially owned by a United States Person, other than a foreign branch of a United States Financial Institution, or is being acquired on behalf of such a person, or for offer to resell or for resale to such a person. This certification is in addition to and not limited by the transfer restriction in Section 1.3. A certification made by a clearing organization must be based on such statements provided to the clearing organization by its member organizations. (Alternatively, a member organization of a clearing organization may provided the written certification directly to the Issuing FRB that received the clearing organization's bid.)

11.3. Confirmations. Each Issuing FRB will include a confirmation in the notification described in Section 6.9. that it is understood that the purchaser represents that it is not a United States Person or that if it is a United States Person it is a foreign branch of a United States Financial Institution. If the sale is to a dealer, the confirmation will state that the dealer is required to send a similar confirmation to its purchaser. Financial Institutions buying on behalf of or for resale to others are considered to be dealers and will be required to send confirmations to their customers.

11.4. Annual Interest Certification: Financial Institutions and Clearing Organization Members. A Withholding Agent may make a payment of interest on a Note to a Financial Institution, or to a clearing organization member that is not a Financial Institution and that is the beneficial owner of the Note (hereinafter in this Section 11 referred to as "Clearing Organization Member"), without withholding United States federal income tax if (i) the Withholding Agent does not have actual knowledge that the beneficial owner of the Note is a United States Person, (ii) the Note was sold in accordance with the procedures described in Sections 11.2. and 11.3., (iii) the Registered Owner is a Financial Institution, and the interest is paid to the Registered Owner by a United States Person at an address outside the United States, and (iv) the Financial Institution or Clearing Organization Member provides a certificate as described below between January 15 and January 31 of each year. The certificate must state that (a) since the last time the Financial Institution or Clearing Organization Member provided an interest certification with respect to the Note and while the Financial Institution or Clearing Organization Member has held the Note, either: (1) The beneficial owner of the Note has not been a United States Person on each interest payment date, or (2) if the person providing the certification is a Financial Institution which is holding or has held a Note on behalf of a beneficial owner, the beneficial owner has been a United States Person on one or more interest payment dates and the Financial Institution has forwarded or will forward to the Withholding Agent a "U.S. beneficial ownership notification" (as described in Section 11.5. below) and (b) during the period ending on the next interest certification and while the Financial Institution or Clearing Organization Member holds the Note, the beneficial owner of the Note will not be a United States Person on each interest payment date and, if the person providing the certification is a Financial Institution, the Financial Institution will forward a "U.S. beneficial ownership notification" (as described in Section 11.5. below) in the event this certification becomes false during such period because the the Financial Institution holds the Note on behalf of the beneficial owner that is a United States Person. No particular form is required for the certificate. A certificate with respect to a Note may be included as part of a single annual certification with respect to all foreign-targeted registered obligations held or to be acquired during the next year by the Financial Institution or Clearing Organization Member, so long as the Note (or the issuance of which it is a part) is described on a list of all foreign-targeted registered obligations held by the Financial Institution or Clearing Organization Member and the list is attached to, and incorporated by reference into, the certification. The certification provided in January 1986 need not include the statement in clause (a) above with respect to a Note. Internal Revenue Service regulations provide special rules for the first interest certification by a Financial Institution or Clearing Organization Member with respect to the first foreign-targeted registered obligation it acquires (whether a Note or another foreign-targeted registered obligation). Interest will be considered paid outside the United States if the Note is either recorded in a Holding Institution's International Account and interest is credited for that account or interest on a Definitive Note is delivered to the holder outside the United States.

A Withholding Agent also may make a payment of interest (whether inside or outside the United States) on a Note to a Financial Institution without withholding United States federal income tax if a certificate identifying the beneficial owner of the Note is provided to the Withholding Agent by the Financial Institution and the Withholding Agent does not have actual knowledge that the beneficial owner of the Note is a United States Person. In such case the certificate must describe the obligation, be signed under penalties of perjury by an authorized representative of the Financial Institution, and state (i) that the Financial Institution has received from the beneficial owner the statement set out below, or (ii) that it has received from another Financial Institution a similar certificate that it, or another Financial Institution acting on behalf of the beneficial owner, has received the statement set out below from the beneficial owner. In the case of multiple Financial Institutions between the beneficial owner and the Withholding Agent, this certificate must be given by each Financial Institution to the one above it in the chain. No particular form is required for the certification provided by the Financial Institutions. However, the certificate must provide the name and address of the beneficial owner, and a copy of the statement set out below and provided by the beneficial owner must be attached. The statement from the beneficial owner referred to above must (i) be signed by such owner under penalties of perjury, (ii) certify that such owner is not a United States Person, or in the case of an individual, that he is neither a citizen nor a resident of the United States, and (iii) provide the name and address of such owner. The statement may be made, at the option of the Withholding Agent, on Internal Revenue Service Form W–8 or on a substitute form that is substantially similar to a Form W–8.

11.5. Interest Certification: U.S. Beneficial Ownership Notification. The "U.S. beneficial ownership notification" referred to in Section 11.4. above must

be provided by a Financial Institution holding a Note on behalf of a beneficial owner to the Withholding Agent within 30 days after any interest payment date on a Note held by it on which the beneficial owner is a United States Person and must state that (i) the Note has been beneficially owned by a United States Person on an interest payment date (identifying such date), (ii) the owner has provided to the Financial Institution the statement set out below, and (iii) the Financial Institution has been and will be complying with the information reporting requirements under section 6049 of the Internal Revenue Code, if applicable. The statement from the beneficial owner must (i) be signed by the beneficial owner under penalties of perjury, (ii) provide the name and address of the beneficial owner, (iii) provide the United States taxpayer identification number of the beneficial owner and state that it is the benficial owner's correct number, and (iv) state that the beneficial owner is not subject to backup withholding due to notified payee underreporting. This statement may be provided on Internal Revenue Service Form W–9 or a substitute form that is substantially similar to a Form W–9. A Financial Institution that is not a United States-Related Person must provide the Form W–9 or substitute form together with the notification to the Withholding Agent. A Financial Institution that is a United States-Related Person must provide a statement that it is a United States-Related Person together with the notification to the Withholding Agent. If the Form W–9 (or substitute form) or statement regarding identity as a United States-Related Person is not provided, the Withholding Agent must withhold tax from the next interest payment unless it receives before the next interest payment date such Form W–9 (or substitute form) or statement regarding identity as a United States-Related Person, or statement that the beneficial owner of the obligation is no longer a United States Person.

11.6. Interest Certification: Clearing Organizations. An annual certificate described in Section 11.4. may be provided by a Financial Institution acting in its capacity as a clearing organization only if the clearing organization has received such a certificate from the member organizations to which the interest is paid and states that it has received such a certificate in the certificate provided to the Withholding Agent.

A clearing organization relying on an annual certificate from member organizations must send each such member organization a quarterly reminder of its duty to notify the clearing organization within 30 days after an interest payment date on which the beneficial owner of a Note held by such member organization is a United States Person that the beneficial owner was a United States Person on the interest payment date.

11.7. Interest Certification When Interest is Paid Directly to Beneficial Owners that are United States Persons. A person may make a payment of interest on a Note to the beneficial owner of a Note (whether the owner is a Financial Institution, Clearing Organization Member, or other person) without withholding United States federal income tax if the person receives a Form W–9 or substitute form from such owner.

11.8. Interest Certification When Interest is Paid Directly to Beneficial Owners that are not United States Persons. A Withholding Agent may make a payment of interest on a Note to the beneficial owner of the Note without withholding United States federal income tax if (i) the Withholding Agent does not have actual knowledge that such person is a United States Person, and if (ii) the Withholding Agent receives, within the period beginning 90 days prior to and ending on the first interest payment date on which the Withholding Agent pays interest to such owner, a Form W–8 or substitute form from such beneficial owner. If the form is received less than 30 days before the interest payment date, the Withholding Agent may, in its discretion, withhold tax.

Where the Withholding Agent is a foreign branch of a United States Financial Institution and the beneficial owner is neither a Financial Institution nor a Clearing Organization Member, the Withholding Agent need not receive the Form W–8 or substitute form, provided that the beneficial owner furnishes the Withholding Agent, within the period beginning 90 days prior to and ending on the first interest payment date on which the Withholding Agent pays interest to such owner, with documentary evidence that such owner is not a United States Person. Such evidence may include a written certification from the beneficial owner (e.g., appearing on an account application form) that the beneficial owner is neither a citizen nor a resident of the United States. Internal Revenue Service regulations provide further guidance as to what constitutes sufficient documentary evidence. The beneficial owner must confirm to the Withholding Agent the continuing validity of the documentary evidence provided within the period beginning 90 days prior to the first day of the third calendar year following the provision of such evidence and during the same period every three years thereafter while the owner still owns the Note. If, on any interest payment date after the obligation was acquired by the person who provided the documentary evidence or Form W–8 (or substitute form), the beneficial owner is a United States Person, then the beneficial owner must provide a Form W–9 (or substantially similar form) to the person who paid interest to such beneficial owner within 30 days after such interest payment date.

11.9. Prospective Determination. Any determination by the Secretary with respect to certification requirements pursuant to section 871(h)(4) of the Internal Revenue Code will be published and will be effective only with respect to payment of interest made more than one month after the publication of such a determination.

11.10. Certain Information Reporting. A Withholding Agent that receives a Form W–9 or substantially similar form pursuant to Section 11.5. from a Financial Institution that is not a United States-Related Person must send a copy of such form to the Internal Revenue Service within 30 days after receiving it and must attach a statement that the form is with respect to a United States Person that has owned a foreign-targeted registered obligation on one or more interest payment dates. A payor of interest that receives a Form W–9 or substitute form from a beneficial owner pursuant to Sections 11.7. or 11.8. must comply with information reporting requirements under section 6049 of the Internal Revenue Code. A Withholding Agent that receives a Form W–8 or substitute form pursuant to Sections 11.4. or 11.8. must make an information return on Internal Revenue Service Form 1042S of the payment with respect to which the form is required for the calendar year in which the payment is made. The form received with respect to the payment shall be attached to the Form 1042S required to be filed with respect to the payment.

11.11. Retention of Certificates. The Withholding Agent and a clearing organization relying on a certification from a member organization are required to retain the written certifications for a period of four years after the close of the calendar year in which they were, respectively, obtained.

11.12. Information Reporting and Backup Withholding. Neither information reporting under section 6049

of the Internal Revenue Code nor backup withholding will apply to interest paid on a Note to a United States Alien if (i) The conditions of Section 11.1. are satisfied, (ii) the payor of the interest does not have actual knowledge that the payee is a United States Person, and (iii) if the payor is a United States-Related Person acting as a custodian, nominee, or other agent of the payee, the payor has documentary evidence in its records that the payee is not a United States citizen or resident. Neither information reporting under section 6045 of the Internal Revenue Code nor backup withholding will apply to payments of principal made outside the United States on a Note to a United States Alien (i) If the payor of the principal is not a United States-Related Person; or (ii) if the payor is a United States-Related Person acting as a custodian, nominee, or other agent of the payee, the payor does not have actual knowledge that the payee is a United States Person (other than a foreign branch of a United States Financial Institution) and has documentary evidence in its records that the payee is not such a person. Principal will be considered paid to a Registered Owner outside the United States if either the Note is recorded in a Holding Institution's International Account and principal is credited for that account, or principal on a Definitive Note is delivered to the holder outside the United States.

11.13. Original Issue Discount. The Secretary shall determine whether the Notes will be considered issued with original issue discount within the meaning of section 1273(a)(1) of the Internal Revenue Code. In the event the Notes are issued with original issue discount, that fact and the amount of the discount will be announced in an Internal Revenue Service publication. See also Section 11.14. A United States Alien described in Section 11.2. that is a holder of a Note will not be subject to United States federal income tax, and no withholding of United States federal income tax will be required as a consequence of the Note's having original issue discount if the conditions of Section 11.1. are satisfied with respect to stated interest on the Note. A holder of a Note that is a United States Person generally will be required to include in income the portion of the original issue discount allocable to each day during the year on which the Note is held. Any such income will increase such holder's tax basis for the Note, and any gain or loss on a sale of the Note, determined by comparing the amount realized in such sale with the holder's basis as so adjusted, generally will be capital gain or loss.

11.14. Taxation of Gains to United States Aliens. A holder of a Note that is a United States Alien will not be subject to the United States federal income tax and no withholding of United States federal income tax will be required with respect to any gain realized on the sale, redemption, or exchange of the Note provided such gain is not effectively connected with a United States trade or business, and further provided that: (i) If such United States Alien is a nonresident alien individual, such individual is not present in the United States for a total of 183 days or more during the taxable year in which such gain is realized, is not subject to tax under section 877 of the Internal Revenue Code as an expatriate of the United States, and is not treated as a resident of the United States for the taxable year in which the gain is recognized under sections 6013(g) or 6013(h) of the Internal Revenue Code; or (ii) if such United States Alien holder is a foreign corporation, such foreign corporation will not have a past or present status as a personal holding company with respect to the United States or as a corporation which accumulates earnings to avoid United States federal income tax.

11.15. Exchange for Domestic Notes. A holder of a Note will not recognize gain or loss on the exchange of a Note for a Domestic Note under the procedures in Section 10. Upon the exchange, a holder will be considered to have received interest accrued on the Note up to the time of the exchange and to have paid to Treasury the Exchange Adjustment amount. (Actual payments will be only of the net amount. See Section 10.3.) The amount of the Exchange Adjustment will be considered an increase in the original issue price (which will reduce original issue discount, if any, with respect to the Note).

11.16. Federal Estate Taxation of United States Aliens. Any Note held by an individual who at the time of his death is not a citizen of or domiciled in the United States will not be included in the decedent's gross estate for purposes of United States federal estate tax at the time of such individual's death if interest paid on the Note to the individual at the time of his death would not have been subject to withholding of United States federal income tax because the conditions described in Section 11.1. are satisfied but without regard to whether a certificate or statement described in Section 11 has been received by the Withholding Agent since the last interest payment.

11.17. State and Local Taxation. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except for: (i) A nondiscriminatory franchise or other nonproperty tax instead of a franchise tax imposed on a corporation, or (ii) an estate or inheritance tax. See section 3124 of Title 31 of the United States Code.

Section 12. Sanctions

12.1. Sanctions. In the Secretary's sole discretion, any person found to be in violation of any requirement or provision set forth in this offering circular may be excluded from bidding for or purchasing some or all future issues of Treasury foreign-targeted securities and may be subject to such other sanctions as determined by the Secretary.

Section 13. General Provisions

13.1. Applicable Law. The law governing all matters relating to the terms and conditions of the Notes is the federal law of the United States.

13.2. Modifications. The Secretary may supplement or amend provisions of this offering circular governing the offering if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such future changes will be promptly provided.

13.3. Monthly Information. The Secretary will publish the total amount of Notes outstanding in the Monthly Statement of the Public Debt.

13.4. Listing. The Notes will be listed on the New York Stock Exchange as of February 18, 1986.

13.5. Eligibility for Clearance. The Notes will be eligible for clearance on Euro-Clear and CEDEL.

13.6. Headings. The headings of sections and subsections in this offering circular are inserted for convenience of reference only and shall not be deemed to be part of this offering circular.

13.7. Attachments Incorporated. Attachments A through D and any terms and conditions set forth therein are incorporated as part of this offering circular.

13.8. Waiver. The Secretary reserves the right, in his discretion, to waive any provision or provisions of this offering circular.

13.9. Sale in the United States. The Notes are offered for sale only in the United States. Resale or reoffering of the Notes outside the United States is

authorized only when such resale or reoffering complies with the securities laws and other applicable laws of jurisdictions in which such resale or reoffering occurs. Bidders and their agents are responsible for ensuring compliance with the laws of such jurisdictions.

Donald A. Chiodo,

Acting Fiscal Assistant Secretary.

BILLING CODE 4810-40-M

Attachment A

TENDER FOR SAMPLE FOREIGN - TARGETED TREASURY NOTES OF _____ SERIES _____

IMPORTANT – ONLY COMPETITIVE TENDERS WILL BE ACCEPTED AND MUST BE RECEIVED BY THE FEDERAL RESERVE BANK OF NEW YORK BEFORE 1:00 P.M. NEW YORK TIME ON _____

To: Federal Reserve Bank of New York
Fiscal Agent of the United States
33 Liberty Street
New York, New York 10045

The undersigned offers to purchase the above-described Notes in the amount indicated below and agrees to make payment therefor at FRB NY in accordance with the provisions of the official offering circular (Department Circular, Public Debt Series No. ____). The definitions in the official offering circular apply to this tender form.

The total par amount bid at the lowest yield must be at least $50,000,000. Par amount bid for must be a multiple of $1,000,000. Bidders may submit multiple bids but each bid must be submitted on a separate tender form.

COMPETITIVE TENDER

PAR AMOUNT

$.....(United States dollars)
(maturity value)

☐ Check here if this is a syndicate bid.

ANNUAL YIELD

.....
(Yield must be expressed to two decimal places, for example, 7.10%)

DELIVERY AND PAYMENT INSTRUCTIONS

Issue book-entry Notes to be held at FRB NY in an International Account of .....

.....
(Name and Address of Holding Institution)

Payment for Notes awarded will be made through.....
(Name and Address of Paying Institution)

☐ By charge to reserve account; ☐ By charge to clearing account; ☐ By charge to other dollar account

Authorization for such charge must be on file with FRB NY in accordance with the provisions of the official offering circular. If otherwise eligible, the Holding Institution and the Paying Institution may be, but do not have to be, the same.

Bid may be submitted only by or on behalf of Bidders as defined in the official offering circular. If the tender form is submitted by a United States Person, other than a foreign branch of a United States Financial Institution, it must be acting solely as agent for a disclosed Bidder.

TENDER FORM IS SUBMITTED BY: (Please print or type)

NAME.....

ADDRESS.....

CITY.....STATE...ZIPCODE.....

COUNTRY.....

AREA CODE..... TELEPHONE NUMBER.....

If acting as agent, Bidder must be identified below. If Bidder is a syndicate, the head of the syndicate must be identified below.

NAME.....

ADDRESS.....

.....

BIDS WILL BE CONSIDERED ONLY IF THE REVERSE SIDE IS COMPLETED AND EXECUTED.

CERTIFICATIONS AND GUARANTEE

1. WE HEREBY CERTIFY that (i) as of _____ none of the Notes awarded to us will be beneficially owned by a United States Person, other than a foreign branch of a United States Financial Institution, and (ii) none of the Notes awarded to us is being acquired on behalf of a United States Person, other than a foreign branch of a United States Financial Institution, or for offer to resell or for resale to such a person.

2. WE FURTHER CERTIFY that we will not sell, contract to sell, or otherwise transfer Notes issued to us to a United States Person, other than a foreign branch of a United States Financial Institution, until after _____ _____ We further agree that if we sell, contract to sell, or otherwise transfer a Note before _____ we will confirm to such purchaser or transferee in writing that (i) there is a restriction on sale or other transfer to United States Persons other than foreign branches of United States Financial Institutions and (ii) that such confirmation is required to be given to any subsequent purchaser or transferee that acquires the Note before _____ We understand that this certification is independent of, and that any transfer must be consistent with, the certification of the preceding paragraph.

3. If this is a syndicate bid, WE FURTHER CERTIFY that, except as identified below, no syndicate member is bidding for Notes in excess of $_____ either through this syndicate, individually, or through another syndicate. (Supply below the identity of any syndicate bidders whose total bids are in excess of $_____ and the amount of Notes included in this syndicate bid for each such member.)

_____

_____

☐ Check here if entity submitting the bid is eligible to and does hereby guarantee payment to Treasury, in accordance with the terms of the official offering circular, of an amount equal to 5% of the Notes for which the tender is submitted. If this box is not checked, a payment guarantee in the form specified in the official offering circular must have been submitted previously to FRB NY unless the Bidder is exempt from such guarantee requirement.

If this tender form is submitted by an agent for a Bidder, the above certifications are made by the agent on behalf of, and are binding on, that principal.

TENDER IS SUBMITTED BY: _____

AUTHORIZED SIGNATURE: _____

NAME AND TITLE OF AUTHORIZED SIGNER: _____

DATE: _____

INSERT THIS TENDER FORM IN ENVELOPE MARKED "TENDER FOR FOREIGN - TARGETED TREASURY NOTES"

Attachment B

[Letterhead of Paying Institution]

Federal Reserve Bank of New York
33 Liberty Street, Room 835
New York, New York 10045
Attn: Mr. Stuart Zorfas
Chief, Securities Department

Gentlemen:

1. We hereby authorize you to debit our (reserve, clearing, or other dollar) account in an amount not to exceed $_____, as payment for United States Treasury securities targeted to foreign investors ("Securities") awarded to (name Bidder). Terms used herein shall have the same meaning as set forth in the official offering circular applicable to the Securities.

2. We retain the right to modify or withdraw this authority. We understand that any such modification or withdrawal must be in writing and must be delivered to FRB NY. We understand that, unless restricted to a specific auction, this letter will be retained by FRB NY and, until modified or withdrawn, may be used by (name Bidder) to pay for any Securities purchased by (name Bidder).

3. We further understand that any Securities paid for by a debit to our (reserve, clearing, or other dollar) account will be issued to our International Account. (This sentence is not required if the Paying Institution signing this letter is willing to permit the Securities paid for under this authorization to be issued to another Holding Institution's International Account.)

4. The following signature(s) is (are) a specimen of the authorized signature(s) which will appear on the tender form submitted by (name Bidder):

Attachment B
page 2

_____
(Authorized Signature of Bidder
or Bidder's Agent)

_____
(Name of Authorized Signer)

_____
(Title of Authorized Signer)

ATTACH SEPARATE SHEET FOR ADDITIONAL SIGNATURES

_____
(Name of Paying Institution)

By: _____
(Authorized Signature)

_____
(Name of Authorized Signer)

_____
(Title of Authorized Signer)

_____
(Date)

Receipt Acknowledged:

_____
FRB NY

TERMS AND FORM OF THIS LETTER MAY NOT BE ALTERED
EXCEPT AS INDICATED IN PARAGRAPH 3

Attachment C

[Letterhead of Guarantor]

Federal Reserve Bank of New York
33 Liberty Street
New York, New York 10045
Attn: Mr. Stuart Zorfas
Chief, Securities Department

Gentlemen:

This is to advise you that we guarantee payment to Treasury of an amount equal to 5% of the par amount, but not in excess of $_____ of any United States Treasury securities targeted to foreign investors ("Securities") for which _____ bids.

(name of Bidder)

We acknowledge that this guarantee may not be withdrawn during any period between the deadline for submission of bids for Securities and payment for those Securities.

_____

(Name of Guarantor)

By: _____

(Authorized Signature)

_____

(Name and Title of Authorized Signer)

_____ _____

(Date)

Receipt Acknowledged:

_____

FRB NY

TERMS AND FORM OF THIS LETTER MAY NOT BE ALTERED

Attachment D

Formulas for Calculating the Present Value (Price Plus Accrued Interest) And Yield to Maturity of Treasury Notes Paying Annual Interest 1/

Case A: Calculations during an initial "short" interest period for Treasury notes with long coupons

$$(P+A) = \frac{(r"/360)(C)(v) + (C)a_{\overline{n}|} + 100v^{n}}{(1+i)^{f}}$$

and $A = [(r"-r)/360](C)$

Case B: Calculations during the first "regular" interest period for Treasury notes with long coupons (for use beginning with the first coupon frequency date 2/)

$$(P+A) = \frac{(r"/360)(C) + C + (C)a_{\overline{n}|} + 100v^{n}}{(1+i)^{f}}$$

and $A = [(r"/360) + (360-r)/360](C)$

Case C: Calculations during an initial "short" period for Treasury notes with short first coupons

$$(P+A) = \frac{(r"/360)(C) + (C)a_{\overline{n}|} + 100v^{n}}{(1+i)^{f}}$$

and $A = [(r"-r)/360](C)$

Case D: Calculations when the coupon paid on the next coupon frequency date is a regular coupon

$$(P+A) = \frac{C + (C)a_{\overline{n}|} + 100v^{n}}{(1+i)^{f}}$$

and $A = [(360-r)/360](C)$

where:

P = Price in decimals.
A = Accrued interest from original issue date or last interest payment date to valuation date.
r = Days from valuation date to next coupon frequency date calculated on a 360 days per year basis from and including the day following the valuation date up to and including the next coupon frequency date. A full month will be counted as thirty days and a date occurring on the thirty-first calendar day of a month shall be the same as the first calendar day of the following month. If the valuation date falls on a coupon frequency date then r will be defined to be equal to 360.
f = r/360
r" = Days from the original issue date of the security to the first coupon frequency date of the security calculated using the same conventions used in calculating r.
i = Interest rate (yield to maturity), expressed in decimals and based on annual interest payments.
C = Regular annual coupon, payable annually.
n = Number of full annual periods from valuation date to maturity except that if the valuation date occurs on a coupon frequency date n will be one less than the number of full annual periods remaining to maturity.
$v = 1/(1+i)$
$v^n = 1/(1+i)^n$
$a_{\overline{n}|} = (1-v^n)/i = v + v^2 + v^3 + \ldots\ldots\ldots\ldots + v^n$ = present value of 1 per period for n periods.

1/ These formulas are specifically intended only for use with the foreign-targeted notes described in this offering circular.

2/ A coupon frequency date is a coupon payment date except for a note with an initial long coupon in which case there is no payment on the first coupon frequency date.

Note: The day count conventions used for determining short and long coupon and accrued interest and for discounting over partial periods for targeted Notes do not conform to regular Treasury practice for domestic securities. The conventions for the targeted Notes assume that each month has thirty days and that a date occurring on the thirty-first calendar day of a month is the same as the first calendar day of the following month. Unlike the convention for corporate bonds in the United States, the last day of February is not defined to be the thirtieth day of the month. Thus, application of these rules results in three days between February 28th and March 1st and zero days between March 31st and the first of April. Similarly, a strict application of these rules leads to 181 days between September 30th and March 31st.

Formulas for Calculating the Present Value (Price Plus Accrued Interest) And Yield to Maturity of Treasury Notes Paying Semiannual Interest 1/

Case A: Calculations during an initial "short" interest period for Treasury notes with long coupons

$$(P+A) = \frac{(r''/s)(C/2)(v) + (C/2)a_{\overline{n}|} + 100v^{n}}{(1+i/2)^{f}}$$

and $A = [(r''-r)/s](C/2)$

Case B: Calculations during the first "regular" interest period for Treasury notes with long coupons (for use beginning with the first coupon frequency date 2/)

$$(P+A) = \frac{(r''/s'')(C/2) + (C/2) + (C/2)a_{\overline{n}|} + 100v^{n}}{(1+i/2)^{f}}$$

and $A = [(r''/s'') + (s-r)/s](C/2)$

Case C: Calculations during an initial "short" period for Treasury notes with short first coupons

$$(P+A) = \frac{(r''/s)(C/2) + (C/2)a_{\overline{n}|} + 100v^{n}}{(1+i/2)^{f}}$$

and $A = [(r''-r)/s](C/2)$

Case D: Calculations when the coupon paid on the next coupon frequency date is a regular coupon

$$(P+A) = \frac{C/2 + (C/2)a_{\overline{n}|} + 100v^{n}}{(1+i/2)^{f}}$$

and $A = [(s-r)/s](C/2)$

where:

P = Price in decimals.
A = Accrued interest from original issue date or last interest payment date to valuation date.
r = Exact number of days from valuation date to next coupon frequency date.
r" = Exact number of days from the original issue date to the first coupon frequency date.
f = r'/180 where r' is the number of days from the valuation date to the next coupon frequency date calculated on a 360 days per year basis from and including the day following the valuation date up to and including the next coupon frequency date. A full month will be counted as thirty days and a date occurring on the thirty-first calendar day of a month shall be the same as the first calendar day of the following month. If the valuation date falls on a coupon frequency date then f will be defined to be equal to one.
s = Exact number of days in the current semiannual period. On a coupon frequency date s is the exact number of days to the next coupon frequency date.
s" = Exact number of days in the semiannual period containing the issue date.
i = Interest rate (yield to maturity), expressed in decimals and based on semiannual interest payments.
C = Regular annual coupon, payable semiannually.
n = Number of full semiannual periods from valuation date to maturity except that if the valuation date occurs on a coupon frequency date n will be one less than the number of full semiannual periods remaining to maturity.

$v = 1/(1+i/2)$

$v^n = 1/(1+i/2)^n$

$a_{\overline{n}|} = (1-v^n)/(i/2) = v + v^2 + v^3 + \ldots\ldots\ldots\ldots + v^n$ = present value of 1 per period for n periods.

1/ These formulas will only be used for making calculations involved in exchanging targeted registered issues for companion regular Treasury issues.

2/ A coupon frequency date is a coupon payment date except for a note with an initial long coupon in which case there is no payment on the first coupon frequency date.

Note: The day count conventions used for pricing domestic Treasury notes in making exchange calculations do not conform to regular Treasury practice for domestic securities. The conventions assume that each month has thirty days and that a date occurring on the thirty-first calendar day of a month is the same as the first calendar day of the following month. Unlike the convention for corporate bonds in the United States, the last day of February is not defined to be the thirtieth day of the month. Thus, application of these rules results in three days between February 28th and March 1st and zero days between March 31st and the first of April. Similarly, a strict application of these rules leads to 181 days between September 30th and March 31st (but note the definition of f above).

SAMPLE EXCHANGE VALUES FOR A HYPOTHETICAL 10-YEAR NOTE ISSUED 2/18/1986 AND MATURING 2/15/1996
WITH ACCRUED INTEREST PAYABLE AT ISSUE FROM 2/15/1986 TO 2/18/1986.

DATES OF EXCHANGE	9.125% ANNUAL COUPON @ 9.20% ANN	9.125% SEMIANNUAL COUPON @ 9.00% S/A	ACCRUED INTEREST	EXCHANGE ADJUSTMENT	NET ADJUSTMENT (TO TREASURY) TO INVESTOR
4/15/86	P= 99.472660	P=100.815835			
	A= 1.520833	A= 1.487224			
	P+A=100.993493	P+A=102.303059	.033609	(1.343175)	(1.309566)
5/31/86	P= 99.448853	P=100.813584			
	A= 2.686806	A= 2.646754			
	P+A=102.135659	P+A=103.460338	.040052	(1.364731)	(1.324679)
10/31/86	P= 99.461729	P=100.768407			
	A= 6.488889	A= 1.909307			
	P+A=105.950618	P+A=102.677714	4.579582	(1.306678)	3.272904
2/ 1/87	P= 99.537517	P=100.747188			
	A= 8.770139	A= 4.215353			
	P+A=108.307656	P+A=104.962541	4.554786	(1.209671)	3.345115
9/30/87	P= 99.480423	P=100.705670			
	A= 5.703125	A= 1.140625			
	P+A=105.183548	P+A=101.846295	4.562500	(1.225247)	3.337253
5/31/88	P= 99.515634	P=100.689276			
	A= 2.686806	A= 2.657280			
	P+A=102.202440	P+A=103.346556	.029526	(1.173642)	(1.144116)
6/30/90	P= 99.587931	P=100.542432			
	A= 3.421875	A= 3.402970			
	P+A=103.009806	P+A=103.945402	.018905	(.954501)	(.935596)
8/15/91	P= 99.633031	P=100.454299			
	A= 4.562500	A= .000000			
	P+A=104.195531	P+A=100.454299	4.562500	(.821268)	3.741232

FIGURES MERELY ILLUSTRATE EXCHANGE VALUE COMPUTATIONS AND ARE NOT INTENDED TO APPLY TO THE NOTES OFFERED IN THIS CIRCULAR.

[FR Doc. 86-3263 Filed 2-11-86; 11:17 am]
BILLING CODE 4810-40-C

PRESIDENTIAL COMMISSION ON THE SPACE SHUTTLE CHALLENGER ACCIDENT

[Notice 86-11]

Presidential Commission on the Space Shuttle Challenger Accident; Meeting

AGENCY: Presidential Commission on the Space Shuttle Challenger Accident.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the Commission announces the forthcoming meetings.

DATE AND TIME: February 13, 1986 beginning at 11:00 a.m. and February 14, 1986, beginning at 9:00 a.m.

ADDRESS: John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

FOR FURTHER INFORMATION CONTACT: Dr. Alton G. Keel, Executive Director, Presidential Commission on the Space Shuttle Challenger Accident. (202/395-6190)

Purpose of meeting: Briefing to the Commission by NASA personnel at the Kennedy Space Center regarding status of NASA investigation of matters related to the Space Shuttle Challenger accident; examination of NASA facilities and data at Kennedy Space Center regarding Space Shuttle Challenger accident.

SUPPLEMENTARY INFORMATION: The Presidential Commission on the Space Shuttle Challenger Accident was established as a group of distinguished leaders of the government and the scientific, technical and management communities to investigate the accident of the Space Shuttle Challenger which occurred on January 28, 1986. The meetings will be closed to the public pursuant to 5 U.S.C. 552b(c)(9)(B) because the nature of the meetings are likely to disclose information if disclosed prematurely would be likely to significantly frustrate implementation of proposed action by the Commission.

Exceptional circumstances requiring less than 15 days notice: The meetings were required to be held promptly due to the Presidential direction that the Commission investigate the January 28, 1986 Space Shuttle Challenger accident and submit a final report to the President and the Administrator of National Aeronautics and Space Administration within one hundred and twenty days of issuance of Executive Order 12546 dated February 3, 1986.

Richard L. Daniels,

Acting Director, Logistics Management and Information Program Division, Office of Management, National Aeronautics and Space Administration.

February 12, 1986.

[FR Doc. 86-3399 Filed 2-12-86; 1:19 pm]

BILLING CODE 7510-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 30
Thursday, February 13, 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
Federal Maritime Commission	1
Federal Reserve System	2
Neighborhood Reinvestment Corporation	3

1

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., February 19, 1986.

PLACE: Hearing Room One, 1100 L Street, NW, Washington, DC 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public

1. Consideration of Draft Proposed Rule—Revision of 46 CFR 552—Financial Reports of Vessel Operating Carriers by Water (Tug and Barge Operators) in the Domestic Offshore Trades.

Portions closed to the public

1. Docket No. 83-46—Southeastern Maritime Company v. Georgia Ports Authority—Consideration of the record.

2. Docket No. 84-28—Petchem, Inc. v. Canaveral Port Authority, et al.—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: John Robert Ewers, Secretary (202) 523-5725.

John Robert Ewers,

Secretary.

[FR Doc. 86-3110 Filed 2-11-86; 3:59 pm]

BILLING CODE 6730-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Tuesday, February 18, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 10, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-3240 Filed 2-11-86; 9:11 am]

BILLING CODE 6201-01-M

3

NEIGHBORHOOD REINVESTMENT CORPORATION

TIME AND DATE: 2:00 p.m., Tuesday, February 18, 1986.

PLACE: 1850 K Street, NW., Suite 400, Washington, DC 20006.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Timothy McCarthy, Director of Communications, 653-2705.

AGENDA:

I. Appointment of Temporary Chairman
II. Election of:
  Chairman
  Vice Chairman
III. Approval of Minutes, January 8, 1986
IV. Executive Director's Activity Report
V. Audit Committee Report
VI. Treasurer's Report

Carol J. McCabe,

Secretary.

[FR Doc. 86-3305 Filed 2-11-86; 2:31 pm]

BILLING CODE 7570-01-M

federal register

Thursday
February 13, 1986

Part II

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Commercial Chemical Products; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL 2762-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Commercial Chemical Products

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is today proposing to amend its hazardous waste identification regulations under the Resource Conservation and Recovery Act to bring under regulation acutely toxic commercial chemical products composed of mixtures of ingredients, which would become hazardous wastes when discarded or intended to be discarded. Until now, only products in which a listed chemical was the sole active ingredient were regulated. This amendment will change the scope of the hazardous waste regulations by including certain commercial chemical products composed of mixtures. The rule will also permit a number of products containing low concentrations of acutely toxic ingredients to be regulated as toxic hazardous wastes. EPA believes that this rule will more consistently and accurately identify and characterize commercial chemical products that are hazardous wastes when discarded or intended to be discarded.

DATES: EPA will accept public comments on this proposed rule until April 14, 1986.

Any person may request a hearing on this amendment by filing a request with Eileen B. Claussen, whose address appears below, by March 5, 1986.

The Agency has decided not to require persons who generate, transport, treat, store, or dispose of these hazardous wastes to notify the Agency within 90 days of promulgation that they are managing these wastes. The Agency views the notification requirement to be unnecessary in this case since we believe that most, if not all, persons who manage these wastes have already notified EPA and received an EPA identification number. In the event that any person who generates, transports, treats, stores, or disposes of these wastes has not previously notified and received an identification number, he must get an identification number pursuant to 40 CFR 262.12 before he can generate, transport, treat, store, or dispose of these wastes.

ADDRESSES: Comments should be sent to the Docket Clerk, ATTN: § 261.33 Mixture Rule, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Requests for a hearing should be addressed by Eileen B. Claussen, Director, Characterization and Assessment Division, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street., SW., Washington, DC 20460.

The public docket for this amendment is located in Room S-212, Southeast Mall entrance, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Todd A. Kimmell, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-4770.

SUPPLEMENTARY INFORMATION:

I. Background
II. Scope of Proposed Rule
III. Basis of Proposed Rule
IV. Application of Harmonic Mean Formula
V. Harmonic Mean Formula Application to Inhalation and Dermal Toxicity
VI. Use of Toxicity Data
VII. Treatment of Formula Results
VIII. Use of Experimental Data
IX. Treatment of Inert Materials
X. State Authority
XI. Regulatory Impact
XII. Regulatory Flexibility Act
XIII. Paperwork Reduction Act
XIV. References
XV. List of Subjects in 40 CFR Part 261

I. Background

Under the authority of section 3001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the Agency promulgated, under 40 CFR 261.33, a list of commercial chemical products or manufacturing chemical intermediates that are hazardous wastes if they are discarded or intended to be discarded. The phrase "commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commerical or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient.

The chemical products referred to in § 261.33 have been gathered into two lists. The first consists of chemical substances which pose an acute toxic hazard, *i.e.*, have been shown to be fatal to humans in low doses or, in the absence of data on human toxicity, have been shown in animal studies to have an oral LD50 of less than 50 milligrams per kilogram (rat), a dermal LD50 of less than 200 milligrams per kilogram (rabbit), or an inhalation LC50 of less than 2 milligrams per liter (rat). Also included in this list are substances which exhibit explosive reactivity. This list is contained in § 261.33(e). The second list is comprised of chemical substances which meet the criteria of § 261.11(a)(1), exhibiting the characteristics of Extraction Procedure toxicity, reactivity, corrosivity, or ignitability or which satisfy the criteria in § 261.11(a)(3). These substances are listed in § 261.33(f).

The primary difference between these two lists lies in the small quantity exclusion levels. According to the provisions of 40 CFR 261.5, acutely hazardous wastes have a small quantity exclusion level of 1 kg/month, while wastes that are hazardous for reasons other than acute toxicity have a small quantity exclusion level of 1000 kg/month. Note, however, that on August 1, 1985, the Agency proposed to lower the small quantity generator exclusion level to 100 kg/month for non-acutely toxic hazardous wastes.

EPA recognized at the time of promulgation of these two lists in the **Federal Register** of November 25, 1980 (40 FR 78539), that "this regulation is deficient in its failure to address products containing mixtures of chemicals listed in § 261.33 as their ingredients". There are in fact many commercial chemical products consisting of more than one active ingredient. These are formulations composed of two or more active ingredients, one or more of which might be acutely toxic, but which are unregulated under the present rule. Additionally, since the concentration of the active ingredient is not currently taken into consideration, a mixture containing a low concentration of an acutely toxic ingredient, as well as inert substances, would still be considered as acutely hazardous under the current regulation even though the toxicity of the product may not meet the aforementioned criteria. It is highly desirable, therefore, to revise the rule to address the hazard posed by mixtures of chemicals. The preamble to the regulation of November 25, 1980, noted the Agency's intention to propose an amendment to § 261.33 to cover active

ingredient mixtures. Such an amendment is now being proposed.

II. Scope of Proposed Rule

It would be preferable to cover the substances listed in both § 261.33(e) (acutely toxic) and (f) in a single mixture rule. Mixtures containing substances listed in § 261.33(f), however, do not lend themselves readily to evaluation, because they exhibit diverse hazardous characteristics and toxic properties. Acute toxicity on the other hand, as found in most substances listed in § 261.33(e), does permit such an evaluation. This proposed amendment, therefore, applies only to those substances listed in § 261.33(e) for acute toxicity.

The Agency is working on a two-pronged approach for mixtures containing substances in § 261.33(f). First, we are developing a "mixture rule", analogous to that being proposed today, to accommodate the various attributes of toxicity that may be present in the chemicals; this could be proposed within the next several years. Also, we will propose expanding the Extraction Procedure toxicity characteristic (§ 261.24) to include additional organic chemicals. The characteristic would set a level for each compound below which the waste is not expected to pose a hazard. As compounds are added to the Toxicity Characteristic they will be deleted from § 261.33(f). With time, the Agency expects to incorporate all of the § 261.33(f) compounds into the characteristic thus eliminating § 261.33(f).

It should be noted, however, that this proposed rule has no impact on household wastes or certain farm wastes. In both cases, regulatory exemption provided under the RCRA program remain in effect.

III. Basis of Proposed Rule

The toxicological manifestations of individual chemical substances may vary considerably from compound to compound. Some substances show immediate toxic effects after administration, others exhibit delayed effects. The toxic effects of chemical agents may also differ in their degree of reversibility and in their locus of action—local or systemic. It is, therefore, difficult to predict the toxic response of most chemicals without actual experimentation.

If one considers mixtures of chemicals rather than individual substances, the problem of toxicity prediction becomes more complicated. The only way to establish the toxicity of a chemical mixture with certaintly would be by experiment. For some mixtures, particularly pesticide mixtures, acute toxicity has been determined experimentally. However, the toxicity of most chemical mixtures remains undetermined. Since it would be virtually impossible to undertake comprehensive toxicological testing of all commerical chemical products, an alternative means of determining the toxicity of mixtures has been developed. This method will be used when EPA-accepted experimental data is not available. This alternative involves a mathematical model, known as the harmonic mean formula, and a discussion regarding its development follows.

A mathematical approach to estimating the toxicity of mixtures of chemicals was first made by Finney (1), who presented mathematical models for describing the ways in which the response of chemicals acting jointly may differ in degree from that to be expected from their individual toxicity. These models are characterized by the terms additive (*i.e.*, the toxicity of the mixture is equal to the sum of the toxicity of its components), synergistic or potentiating (*i.e.*, the toxicity of the mixture is greater than the sum of the toxicity of its components), antagonistic (*i.e.*, the toxicity of the mixture is less than the sum of the parts), and independent (*i.e.*, each component behaves independently).

Pozzani *et al.* (2) carried out experiments to determine the relationship between the inhalation LC50 values of composite chemical vapors and the LC50 values of the individual components of the vapors. The relationship between the inhalation LC50 and the oral LD50 was also investigated. Animals were exposed to vapors containing individual components as well as mixtures made up of 2 to 4 components. A total of 15 commercial chemical mixtures and 36 chemical pairs were tested. Pozzani compared the LC50 values of the mixtures to the LC50 values of the individual components by applying Finney's model for additive toxicity, known as the harmonic mean formula, which is described below.

$$\frac{1}{\text{Mixture LC50}} = \frac{\text{Pa}}{\text{Component A LC50}} + \frac{\text{Pb}}{\text{Component B LC50}} + \ldots + \frac{\text{Pn}}{\text{Component N LC50}}$$

Where Pa, Pb, and Pn refer to the proportion of the mixture made up of components A, B, and N, respectively, and Pa+Pb . . .+Pn=1.00.

This formula assumes an additive toxic effect for the components of chemical mixtures, with the qualifications that the components have similar modes of action and parallel dose response curves. Even though these qualifications were not always satisfied, Pozzani found that the components of the mixtures did not act in a markedly less or markedly more than additive manner by the respiratory route.

This observation was also true for all the commercial mixtures and for over half of the chemical pairs when tested orally. The highest correlations were found between the predicted and observed inhalation values. The lower but still significant correlations found between the observed oral and predicted inhalation values suggested that a single inhalation LC50 value can also be estimated from oral data with a fair degree of reliability.

The work of Pozzani was continued by Smyth *et al.* in two studies that explored the joint toxic action of 27 commercial organic chemicals. The oral LD50 was determined experimentally for equivolume mixtures of all possible pairs of the chemicals, 350 in all, and the values were compared with the predicted LD50 of each mixture, as calculated by Finney's harmonic mean formula (3). In addition, the toxicity of equitoxic mixtures of 53 pairs of the same chemicals was also determined experimentally and compared to calculated values (4). An equitoxic mixture was defined as a mixture of the two chemicals in volumes directly proportional to their respective oral LD50 values, so that each component contributed the same degree of toxicity to the mixture.

The results of both studies demonstrated that Finney's harmonic mean formula for additive joint toxicity adequately predicted the toxicity of most of the pairs. When it did not, the formula over-estimated toxicity, indicating that there was some sort of antagonism taking place. Recognizing that the prediction of the safety or hazard of exposure to mixtures of chemicals is often made in the absence of knowledge of the mode of their joint action, the investigators concluded that the soundest hypothesis for the joint action of untested pairs is that of additive toxic action.

Numerous evaluations have been made of the toxicity of mixtures of pesticides, particularly anticholinesterase insecticides, to ascertain whether potentiation of toxic action might occur. Although isolated instances of potentiation did occur, particularly in mixtures containing malathion paired with other organic phosphorus pesticides, in the overwhelming number of cases, the observed toxicity of the mixture closely approximated that to be expected on the basis of additive action (5). The experiments of DuBois and Deininger (6), at the University of Chicago, provide an excellent example of one such study. These researchers evaluated the acute oral toxicity to rats of dioxathion in combination with 12 other organic phosphorus containing insecticides to ascertain whether the compound was capable of producing potentiation of acute toxicity. The study is particularly pertinent for the purposes of this document, since several of the pesticides evaluated are listed in § 261.33(e).

The acute oral toxicity of the 13 pesticides were first individually determined, with results as shown in Table 1. Equitoxic mixtures of dioxathion in combination with each of the other pesticides were then prepared, and the LD50 of each combination was determined experimentally. The results, shown in Table 2, present the calculated or expected LD50 for each combination, as well as the observed LD50, and the ratio of expected to observed values. The authors concluded that the administration of equitoxic mixtures of dioxathion plus each of the other organic phosphates included in the study resulted in LD50 values that approached the values expected on the basis of additive toxic effects. Additional examples for commercially available mixtures of pesticides, demonstrating the applicability of the harmonic mean formula for additive joint toxicity, are provided in the Appendix.

The harmonic mean formula is now regarded as perhaps the only way of assessing the acute toxicity of mixtures of chemicals, other than by actual experimental determination. Thus, the Safe Drinking Water Committee of the National Academy of Science's Board on Toxicology and Environmental Health Hazards, recommended applying the harmonic mean formula to multicomponent mixtures of toxic substances in water (7). Although, the Committee recognized that a large number of interactions is possible, and agreed that uncertainty should be anticipated, they recommended the use of such formulas for events such as chemical spills as it "may be the only way of estimating the toxicity of the mixture."

TABLE I.—ACUTE TOXICITY OF SEVERAL ORGANIC PHOSPHATES

Compound [1]	Oral (rat) LD50 (mg/kg)
Dioxathion	45.
Parathion	5.5
Methyl parathion	11.5
Malathion	1350.
EPN	24.0
Demeton	5.3
Azinphos-methyl	15.0
Diazinon	400.0
Carbophenothion	35.0
Trichlorfon	450.0
Mevinphos	4.5
Tetram	5.4
Disulfoton	12.5

[1] Common names of the various insecticides are used, where available, instead of the trade names utilized by DuBois and Deininger.

TABLE 2.—ACUTE TOXICITY OF MIXTURES OF SEVERAL ORGANIC PHOSPHATES

Mixture	Composition of equitoxic mixture (percent)	Expected LD50 (mg/kg)	Observed LD50 (mg/kg)	Expected/observed LD50
Dioxathion plus Parathion.	89.1 10.9	25.2	28	0.90
Dioxathion plus Methyl parathion.	79.6 20.4	28.2	39	0.72
Dioxathion plus Malathion.	3.2 96.8	698	560	1.25
Dioxathion plus EPN	65.2 34.8	34.5	36	0.95
Dioxathion plus Demeton.	89.5 10.5	25.2	33	0.76
Dioxathion plus Azinphos-methyl.	75.0 25.0	30.0	32	0.94
Dioxathion plus Diazinon.	10.1 89.9	222	260	0.86
Dioxathion plus Carbophenothion.	56.2 43.8	40.0	33	1.21
Dioxathion plus Trichlorfon.	9.1 90.9	248	330	0.75
Dioxathion plus Mevinphos.	90.9 9.1	24.8	41	0.60
Dioxathion plus Tetram.	89.1 10.7	25.2	28	0.90
Dioxathion plus Disulfoton.	78.3 21.7	28.8	31	0.93

IV. Application of the Harmonic Mean Formula

In applying the harmonic mean formula, the percentages of constituents, rather than their proportions, will be utilized as follows:

$$\frac{100}{\text{Mixture LD50}} = \frac{Pa}{\text{Component A LD50}} + \frac{Pb}{\text{Component B LD50}} + * * * + \frac{Pn}{\text{Component N LD50}}$$

where:

Pa = percentage by weight of component A,
Pb = percentage by weight of component B, etc.
and Pa + Pb + * * * + Pn = 100

V. Harmonic Mean Formula Application to Inhalation and Dermal Toxicity

Although the examples provided in the Appendix pertain to the calculation of acute oral toxicity, the formula is equally applicable to the calculation of the inhalation LC50 of chemical mixtures, as noted earlier from the studies of Pozzani *et al.* A modification of the harmonic mean formula has been adopted by the American Conference of Governmental Industrial Hygienists (8) for calculating threshold limit values of mixtures of industrial air contaminants. The harmonic mean formula can also be used for dermal toxicity provided that this information is available on the same species for all constitutents (9).

In cases where the formula applies, but the individual components act on different body systems (e.g., one chemical component has a low inhalation LC50 but a high dermal and oral LD50 and another chemical component has a high inhalation LC50 and high dermal LD50 but a low oral LD50), the formula should be applied to each category separately (*i.e.*, oral rat, dermal rabbit, inhalation rat). If the mixture is found to meet any criteria of § 261.11(a)(2), the mixture will be considered as an acute hazardous waste.

VI. Use of Toxicity Data

Granting that the harmonic mean formula is applicable to the calculation of the acute toxicity of mixtures, the accuracy of the calculated LD50 value will depend on the quality of the data in the sources used to obtain LD50 values. There are often considerable differences reported in the literature for LD50 values for the same chemical. Table 3, for example, shows the rat LD50 (oral) values published in the Registry of Toxic Effects of Chemical Substances (RTECS) (10) as compared to those found in the Farm Chemicals Handbook (11), for some of the pesticides listed in § 261 33(e).

TABLE 3.—COMPARISON OF ORAL RAT LD50 VALUES FOR SEVERAL PESTICIDES

Hazardous waste No. and pesticide	Oral Rat LD50 (mg/kg)	
	RTECS	Farm chemicals handbook
P070—Aldicarb	0.9	0.9
P004—Aldrin	39	67
P008—4-a-Amino pyridine	20	20
P037—Dieldrin	46	46
P020—Dinoseb	25	40-60
P039—Disulfoton	2	2-12
P050—Endosulfan	18	30-110
P088—Endothall	38	51
P051—Endrin	3	7-15
P057—Fluoroacetamide	5.75	15
P058—Fluoroacetic acid, sodium salt	0.22	0.22
P059—Heptachlor	40	147-220
P066—Methomyl	17	17-24
P071—Methyl parathion	6	9-25
P097—Famphur	35	36-62
P089—Parathion	2	4-13
P094—Phorate	1.10	2-4
P085—Octamethylpyrophosphoramide	5	9
P123—Toxaphene	40	69

There are a number of factors which may cause differences in LD50 values obtained for the same chemical on the same animal species. Among the more important factors are sex, age, strain, number of animals used, nutritional and prandial state, presence of impurities in the chemical, the suspending medium used, and differences in administration and time of observation. The Farm Chemicals Handbook, for example, lists three different LD50 values for endosulfan, depending on the suspension medium, as follows: 30 mg/kg in alcohol suspension; 70 mg/kg in aqueous suspension; 110 mg/kg in oil. This helps to explain the wide range in LD50 values reported for endosulfan in different laboratories over approximately 10 years of testing (12).

It seems obvious, therefore, that one may obtain several different values for the LD50 of a mixture, when applying the harmonic mean formula, depending on the source used for the LD50 of the components. To obviate this possibility, EPA is proposing that the LD50 values of the individual substances utilized in the calculation of the LD50 of a mixture be obtained from a single accepted reference source. The most readily available and complete source for data on the toxicity of all classes of chemicals is the Registry of Toxic Effects of Chemical Substances (RTECS). EPA is proposing that values recorded in the 1981–82 issue of RTECS be employed when calculating the toxicity of mixtures. The Agency will accept corrected values occurring in updates of RTECS.

Under the RCRA, generators are responsible for determining whether wastes they generate are hazardous wastes as defined in the regulations. When the generator wishes to use data other than that published in RTECS, including experimentally determined toxicity of mixtures, the generator will be required to have such data approved by EPA through the petitioning process outlined in 40 CFR 260.20 and 260.22. Approved non-RTECS data will be published in the **Federal Register.**

While the rat is probably the most widely used animal for assaying acute oral toxicity, and the rabbit for determining acute dermal toxicity, RTECS will sometimes contain data only for other species, such as the mouse or guinea pig. In those instances where rat and/or rabbit data may be lacking, equivalent data from other animals may be used, based on the observation that acute toxicity for animals is directly related to body surface area. The following relationships have been derived utilizing the estimation that body surface area varies as the ⅔ power of body weight:

$$LD50a = \left[\frac{Wb}{Wa}\right]^{1/3} \times LD50b$$

where:

a = rat
b = animal B (e.g., mouse)
Wa = weight of animal A
Wb = weight of animal B

RTECS gives the following standard weights for various animals:

Rat = 200 gm
Mouse = 25 gm
Guinea pig = 500 gm
Rabbit = 2 kg

Applying the formula then:

LD50 rat (mg/kg) = 0.5 LD50 mouse
LD50 rat (mg/kg) = 1.36 LD50 guinea pig
LD50 rat (mg/kg) = 2.25 LD50 rabbit
LD50 rabbit (mg/kg) = 0.23 LD50 mouse
LD50 rabbit (mg/kg) = 0.46 LD50 rat
LD50 rabbit (mg/kg) = 0.63 LD50 guinea pig

Note that the above relationships are also valid when inhalation LC50 rate data or dermal LD50 rabbit data are not available.

EPA recognizes that these may be acceptable sources of toxicity data other

than, or in addition to, RTECS for use in calculating the toxicity of mixtures. The public is invited to submit comments on criteria which could guide EPA in deciding whether to accept data from other sources.

VII. Treatment of Formula Results

In the absence of EPA-accepted experimental data, the Agency proposes to use the harmonic mean formula to predict the toxicity of mixtures. For mixtures containing one or more of the substances listed in § 261.33(e), if the predicted toxicity meets the criteria for an acute hazardous waste (see § 261.11(a)(2)), the mixture will be considered as an acute hazardous waste. (This proposal applies to all formulated products containing a chemical listed in § 261.33(e), including those in which the listed chemical is the sole active ingredient.) In the case where a calculated LD50 value falls beyond the criteria for acute toxicity in § 261.11(a)(2), that mixture will be considered as if it were listed under § 261.33(f) as a toxic waste.

The provisions of the foregoing paragraph do not apply to mixtures containing substances that were listed in § 261.33(e) because of reactivity. Nor does it apply to mixtures containing substances listed in § 261.33(e), because they have been found to be fatal to humans in low doses. Mixtures containing such § 261.33 substances, will be considered as acutely hazardous, and will be subject to regulation as acutely hazardous wastes. Section 261.33(e) already identifies those compounds listed because of reactivity. Commercial chemical products listed in § 261.33(e) for human toxicity will be identified by the letter "T*." Of course, generators may petition EPA to consider experimental or other data to change the hazard category for these mixtures through the petition process, as outlined in §§ 260.20 and 260.22.

VIII. Use of Experimental Data

Use of the harmonic mean formula is based on the premise that experimental data are unavailable. While it would be desirable to have data from animal assays establishing the toxicity of mixtures, EPA does not believe that it would be justified in routinely requiring such data from the regulated community. However, when acute toxicity data on mixtures are available and found acceptable by EPA, they may be used instead of the calculated values. In cases EPA is petitioned to adopt the measured values, accepted experimentally determined toxicity data will be published in the **Federal Register.**

As noted previously, the harmonic mean formula for calculating the acute toxicity of chemical mixtures is based on additive toxicity. Although this model is adequate, there will undoubtedly be instances where interactions will be involve strong synergism or antagonism. When the Agency has valid experimental data, the mixture will be treated as indicated by the experimental data. Although, no proposed listing will accompany this proposed rule, the Agency may specifically include such mixtures under the appropriate § 261.33 list should someone petition for such action (following the procedures in §§ 260.20 and 260.22), or should the Agency do so of its own initiative.

It may sometimes be difficult for generators to obtain information from the manufacturer regarding the toxicity of the product or the composition of the product. If this information is unknown or unobtainable because of trade secrets or otherwise, such that the predicted toxicity of the mixture cannot be calculated, EPA is proposing that either an experimental assay be performed to determine toxicity, or, as an alternative, the mixture can be considered as acutely hazardous.

IX. Treatment of Inert Materials

As is apparent from the formula simply by inspection, inert materials occurring in chemical mixtures, (*i.e.*, those components of the mixture which exhibit no significant acute toxicity by themselves), can be disregarded in applying the formula since their contribution to the total toxicity of the mixture will be relatively insignificant. For purposes of this proposed rule, an inert substance will be defined as one with an oral LD50 greater than 5000 mg/kg.

It should be recognized, however, that inert substances as often defined for pesticidal purposes, may not necessarily be inert toxicologically. These are materials which are used as fillers, solvents, wetting agents, or propellants, but do not add any significant pesticidal effect. Although such substances are, for the most part, also inert toxicologically, this cannot necessarily be assumed.

For example, pesticide labels often identify the inert ingredients "aromatic hydrocarbon solvents" or "petroleum distillate solvents." These materials do offer some toxicity, however, acute toxicity data is not often reported for such generic substances. The toxicity of an "aromatic hydrocarbon solvent" may be considered as approximately that of xylene, as suggested by Gosselin et al. (13) and EPA is proposing that the LD50 value for xylene, as reported in RTECS, be used in this case. In the same way, kerosene may be considered as representative of "petroleum distillate solvents." When EPA becomes aware of situations where "inert ingredients" may be inert toxicologically, such information and appropriate data will be published in the **Federal Register.** Similarly, generators may petition EPA, following the procedures outlined in §§ 260.20 and 260.22, to consider such data.

X. State Authority

Once a State receives interim or final authorization, it operates the RCRA program instead of EPA. If promulgated, these modifications to the mixture rule and the related management standards will not apply in interim authorized States. Furthermore, unless a State received final authorization on the basis of a universe of hazardous wastes which included these changes, these modifications to the mixture rule and the related standards would not apply in States with final authorization until the State revises its program to adopt the mixture rule, and the revision is approved by the EPA. The process and schedule for the State adoption of these regulations is described in 40 CFR § 271.21, as amended by 49 FR 21678–21682, May 22, 1984.

If this proposed rule is made final, States which now have final authorization and which do not regulate mixtures as stringently as this proposed rule, would have to revise their programs within one year from the date of promulgation if only regulatory changes are necessary, and within two years from the date of promulgation if statutory changes are required. This deadline may be extended in exceptional cases (see § 271.21 (e) (3)). States now applying for final authorization would be able to receive it without making these revisions if the official State application is submitted less than one year after this proposal, if made final, is promulgated. The date which States must modify their programs is governed by § 271.21 (e) (iii).

XI. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. "Major rule" means any regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries,

Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed rule is not major since it does not meet any of the stated criteria.

Many of the commercially available formulated chemical products which would be affected by the proposed rule are pesticides. The World Health Organization lists three possible approaches to evaluation of the toxicity of pesticide mixtures—in order of preference:

(a) Require the formulator to obtain reliable acute oral and dermal toxicity data on the actual mixture as marketed; or

(b) Classify the formulation according to the most hazardous constituent of the mixture; or

(c) Apply the harmonic mean formula to predict the toxicity of the mixture.

Requiring experimental data for the toxicity of mixtures would not only be very costly but would probably also tax the capabilities of testing laboratories. The second alternative would cause more stringent regulation of mixtures than seems justified. EPA is requiring the use of the least costly and most reasonable alternative.

There are approximately 35,000[1] commercial chemical pesticide products available, of which about 15,000[1] are composed of mixtures of two or more active ingredients, with the remaining 20,000[1] being formulations containing only one active ingredient. Considering that only a relatively small fraction of the two-or-more active ingredient products contain substances listed in § 261.33 (e), there will not be many new products regulated as a result of this proposal. Moreover, since all of the active ingredients in pesticides must be specified by chemical or common name and concentration, the LD50 of any formulation can be readily calculated if the toxicity of the formulation has not already been determined experimentally.

For these reasons, costs incurred as a result of application of the rule should be minimal.

An additional factor reducing the cost of the regulation is that the regulated community discards relatively few commercial chemicals, because of their inherent value. This has been shown for individual chemicals by EPA studies, and probably applies to commercial chemical mixtures as well.

Although there will be a small increase in costs which the regulated community will incur with the application of the mixture rule to currently unregulated mixtures, this is offset, at least in part, by the effect of the rule on substances containing a highly toxic chemical in low concetration. The current regulation applies to substances listed in §261.33(e), regardless of concentration. For many such formulations, the concentration of the active ingredient may be so low that the product actually is no longer acutely hazardous. At present, a time-consuming petition procedure is required to place the product in a lower hazard category (*i.e.*, the §261.33 (f) list). Under the proposed mixture rule, formulations containing highly toxic active ingredients, at a low enough concentration, will no longer be considered acute hazardous wastes if the mixtures do not meet the criteria of §261.11 (a) (2). In this case, the requirements associated with substances listed in § 261.33 (f) apply. No petition is necessary. This element of the proposed amendment, therefore, will reduce paperwork requirements, and thus costs, for both the regulated community and EPA.

For the above reasons, the proposed rule is not a major regulation, therefore, no Regulatory Impct Analysis is required.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

XII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, (U.S.C. 601–612 *et. seq.*), whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). The Administrator may certify, however, that the rule will not have a significant eonomic impact on a substantial number of small entities.

The same considerations discussed in Section XI, Regulatory Impact, regarding the relatively small economic impact of the proposed regulations on the community in general, apply as well to small entities. The Agency does not believe that small entities will dispose of large quantities of the commercial chemical mixtures which will come under regulation. It is unlikely, therefore, that the rule will markedly affect their costs, or reduce their competitive status. Accordingly, I hereby certify that this proposed regulation would not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

XIII. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*).

XIV. References

1. Finney, D.J. *Probit Analysis.* 2nd edition. Cambridge University Press. Cambridge, England. 1952.

2. Pozzani, U.C., C.S., Weil and C.P. Carpenter. "The Toxicological Basis of Threshold Values: The Experimental Inhalation of Vapor Mixtures by Rats, with Notes upon the Relationship Between Single Dose Inhalation and Single Dose Oral Data". *Am. Indust. Hygiene Assoc. J.* 20, 364–369. 1959.

3. Smyth, H.F. Jr., C.S. Weil, J.S. West, and C.P. Carpenter. "An Exploration of Joint Toxic Action: Twenty-seven Industrial Chemicals Intubated in Rats in All Possible Pairs". *Toxicol. Applied Pharmacol.* 14, 340–347. 1969.

4. Smyth, H.F. Jr., C.S. Weil, J.S. West, and C.P. Carpenter, "An Exploration of Joint Toxic Action. II. Equitoxic versus Equivolume Mixtures". *Toxicol. Applied Pharmacol.* 17, 498–503. 1970.

5. Murphy, S.D., "Assessment of the Potential for Toxic Interactions Among Environmental Pollutants". The Principles and Methods in Modern Toxicology. Elsevier/North–Holland Biomedical Press. Amsterdam, The Netherlands, 1980.

6. DuBois, K.P. and E. Deininger. Unpublished data submitted to the Food and Drug Administration by the Hercules Powder Co. EPA Accession No. 090230. December 14, 1958.

7. *Drinking Water and Health, Volume 3.* Safe Drinking Water Committee, Board on Toxicology and Environmental Health Hazards, Assembly of Life and Sciences, National Research Council. National Academy Press. Washington, D.C. 1980.

8. *TLV's Threshold Limit Values for Chemical Substances in Workroom Air Adopted by ACGIH for 1979.* American Conference of Governmental Industrial Hygienists. ACGIH, P.O. Box 1937, Cincinnati, OH. 1979.

9. *Guidelines to the Use of the WHO Recommended Classification of Pesticides by Hazard.* World Health Organization. Geneva, Switzerland. Publication No. VBC/78.1. Revision May, 1979.

10. *1981–82 Registry of Toxic Effects of Chemical Substances.* National Institute for Occupational Safety and Health. Cincinnati, OH. June, 1983.

11. *Farm Chemicals Handbook.* Meister Publishing Co. Willoughby, OH. 1983.

12. *Hexachlorohexahydromethano-2,4,3–benzodioxathiepin 3-oxide (Endosulfan)*

[1] Many products are identical in formulation but are made or sold by several firms.

Pesticide Registration Standard. Office of Pesticides and Toxic Substances, Environmental Protection Agency. Washington, D.C. April 1982.

13. Gosselin, R.E., Hodge, R.P. H.C. Smith, and M.N. Gleason. *Clinical Toxicology of Commercial Products.* 4th ed. The Williams and Wilkins Co. Baltimore, MD. 1976.

XV. List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: February 3, 1986.

Lee M. Thomas,

Administrator.

Appendix—Calculation of Toxicity of Chemical Mixtures

Examples for the calculation of the acute oral toxicity of some commercial chemical products containing at least one substance listed in § 261.33(e), are presented in this section. In addition to values calculated by use of the harmonic mean formula, experimentally determined LD50 values for a number of the products are also shown. All of the examples are of pesticide products, since data are most readily available for this class of substances. Note that some of the products indicated may no longer be available commercially.

Example No. 1

Temik-TSK Granular Pesticide (EPA Reg. No. 264–319)

Ingredients	Concentration (percent)	LD50 (mg/kg)
Aldicarb	5.0	0.9
Pentachloronitrobenzene	10.0	1,650.0
Terrazole	2.5	1,077.0
Inert ingredients	82.5	

Notes.—

100 divided by Predicted LD50 equals 5.0 divided by 0.9 plus 10 divided by 1,650 plus 2.5 divided by 1,077 equals 5.55 plus 0.067 plus 0.002 equals 5.62

Predicted LD50 equals 100 divided by 5.62 equals 17.8 mg/kg

Observed LD50 equals 10.1 mg/kg (5.7 to 15.5 mg/kg)*

The predicted LD50 of this product falls within the acutely hazardous range. It must therefore be treated as a § 261.33(e) material. The observed LD50 for this product approximates the predicted LD50 reasonably well, and the product would be considered as acutely hazardous on the basis of both predicted and observed values.

Example No. 2

Cygard 630 (EPA Reg. No. 3743–321)

Ingredients	Concentration (percent)	LD50 (mg/kg)
Malathion	58.4	885
Methyl parathion	29.2	6
Xylene	6.2	4,300
Inert ingredients	6.2	

Notes.—

100 divided by Predicted LD50 equals 58.0 divided by 885 plus 29.2 divided by 6 plus 6.2 divided by 4,300 equals 0.066 plus 4.87 plus 0.001 equals 4.94

Predicted LD50 equals 100 divided by 4.94 equals 20.2 mg/kg

Observed LD50 (15) equal
Male rats = 26 mg/kg (18.5 to 37 mg/kg)*
Female rats = 44 mg/kg (21 to 76 mg/kg)*

The predicted LD50 of this product falls within the acutely hazardous range; it must therefore be treated as a § 261.33(e) material.

The observed LD50s for this product approximate the predicted value well, and the product would be considered acutely hazardous on the basis of observed as well as predicted values.

Example No. 3

Mocap Plus (EPA Reg. No. 2224–5649)

Ingredients	Concentration (percent)	LD50 (mg/kg)
Ethoprop	10	34
Disulfoton	5	2
Inert ingredients	85	

Notes.—

100 divided by Predicted LD50 equals 10 divided by 34 plus 5 divided by 2 equals 0.29 plus 2.50 equals 2.79

Predicted LD50 equals 100 divided by 2.79 equals 35.8 mg/kg

Observed LD50 (16) equals 50±6.3 mg/kg (male rats)

The predicted LD50 of this product falls within the acutely hazardous range. It must therefore be treated as a § 261.33(e) material.

The observed LD50 of this product is somewhat higher than the predicted LD50. This may relate to the fact that male rats were used in the experimental determination of the LD50, whereas the LD50's used to calculate the predicted LD50, as derived from RTECS, correspond to values for female rats, which often have lower LD50 values for many pesticides than do male rats. In the case of either predicted or observed values for this product, however, the LD50 falls in the acutely hazardous range.

Example No. 4

ORTHO 3-Way Rose and Flower Care (EPA Reg. No. 239–2292)

Ingredients	Concentration (percent)	LD50 (mg/kg)
Disulfoton	1.0	2
Trifluralin	0.174	10,000
Inert ingredients	98.8	

Notes.—

100 divided by Predicted LD50 equals 1.0 divided by 2 plus 0.174 divided by 10,000 equals 0.50

Predicted LD50 equals 100 divided by 0.50 equals 200 mg/kg

Observed LD50 (17) =
Male rats = 1181 mg/kg (1005 to 1390 mg/kg)*
Female rats = 349 mg/kg (270 to 451 mg/kg)*

The predicted LD50 of this product falls outside of the acutely hazardous range, and the product may be managed as a § 261.33(f) material. Note that the LD50 for trifluralin was not included in the calculation, since its toxicity is insignificant.

It should be noted that the predicted LD50 for this product is appreciably lower than the observed LD50 for male rats, and lower, as well, then the observed LD50 for female rats. The product was administered by stomach tube as a finely ground powder for the experimental determinations of acute toxicity. It seems likely that the method of administration may have affected the observed LD50s since acute toxicity values obtained with materials administered as solids are often higher than those where the same materials are administered as solutions or suspensions in a suitable solvent. At any rate, the product falls outside the acutely hazardous range for both predicted and observed values.

Example No. 5

ORTHO Thiodan 2 Emulsive (EPA Reg. No. 239–1305–AA)

Ingredients	Concentration (percent)	LD50 (mg/kg)
Endosulfan	23.5	18
Aromatic petroleum derivative solvent	68.5	4,300
Inert ingredients	8.0	

Notes.—

100 divided by Predicted LD50 equals 23.5 divided by 18 plus 68.5 divided by 27,200 equals 1.30 mg/kg

Predicted LD50 equals 100 divided by 1.30 equals 77 mg/kg

*95% Confidence limits.

*95% Confidence limits.

*95% Confidence limit.

The predicted LD50 of this product falls outside of the acutely hazardous range. The product therefore may be treated as a § 261.33(f) material. As suggested earlier, the LD50 value of kerosene was used for the acute toxicity of the aromatic petroleum derivative solvent.

Example No. 6

ORTHO Parathion Toxaphene 2–15 Dust (Calif. Reg. No. 239–50656–AA)

Ingredients	Concentration (percent)	LD50 (mg/kg)
Parathion	2	2
Toxaphene	15	40
Inert ingredients	83	

Notes.—

100 divided by Predicted LD50 equals 2 divided by 2 plus 15 divided by 40 equals 1 plus 0.38 equals. 1.38

Predicted LD50 equals 100 divided by 1.38 equals 72 mg/kg

Although this product contains two highly toxic ingredients, their concentrations are sufficiently low to place the mixture outside of the acutely hazardous range, and the product may be managed as a § 261.33(f) material.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 261—Identification and Listing of Hazardous Waste

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a) 6921 and 6922).

2. Amend § 261.33 by redesignating the text of paragraph (a) as paragraph (a) (1) and by adding paragraph (a) (2), removing the comment which follows paragraph (d), and revising paragraph (e) to read as follows:

§ 261.33 Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof.

* * * * *

(a) * * *

(2) For the purpose of this section, the phrase "commercial product or manufacturing chemical intermediate" means a chemical substance manufactured or formulated for commercial or manufacturing use which consists of:

(i) The commercially pure grade of the chemical,

(ii) Any technical grades of the chemical that are produced or marketed,

(iii) Any formulation in which the chemical is the sole active ingredient, and

(iv) Any formulation consisting of a mixture of ingredients, one or more of which is listed in paragraph 261.33(e)(1) of this section for acute toxicity. The phrase "commercial chemical product of manufacturing chemical intermediate having the generic name listed in . . ." refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in paragraphs (e) or (f). Where a manufacturing process waste is deemed to be a hazardous waste because it contains a substance listed in paragraphs (e) or (f), such waste will be listed in either §§ 261.31 or 261.32 or will be identified as a hazardous waste by the characteristics set forth in Subpart C of this part.

* * * * *

(e)(1) The commercial chemical products, manufacturing chemical intermediates or off-specification commercial chemical products or manufacturing chemical intermediates referred to in paragraphs (a) through (d) of this section, are identified as acute hazardous wastes (H) and are subject to be the small quantity exclusion defined in § 261.5(e).

[*Comment:* For the convenience of the regulated community the primary hazardous properties of these materials are indicated by the letters T* (Human Toxicity), and R (Reactivity). Absence of a letter indicates that the compound is listed on the basis of animal toxicity data.]

These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous waste No.	Substance
P023	Acetaldehyde, chloro-
P002	Acetamide, N-(aminothioxomethyl)-
P057	Acetamide, 2-fluoro-
P058	Acetic acid, fluoro-, sodium salt
P066	Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester
P001	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations greater than 0.3%
P002	1-Acetyl-2-thiourea
P003	Acrolein
P070	Aldicarb
P004	Aldrin
P005	Allyl alcohol
P006	Aluminum phosphide (T*)
P007	5-(Aminomethyl)-3-isoxazolol
P008	4-Aminopyridine
P009	Ammonium picrate
P119	Ammonium vanadate
P010	Arsenic acid (T*)
P012	Arsenic (III) oxide (T*)
P011	Arsenic (V) oxide (T*)
P011	Arsenic pentoxide
P012	Arsenic trioxide (T*)
P038	Arsine, diethyl- (T*)
P054	Aziridine
P013	Barium cyanide
P024	Benzenamine, 4-chloro-
P077	Benzenamine, 4-nitro-
P028	Benzene, (chloromethyl)-
P042	1,2-Benzenediol, 4-[1-hydroxy- 2-(methylamino)ethyl]-
P014	Benzenethiol
P028	Benzyl chloride
P015	Beryllium dust (T*)
P016	Bis(chloromethyl) ether
P017	Bromoacetone (T*)
P018	Brucine
P021	Calcium cyanide
P123	Camphene, octachloro-
P103	Carbamimidoselenoic acid
P022	Carbon bisulfide (T*)
P022	Carbon disulfide (T*)
P095	Carbonyl chloride (T*)
P033	Chlorine cyanide
P023	Chloroacetaldehyde
P024	p-Chloroaniline
P026	1-(o-Chlorophenyl)thiourea
P027	3-Chloropropionitrile
P029	Copper cyanides
P030	Cyanides (soluble cyanide salts), not elsewhere specified (T*)
P031	Cyanogen
P033	Cyanogen chloride
P036	Dichlorophenylarsine
P037	Dieldrin
P038	Diethylarsine (T*)
P039	0,0-Diethyl S-[2-ethylthio)ethyl] phosphorodithioate (T*)
P041	Diethyl-p-nitrophenyl phosphate
P040	0,0-Diethyl 0-pyrazinyl phosphorothioate
P043	Diisopropyl fluorophosphate
P044	Dimethoate (T*)
P045	3,3-Dimethyl-1-1-(methylthio)-2-butanone, 0-[(methylamino)carbonyl] oxime
P071	0,0-Dimethyl 0-p-nitrophenyl phosphorothioate
P082	Dimethylnitrosamine
P046	alpha,alpha-Dimethylphenethylamine (T*)
P047	4,6-Dinitro-o-cresol and salts
P034	4,6-Dinitro-o-cyclohexylphenol (T*)
P048	2,4-Dinitrophenol
P020	Dinoseb
P085	Diphosphoramide, octamethyl-
P039	Disulfonton (T*)
P049	2,4-Dithiobiuret
P109	Dithiopyrophosphoric acid, tetraethyl ester
P050	Endosulfan
P088	Endothall
P051	Endrin
P042	Epinephrine
P046	Ethanamine, 1,1-dimethyl-2-phenyl- (T*)
P084	Ethenamine, N-methyl-N-nitroso-
P101	Ethyl cyanide
P054	Ethylenimine
P097	Famphur
P056	Fluorine
P057	Fluoroacetamide
P058	Fluoroacetic acid, sodium salt
P065	Fulminic acid, mercury(II) salt (R, T)
P059	Heptachlor
P051	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, 1,4:5,8-dimethanonaphthalene
P037	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, exo-1,4:5,8-dimethanonaphthalene
P060	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, endo-dimethanonaphthalene
P004	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, exo-dimethanonaphthalene
P060	Hexachlorohexahydro-exo, exo-dimethanonaphthalene
P062	Hexaethyl tetraphosphate
P116	Hydrazinecarbothioamide
P068	Hydrazine, methyl-
P063	Hydrocyanic acid
P063	Hydrogen cyanide
P096	Hydrogen phosphide

Hazardous waste No.	Substance
P064	Isocyanic acid, methyl ester
P007	3(2H)-Isoxazolone, 5-(aminomethyl)-
P092	Mercury, (acetato-0)phenyl-
P065	Mercury fulminate (R,T)
P016	Methane, oxybis(chloro-
P112	Methane, tetranitro- (R)
P118	Methanethiol, trichloro-
P059	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P066	Methomyl
P067	2-Methylaziridine
P068	Methyl hydrazine
P064	Methyl isocyanate
P069	2-Methyllactonitrile
P071	Methyl parathion
P072	alpha-Naphthylthiourea
P073	Nickel carbonyl
P074	Nickel cyanide
P074	Nickel(II) cyanide
P073	Nickel tetracarbonyl
P075	Nicotine and salts (T*)
P076	Nitric oxide (T*)
P077	p-Nitroaniline (T*)
P078	Nitrogen dioxide
P076	Nitrogen(II) oxide
P078	Nitrogen(IV) oxide
P081	Nitroglycerine (R,T*)
P082	N-Nitrosodimethylamine
P084	N-Nitrosomethylvinylamine
P050	5-Norbornene-2,3-dimethanol, 1,4,5,6,7,7-hexachloro, cyclic sulfite
P085	Octamethylpyrophosphoramide
P087	Osmium oxide
P087	Osmium tetroxide
P088	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	Parathion (T*)
P034	Phenol, 2-cyclohexyl-4,6-dinitro- (T*)
P048	Phenol, 2,4-dinitro-
P047	Phenol, 2,4-dinitro-6-methyl-, and salts
P020	Phenol, 2,4-dinitro-6-(1-methylpropyl)-
P009	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P036	Phenyl dichloroarsine
P092	Phenylmercuric acetate
P093	N-Phenylthiourea
P094	Phorate (T*)
P095	Phosgene (T*)
P096	Phosphine
P041	Phosphoric acid, diethyl p-nitrophenyl ester
P044	Phosphorodithioic acid, 0,0-dimethyl S-[2-(methylamino)-2-oxoethyl] ester (T*)
P043	Phosphorofluoridic acid, bis(1-methylethyl) ester
P094	Phosphorothioic acid, 0,0-diethyl S-(ethylthio) methyl ester (T*)
P089	Phosphorothioic acid, 0,0-diethyl 0-(p-nitrophenyl) ester (T*)
P040	Phosphorothioic acid, 0,0-diethyl 0-pyrazinyl ester
P097	Phosphorothioic acid, 0,0-dimethyl 0-[p-((dimethyl-amino)-sulfonyl)phenyl] ester
P110	Plumbane, tetraethyl-
P098	Potassium cyanide
P099	Potassium silver cyanide
P070	Propanal, 2-methyl-2-(methylthio)-, 0-[(methylamino) carbonyl]oxime
P101	Propanenitrile
P027	Propanenitrile, 3-chloro-
P069	Propanenitrile, 2-hydroxy-2-methyl-
P081	1,2,3-Propanetriol, trinitrate- (R,T*)
P017	2-Propanone, 1-bromo- (T*)
P102	Propargyl alcohol
P003	2-Propenal
P005	2-Propen-1-ol
P067	1,2-Propylenimine
P102	2-Propyn-1-ol
P008	4-Pyridinamine
P075	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts (T*)
P111	Pyrophosphoric acid, tetraethyl ester
P103	Selenourea
P104	Silver cyanide
P105	Sodium azide
P106	Sodium cyanide
P107	Strontium sulfide (T*)
P108	Strychnidin-10-one, and salts (T*)
P018	Strychnidin-10-one, 2,3-dimethoxy-
P108	Strychnine and salts (T*)
P115	Sulfuric acid, thallium(I) salt
P109	Tetraethyldithiopyrophosphate
P110	Tetraethyl lead
P111	Tetraethylpyrophosphate
P112	Tetranitromethane (R)
P062	Tetraphosphoric acid, hexaethyl ester
P113	Thallic oxide
P113	Thallium(III) oxide
P114	Thallium(I) selenide
P115	Thallium(I) sulfate
P045	Thiofanox
P049	Thioimidodicarbonic diamide
P014	Thiophenol
P116	Thiosemicarbazide
P026	Thiourea, (2-chlorophenyl)-
P072	Thiourea, 1-naphthalenyl-
P093	Thiourea, phenyl-
P123	Toxaphene
P118	Trichloromethanethiol
P119	Vanadic acid, ammonium salt
P120	Vanadium pentoxide
P120	Vanadium(V) oxide
P001	Warfarin, when present at concentrations greater than 0.3%
P121	Zinc cyanide
P122	Zinc phosphide, when present at concentrations greater than 10%

(2) Except as provided by paragraphs (e) (3) through (6) of this section, when one or more of the substances listed in paragraph (e)(1) of this section for acute toxicity is included in a commercial chemical mixture, the mixture will be considered as an acute hazardous waste.

(i) If the mixture has an acute oral LD50 ⩽50 mg/kg (rat), an acute inhalation LC50 ⩽2 mg/l (rat), or an acute dermal LD50 ⩽200 mg/kg (rabbit), as determined by experimental data approved and noticed in the **Federal Register** by EPA, the mixture will be considered to be acutely hazardous. Generators may petition EPA following the requirements of §§ 260.20 and 260.22 of this chapter to approve the use of such data, or EPA may do so on its own initiative.

(ii) If actual experimental data approved and noticed in the **Federal Register** by EPA are not available to establish mixture toxicity, the predicted toxicity of the mixture must be calculated using the following formula:

$$\text{Predicted LD50} = \frac{100}{\frac{Pa}{LD50\ A} + \frac{Pb}{LD50\ B} + \frac{Pn}{LD50\ N}}$$

Where:

Pa = percentage by weight of ingredient A
Pb = percentage by weight of ingredient B
Pn = percentage by weight of ingredient N
and Pa + Pb . . . + Pn = 100%

(iii) Any mixture in which the individual components act on different bodily systems will be considered as acutely hazardous if after applying the formula to each toxicity category, oral (rat), dermal (rabbit), and inhalation (rat), the mixture meets any of the criteria indicated in (i) above.

(iv) (A) Acute oral, dermal or inhalation LD50s, or LC50s must be taken from the 1981–82 Edition of National Institute for Occupational Safety and Health Registry of Toxic Effects of Chemical Substances (RTECS).

(B) Any component of a mixture having an acute oral LD50 over 5000 mg/kg may be disregarded.

(C) The LD50 value for xylene must be used for "aromatic hydrocarbon solvents", and the LD50 value for kerosene must be used for "petroleum distillate solvents" in applying the formula when such ingredients are indicated as present in mixtures.

(D) If RTECS does not list rat or rabbit LD50 or LC50 values, equivalent data from other animals may be used by applying the following factors:

LD50 rat (mg/kg) = 0.5 LD50 or LC50 mouse
or = 1.36. LD50 or LC50 guinea pig
LD50 rat (mg/kg) = 2.25 LD50 or LC50 rabbit
LD50 rabbit (mg/kg) = 0.23 LD50 mouse
= 0.46 LD50 rat
= 0.63 LD50 guinea pig

(v) Any person may petition EPA, following the requirements of §§ 260.20 and 260.22 of this chapter, to approve the use of toxicity data other than that presented in RTECS.

(3) If actual experimental data are available which contradict the predicted formula toxicity (except where the § 261.33(e) listing was based on reactivity or known human toxicity), the Agency will treat the mixture as indicated by the actual experimental data, in accordance with the following procedures:

(i) If a mixture meets the criteria for an acute hazardous waste by application of the formula, and experimental data indicate that it could be categorized as a toxic waste under § 261.33(f), any person may petition the Agency using the procedures described in §§ 260.20 and 260.22 of this chapter to treat the mixture as a § 261.33(f) material. The petitioner must submit the experimental data upon which he bases his petition. Upon approval by the Agency, the mixture may be specifically listed in paragraph (f) of this section.

(ii) If a mixture does not meet the criteria for an acute hazardous waste by application of the formula, and experimental data indicate that it should be categorized as an acute hazardous waste, any person may petition the Agency following the procedures in §§ 260.20 and 260.22 of this chapter to list the mixtures in § 261.33(e) or the Agency may do so on its own initiative.

(4) A mixture found to be an acute hazardous waste, either by experimental

animal assay, or, in the absence of experimental data, on the basis of its predicted toxicity, is subject to the requirements of substances listed in §261.33(e), including the small quantity exclusion defined in §261.5.

(5) A mixture that does not meet the criteria for an acute hazardous waste is subject to the requirements of substances listed in paragraph (f) of this section, including the small quantity exclusion defined in § 261.5. This paragraph does not apply to mixtures containing substances listed in §261.33(e) because they have been found to be reactive or fatal to humans in low doses. Mixtures containing such substances will continue to be acutely hazardous, and will be subject to the requirements of substances listed in §261.33(e).

(6) If the ingredients of a mixture are unknown to, and unobtainable by, the generator because of trade secrets or otherwise, such that the predicted toxicity cannot be calculated, the generator may either conduct an experimental animal assay on the mixture to determine its toxicity and submit such information to the Agency following the procedures described in §§ 260.20 and 260.22 of this chapter, or he may treat the mixture as if it were an acute hazardous waste.

[FR Doc. 86-3045 Filed 2-12-86; 8:45 am]
BILLING CODE 6560-50-M

federal register

Thursday
February 13, 1986

Part III

Department of Education

34 CFR Part 674

National Direct Student Loan Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 674

National Direct Student Loan Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the National Direct Student Loan (NDSL) Program. These proposed regulations are designed to reduce the high number of defaulted loans under the NDSL Program and the unacceptably high default rate of certain participating institutions of higher education by amending the current funding procedures. The Secretary proposes these regulations to encourage institutions to improve the management of their NDSL Programs. Institutions which reduce their default rate by increasing repayments will better preserve the NDSL fund as a revolving fund, and will increase the funds available for loans to future borrowers.

DATES: Comments must be received by March 31, 1986.

ADDRESS: All comments concerning these proposed regulations should be addressed to Ms. Margaret O. Henry, Chief, Policy Section, Campus and State Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, 400 Maryland Avenue, SW. (Room 4018, ROB–3), Washington, DC 20202. Telephone (202) 245–9720.

FOR FURTHER INFORMATION CONTACT: Margaret O. Henry, Chief, Policy Section, Campus and State Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, 400 Maryland Avenue, SW. (Room 4018, ROB–3), Washington, DC 20202. Telephone (202) 245–9720.

SUPPLEMENTARY INFORMATION:

Background

Under the National Direct Student Loan Program, Title IV–E of the Higher Education Act of 1965, as amended, institutions of higher education may receive Federal funds to make loans to students. The current regulations governing NDSL funding procedures provide that a participating institution may not receive a Federal capital contribution (FCC) under the program if its NDSL default rate exceeds 25 percent. The current regulations reduce the FCC provided to an institution with a default rate between 10 percent and 25 percent. The Secretary proposes to revise these procedures in an effort to reduce the high number of defaulted loans under the NDSL Program and the unacceptably high default rate of certain participating institutions of higher education.

Summary of Major Changes

These proposed regulations would change the impact of an institution's default rate on its receipt of Federal capital contribution (FCC), would amend the definition of "default" or "in default," and would amend the appeal process as part of the application review process.

A. Definition of "default" or "in default": Section 674.2

Current regulations provide that a borrower who fails to make an installment payment when due, or to comply with other terms of the promissory note, is regarded as in default on a loan unless the institution reasonably concludes, from written statement(s) from the borrower, that he or she intends to repay the loan. A borrower who reaffirms that intention in this way is thereafter eligible to receive further Title IV assistance, and when computing its default rate, the institution can exclude that borrower's loan from the amount of its loans in default. The institution can also exclude a previously-defaulting borrower's loan from the amount of its loans in default if that borrower executes and complies with a new repayment agreement.

The Secretary intends to continue the existing option for curing a default by the execution of a new repayment agreement, but is proposing to revise this rule for those borrowers who have defaulted and have not executed a new agreement. Under this proposed rule, an institution can exclude from the category of loans "in default" only those past-due loans on which the borrowers do not merely profess their intention to repay, but evidence that promise by making realistic efforts to cure their past defaults. The Secretary considers those borrowers who failed to make required payments in the past but are now making payments currently due and additional payments large enough to continually reduce their arrearages to be demonstrating a serious intention to honor their loan obligations. The Secretary believes that these borrowers deserve to be treated as no longer in default and therefore proposes to amend the rule to exclude from the category of loans in default only the loans of these borrowers who demonstrate serious attempts to cure past defaults by making satisfactory payments to reduce arrearages.

Under this proposal, a borrower previously in default will be considered to be no longer in default while the following conditions are satisfied. First, the borrower has stated in writing his or her intention to repay the loan. Second, the borrower has made a payment or payments sufficient to reduce satisfactorily the amount in arrears: if any amount was past due six months before the date of the payment in question, that payment, together with any intervening payments, must reduce the amount in arrears when the payment in question is made to less than the amount that was past due six months earlier. If no amount was past due six months before the payment in question, that payment, with any others made after the default, must reduce the amount in arrears to less than the amount of the first missed payment within that six month period. Third, if the determination of loan status is made in a month after the borrower made a satisfactory payment described here, the borrower is not in default if he or she has resumed payments in accordance with the repayment agreement most recently executed with the institution, and has included in those regularly-scheduled payments additional amounts necessary to continue to reduce the amount in arrears.

The following examples illustrate the effect of the proposed rule:

Case 1. A borrower owes $3,000, and is required to make monthly payments of $50. The borrower misses payments due on January 1 and each month thereafter until July 5, when he makes a $200 payment, accompanied by a written promise to repay the loan. The determination of the borrower's status in this situation is governed by the second condition: the borrower went into default on January 2, and continued in default through July 5. Six months before the July 5 payment, the borrower was $50 in arrears. Thereafter, the borrower missed six payments, and the total amount past due on July 5 (excluding interest and late charges) was therefore $350. The borrower's July 5 payment of $200 does not reduce the amount past due to less than that past due six months earlier, and the borrower is still in default.

Case 2. A borrower owes $4,000, and is required to make monthly payments of $100. The borrower misses payments due on September 1 and October 1. On October 30, the borrower makes a payment of $100. The borrower misses the payment due on November 1, and on November 15 makes a payment of $150 and reaffirms her intent to repay the

loan. The determination of the status of this borrower is governed by the first and second conditions described here. The borrower is in default on September 2 and continues in default through October 30. The borrower is $200 in arrears on October 30, and her $100 payment does not suffice to cure the default because it is not accompanied by a written reaffirmation. Even if it were, it does not reduce the amount then in arrears to *less* than the amount of the first payment ($100) missed within a six-month period ending on the date of the payment in question. However, the borrower cures her default on November 15 because she then makes a written promise to repay together with a payment which, with the other payment she made after her default, reduced the $200 in arrears on that date (the sum of the amount still in arrears, $100, on November 1, and the regularly-scheduled payment of $100 due November 1) to $50, an amount less than the amont of the first missed payment ($100) during the six-month period ending on November 15.

Case 3. The borrower in Case 2 is required under her repayment schedule to make her payment on the first day of the month. On December 1, when her past due amount (excluding interest and late charges) is still $50, the borrower pays $100; on January 1, she pays $110, and on February 1, another $100. The determination of the borrower's status in Case 3 is governed by the third condition. The borrower, as explained in Case 2, was no longer in default on November 15. However, although she makes the required payment on December 1, that payment does not reduce the amount in arrears, which remains $50. The borrower therefore remains in default through December 31; on January 1, her $110 payment not only satisfies the amount then due under her repayment agreement ($100), but reduces the amount of principal in arrears from $50 to $40. The borrower is therefore not in default during the month of January. She lapses back into default status on February 1, however, because her $100 payment on that date, while satisfying the amount due under the repayment agreement, does not further reduce the principal amount in arrears on her account, which remains $40.

B. Default Rate Penalty: Section 674.6a

Under the current regulations, any institution with a default rate in excess of 25 percent is ineligible to receive FCC, and institutions with default rates greater than 10 percent but not more than 25 percent may receive a reduced FCC allocation. Since the implementation of this default rate penalty, the median default rate for those institutions that participate in the NDSL program has declined from 9.56% as of June 30, 1980, to 8.96% as of June 30, 1984. For several reasons, the Secretary concludes that it is reasonable to require a continued reduction in the default rates which disqualify an institution from receiving full, or any additional, FCC it requests.

It is important to emphasize that the term default rate as used in these regulations has always been, and continues to be, a measurement of several factors over which the institution has control, a fact at times overlooked or misunderstood by commenters in the past. First, the term includes the amount of loans which entered default and remained in default for at least 120 days. Available information regarding the gradual nature of the decline in default rates suggests that continued improvement in collection efforts can yield a continuing reduction in the number of accounts which remain in default for 120 days, or a continuing increase in the number of accounts on which borrowers who were in default resume payments. Second, loans which the institution assigns to the Department are excluded from the measurement of its default rate. Unlike the first factor, this second is entirely within the control of the institution; the institution can assign any loan which has been in default for at least two years to the Department if the institution has exercised due diligence in attempting to collect that loan. Whether or not an institution succeeds in reducing its default rate by improving its collection activities, it can still reduce that default rate under these regulations by assigning these uncollectible loans to the Department.

There is no reasonable basis for providing additional FCC to an institution which is neither successful in collecting nor willing to relinquish to the Department the accounts which remain uncollectible despite responsible collection efforts. Therefore, in an effort to continue to lower the NDSL default rate, the Secretary proposes to modify the default rate penalty beginning with the 1986–87 award year, so that institutions with a default rate in excess of 20 percent would be ineligible to receive an FCC allocation, institutions with a default rate over 7.5 percent but not in excess of 20 percent may receive a reduced FCC allocation, and institutions with a default rate equal to or less than 7.5 percent may receive a full FCC allocation. The Secretary intends to issue proposed rules in the near future which may further modify the calculation and effect of the default rate on allocations of FCC; these rules will be proposed for the 1987–88 and subsequent award years.

The Secretary determines the amount of new FCC for an institution by subtracting from its conditionally guaranteed level of expenditure both its projected collections and its reimbursements for Direct loan cancellations received in the base year. The difference obtained by that subtraction together with an institution's State and National fair share increase would be multiplied by 90 percent to determine its FCC.

In projecting an institution's collections, the Secretary would consider its default rate. As used here, this term excludes all defaulted loans assigned to and accepted by the Department of Education (ED) through the base year for that application, those defaulted loans referred to and accepted by ED as of September 15, 1979, and those loans for borrowers whose accounts are past due but not in default. As an example, for the 1986–87 award year, if the default rate of an institution is 7.5 percent or less, its collections would be projected by multiplying the institution's actual base year collections by 121 percent. (One hundred and twenty-one percent is used because the Secretary continues to set the standard of a 10 percent per year increase in collections in both the current year and the award year. A 10 percent collection increase over a two year period equals 121 percent of base year collections.) If an institution's default rate is greater than 7.5 percent but not more than 20 percent, its collections would be projected by multiplying the institution's actual base year collections by 121 percent, plus the additional amount which the institution would have collected if its base year default rate were 7.5 percent.

In order to calculate the additional amount that an institution would have collected if its default rate were only 7.5 percent (that is, the "excess overdue amount"), the Secretary would determine the amount of defaulted loans that an institution would hold if its default rate was 7.5 percent. This is done by multiplying the total amount of its matured loans by 7.5 percent. Second, the Secretary would subtract 7.5 percent of the matured loans from the principal amount outstanding on defaulted loans that the institution reports on its Fiscal Operations Report (FISAP). Third, this difference would be divided by the principal amount outstanding on defaulted loans that the institution reports on its FISAP. Fourth,

the principal amount past due on defaulted loans would be multiplied by the percent resulting from the division in step three to determine the excess overdue amount.

As an example, if an institution's NDSL fund has:

- Matured loans totalling $616,480;
- Principal amount outstanding on defaulted loans of $83,909;
- Principal amount past due on defaulted loans of $62,582; and
- Total principal and interest collected, as reported on its fiscal-operations report, of $23,178;

then, based on the above figures, the institution's excess overdue amount would be calculated as follows:

(a) 7.5 percent of $616,480 (matured loans) equals $46,236.

(b) $83,908 (principal amount outstanding on defaulted loans) minus $46,236 equals $36,673.

(c) $37,673 divided by $83,909 equals 0.4489.

(d) 0.4489 times $62,582 (past due principal) equals $28,093, the excess overdue amount.

(e) $23,178 (the amount actually collected in the base year) multiplied by 121% equals $28,045.

(f) $28,045 plus $28,093 (the excess overdue amount) equals $56,138, the projected collections.

C. Application Appeal Review—Section 674.7.

The Secretarty proposes to delete parts of § 674.7 which permit an institution to appeal findings under certain elements of the funding formula used to compute its funding level. The Secretary proposes that these deletions from the appeals process would be effective beginning with the 1987–88 award year application review process.

The Secretary proposes to exclude appeals regarding: the computation of the excess overdue amount used to measure collections that would be available if the institution had a lower default rate, the disqualification for FCC for institutions with a default rate greater than 20 percent, and the extent to which an institution can justify that its base year default rate does not reflect current collection efforts. The Secretary believes that an institution's base year default rate is an accurate barometer of the institution's capability to administer the NDSL Program, and therefore proposes these deletions.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The small entities affected by these regulations are small institutions of higher education. In order to identify small institutions and to assess the impact of these regulations on those institutions, using actual current data, one must select an objective measure for determining institutional size. In lieu of a formal definition, it is useful to adopt the proposed definition of small institution of higher education published by the Secretary on January 16, 1981 (46 FR 3920), defining small institutions as those with a total student population of fewer than 550. These regulations change the procedures for allocating program funds by placing increased emphasis on lower default rates. The Secretary certifies that, for the reasons set forth here, this rule will not have a significant economic impact on a substantial number of small institutions of higher education.

As described more fully above, under current regulations two categories of institutions are affected by the default rate criterion: those with a default rate between 10 and 25 percent, which have their FCC reduced, and those with a rate exceeding 25 percent, which receive no FCC for that application year. For those institutions in the first category, with default rates between 10 and 25 percent, the FCC is reduced by 90 percent of the "excess overdue amount," that portion of their defaulted loans which would have been collected if the institution had a 10 percent default rate. The institution, in other words, is treated as if it had an acceptable default rate, and had collected the amount it would have recovered had it a 10 percent rate. Institutions in the second category, those with default rates over 25 percent, do not qualify for new FCC.

These proposed regulations will change the procedures for allocating FCC among institutions by modifying the current default rate parameters, 10 and 25 percent, to 7.5 and 20 percent for the first year these regulations are in effect. Because the impact of the default rate criterion will vary with the level of appropriation, the amount of funds received by an institution as collections and reimbursements for teacher and military cancellations, and other reasources available to the institution, it is impossible to determine exactly the impact of the proposed rule on either large or small institutions.

At most, an estimate of its impact which relies on current program experience can be offered here. In the 1985–86 award year, 2966 institutions participated in the NDSL program and requested new FCC; 1068 of these institutions fell within the definition of small institution used here. The NDSL funds appropriated for this award year were allocated as FCC under the current rule so that small institutions received eight (8) percent of all funds allocated as FCC, and other, or larger, institutions received ninety-two (92) percent of these funds. If the appropriated amounts, FCC requests, collections and default rates that resulted in this 1985–86 FCC allocation remain the same for 1986–87, the distribution of FCC funds under the proposed rule for 1986–87 will remain the same: eight percent of all FCC will be allocated to small institutions, and ninety-two percent to all others. Thus, the proposed rule can reasonably be expected to have no net economic impact on small institutions as a group in 1986–87.

For these reasons the Secretary concludes that the new rule will not have a significant economic impact on a substantial number of small institutions.

Paperwork Reduction Act of 1980

These proposed regulations do not contain any information collection requirements and are therefore not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) which govern such requirements.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4018, Regional Office Building 3, 7th & D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is especially invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any

other agency or authority of the United States.

List of Subjects in 34 CFR Part 674

Education, Loan programs—education, Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parenthesis on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance Number 84.038 National Direct Student Loan Program)

Dated: February 7, 1986.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Part 674 of Title 34 of the Code of Federal Regulations as follows:

PART 674—NATIONAL DIRECT STUDENT LOAN PROGRAM

1. The authority citation for Part 674 continues to read as follows:

Authority: NDSL Title IV, Part E of the Higher Education Act of 1965, as amended (20 U.S.C 1087aa–1087ii), and Title II of the National Defense Education Act of 1958, as amended (20 U.S.C. 421–429), unless otherwise noted.

2. Section 674.2 is amended by revising the definition of "Default or in default" to read as follows:

§ 674.2 Definitions.

* * * * *

Default or in default: (a) Except as provided in paragraph (b) of this definition, a borrower is in default on a Direct or Defense loan if he or she fails to—

(1) Make an installment payment when due; or

(2) Comply with other terms of the promissory note.

(b) A borrower who failed to make a timely repayment is not in default on a Direct or Defense loan if—

(1) The borrower's loan is current, paid in full or discharged in bankruptcy; or

(2)(i) The borrower states in writing to the institution an intention to repay the loan;

(ii) The borrower evidences that intention by making a payment which reduces the amount then past-due to less than—

(A) Any amount past-due six months before the date of the payment; or

(B) If no amount was past-due six months before the payment is made, the balance of the first required payment missed within that six-month period; and

(iii) If the borrower made the payment described in paragraph (b)(2)(ii) of this definition in a prior month, the borrower has continued to make payments when required under the most recent repayment agreement and each payment has included—

(A) The amount due under that agreement; plus

(B) The additional amount necessary to contiune to reduce the past-due amount.

* * * * *

3. Section 674.6a is revised to read as follows:

§ 674.6a Funding procedures—Federal capital contributions (FCC).

(a) An institution may receive a Federal capital contribution (FCC) calculated under this section if its default rate is not more than 20 percent.

(b) An institution's FCC equals 90 percent of its—

(1) Conditions guarantee minus the sum of its reimbursements for Direct loan cancellations received in the base year and loan repayment calculated under paragraph (c) of this section;

(2) Fair share State increase; and

(3) Fair share National increase.

(c) For purposes of paragraph (b)(1) of this section—

(1) If the institution's default rate is 7.5 percent or less, the Secretary considers its loan repayments to equal 121 percent of the amount it collected in the base year; and

(2) If an institution's default rate is greater than 7.5 percent but not more than 20 percent, the Secretary considers its loan repayments to be—

(i) 121 percent of the amount collected in the base year; plus

(ii) The additional amount it would have collected in the base year if its default rate were 7.5 percent (excess overdue amount).

(3) The Secretary calculates an institution's excess overdue amount—

(i) Determining the amount of defaulted loans that would equal a 7.5 percent default rate by multiplying the total amount of matured loans of the institution by 7.5 percent;

(ii) Subtracting the amount obtained in paragraph (c)(3)(i) of this section (7.5 percent of the matured loans) from the defaulted principal amount outstanding;

(iii) Dividing the amount obtained in paragraph (c)(3)(ii) of this section by the defaulted principal amount outstanding; and

(iv) Multiplying the actual amount of principal past due on defaulted loans by the fraction obtained in paragraph (c)(3)(iii) of this section.

(d) The definitions of "default rate," "defaulted principal amount outstanding" and "matured loans" are contained in § 674.2. However, for purposes of this section, the Secretary, when calculating an institution's default rate, excludes from the numerator of that fraction the following:

(1) Notes referred to the U.S. Commissioner of Education on or before September 15, 1979, if the institution received either a notification of acceptance or a receipt from the Office of Education, and that referral has not been rescinded or rejected.

(2) Notes assigned to the United States on or before June 30 of the base year and accepted by the United States.

(3) Notes for borrowers whose accounts are past due but nor in default.

(e) No institution may receive more Federal capital contribution than it requested.

(20 U.S.C. 1087bb)

4. Section 674.7 is revised to read as follows:

§ 674.7 Application appeal review for the 1987–88 and subsequent award years.

(a) An institution may, at the time specified by the Secretary, request a review of its computed NDSL level of expenditure and its Federal capital contribution (FCC).

(b) A National Appeal Panel appointed by the Secretary conducts the review.

(c) An institution may appeal the following elements used in determining an institution's NDSL level of expenditure of its FCC:

(1) For purposes of determining an institution's FCC award, the expectation of an annual increase in its NDSL collections of 10 percent.

(2) For purposes of determining an institution's self-help need—

(i) The average cost of books and supplies;

(ii) The established expected family contributions;

(iii) The enrollment data used to determine average tuition and fee costs; and

(iv) The award year used as the base year.

(d) The Secretary and the appeal panel evaluate appeals on the basis of the following criteria and documentation required by the Secretary:

(1) The extent to which the institution can justify that an increase in NDSL collections of 10 percent per year is unreasonable.

(2) The extent to which the institution can justify that the average cost of books and supplies does not accurately reflect these costs at the institution.

(3) The extent to which the institution can justify that the standard expected family contribution figures do not accurately reflect the characteristics of the student body at the institution.

(4) The extent to which the institution can justify that the average tuition and fee costs derived from the institution's enrollment data do not accurately reflect these costs at the institution.

(5) The extent to which the institution can justify that the base year used to determine its self-help need under the fair share formula does not accurately reflect the institution's current self-help need.

(e) In establishing an institution's level of expenditure and Federal capital contribution, the Secretary considers the appeal panel's recommendations and its reasons for the recommendations.

(f) The Secretary establishes an approved level of expenditure and Federal capital contribution based on procedures in §§ 674.6 and 674.6a and the appeal panel's recommendations.

(20 U.S.C. 1087bb)

[FR Doc. 86-3073 Filed 2-12-86; 8:45 am]
BILLING CODE 4000-01-M

Federal Register

Thursday
February 13, 1986

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 887

Abandoned Mine Land Reclamation Program; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 887

Abandoned Mine Land Reclamation Program

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

ACTION: Final rule.

SUMMARY: The Department of the Interior's fiscal year 1985 continuing appropriations resolution (H.J. Res. 648–Pub. L. 98–473) authorized the expenditure of Abandoned Mine Land (AML) Funds for the establishment of self-sustaining, individually administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining in those States which have reclamation plans approved under section 405 of the SMCRA. These States are, at the present time, the following: Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Missouri, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Texas, Utah, Virginia, West Virgina, and Wyoming.

In order to implement the amendment and provide for grants to eligible States for subsidence insurance programs, the Office of Surface Mining is promulgating final rules allowing States with approved reclamation programs under Title IV of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87 (SMCRA) to request funds for the establishment and administration of mine subsidence insurance programs.

EFFECTIVE DATE: February 13, 1986.

FOR FURTHER INFORMATION CONTACT: Jim Fary, Office of Surface Mining, Division of Abandoned Mine Land Reclamation, 1951 Constitution Avenue, NW., Washington, DC 20240, or telephone 202–343–7960.

SUPPLEMENTARY INFORMATION:

Background

SMCRA was enacted to establish a nationwide program to protect the environment from the adverse effects of surface coal mining activities and to promote the reclamation of mined areas left without adequate reclamation prior to August 3, 1977. The SMCRA, as formulated, is a complex, comprehensive and broadly remedial regulatory statute intended to govern the conduct and impact of present day coal mining operations.

In addition, Congress recognized that a serious problem existed because of past mining practices, and that a substantial source of funding was needed to support rehabilitation programs to reclaim vast areas of lands affected by these practices. H. Rept. 95–218, 95th Cong., 1st Sess. 135–140 (1977). The SMCRA established the Abandoned Mine Reclamation Fund, 30 U.S.C.A. 1231, to help pay for the restoration of land harmed by past coal mining activities. The reclamation fund derives its revenue from a fee levied on current coal production. All operators of coal mining operations subject to the provisions of SMCRA must pay to the Secretary of the Interior, for deposit in the Fund, a reclamation fee of 35 cents per ton of coal produced by surface coal mining and 15 cents per ton of coal produced by underground mining or 10 per centum of the value of the coal at the mine, as determined by the Secretary, whichever is less, except that the reclamation fee for lignite coal is at a rate of 2 per centum of the value of the coal at the mine, or 10 cents per ton, whichever is less. Regulations implementing the abandoned mine land reclamation program were published on October 25, 1978 (43 FR 49932–49952) and revised on June 30, 1982 (47 FR 28574–28604) and codified in 30 CFR Chapter VII, Subchapter R.

Congress included language in section 324 of H.J. Res. 648–Pub. L. 98–473 that amended section 401(c)(1) of SMCRA. The amendatory language provides that moneys in the fund may be used for:

> establishment of self-sustaining, individual State administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining in those States which have reclamation plans approved in accordance with Section 503 of this Act, provided that funds used for this purpose shall not exceed $3,000,000 of the funds made available to any State under section 402(g)(2) of this Act.

In order to implement the Congressional direction that OSM provide for grants to eligible States for the establishment of self-sustaining, individual State administered programs to insure private property against damages caused by land subsidence from underground coal mining, OSM published proposed rules on July 25, 1985. The public comment period closed August 25, 1985. This document contains the final rules implementing Congress' amendatory language along with a discussion of all relevant comments received.

Responses to Public Comments and Discussion of Final Rule

Final Part 887 consists of the following:

Section 887.1 (Scope)

Indicates that the scope of the final rule is to set forth procedures for grants to States having approved State reclamation plans for the establishment, administration, or operation of self-sustaining individual State administered coal mine subsidence insurance programs. One commenter indicated that in several States mine subsidence problems, and mine subsidence insurance programs, exist with respect to other minerals in addition to coal. For this commenter "it is not clear whether States with programs providing coverage from damage caused by other kinds of mines (than coal) are wholly ineligible to apply for funds." The commenter suggested that OSM make moneys available for States whose insurance programs cover subsidence caused by both coal and noncoal mining, but that the States be required to "segregate and account for the grants to ensure that Federal moneys are used for coal mine subsidence." OSM's response is that § 887.12(d) would prevent granted funds from being used to administer noncoal mine subsidence insurance programs since granted moneys may not be used for lands that are ineligible for reclamation under Title IV of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87). Despite the fact that funds granted under this Part cannot be used for noncoal mine subsidence insurance programs, State programs which cover both coal and noncoal subsidence are still eligible to receive funding for the coal mine subsidence part of their programs. As the commenter suggested, in those States with both coal and noncoal subsidence coverage, funds granted under this Part must be segregated and accounted for to ensure that the granted funds are used only for coal mine subsidence programs.

Section 887.3 (Authority)

Provides authority for the Director of OSM to approve or disapprove applications for grants up to a total amount of $3,000,000 for each State with an approved State reclamation plan provided that moneys are available in the State share of the Abandoned Mine Land Reclamation Fund. This provision gives the Director of OSM the flexibility of making a one-time grant of $3,000,000 or a series of grants up to a total amount of $3,000,000. This flexibility is necessary because some eligible States

do not have sufficient funds in their State share of the AMLR Fund at the present time to support funding a grant at the $3,000,000 level. This provision will then allow these States the latitude to request funds for subsidence insurance programs over a period of years so as not to exhaust their capacity to continue to receive grants provided for in 30 CFR Part 886 necessary to support their State AML Reclamation Programs.

Section 887.5 (Definitions)

Since certain essential terms used in the legislation establishing subsidence insurance programs have not been defined, OSM, in order to implement the Congressional direction, is promulgating the following definitions:

Establishment—is defined to mean either the development of a subsidence insurance program or the operation or administration of a subsidence insurance program. By defining "establishment" to mean operation and administration of a program as well as development of a new program, OSM is implementing the Congressional intent found in the legislative history of the amendment. Senator Byrd, the sponsor of the amendment, indicated (Congressional Record—Senate of October 2, 1984 at p. S 12691) that the amendment would permit States to use a portion of their AMLR funds to operate subsidence insurance programs.

Private Property—is defined to mean any or all of the following: dwellings and improvements, commercial and industrial structures, utilities, underground structures such as sewers, pipes, wells, and septic systems, sidewalks and driveways, and land. This inclusive definition will allow the States the greatest latitude to design subsidence insurance programs to meet their specific local and State needs. States are given the authority to specify the extent of insurance coverage needed for their specific subsidence insurance programs. The extent of the coverage provided by each State will be directly related to the type of program each State elects to operate. For example, one State may want to provide extensive coverage for land, structures, commercial, residential, and private utilities for their full replacement value. Another State may want to put in place a program that pays only for a portion of structural damage.

Self-sustaining—means that a subsidence insurance program maintains an insurance rate structure which is designed to be actuarially sound. Actuarial soundness implies that funds are sufficient to cover expected losses and expenses including a reasonable allowance for underwriting services and contingencies. Self-sustaining shall not preclude the use of funds from other non-Federal sources. One commenter indicated that the sentence "self-sustaining shall not preclude the use of funds from other non-Federal sources" might imply that a program is self-sustaining as long as it can obtain contingency funds to cover losses as well as that a program, notwithstanding its actuarially sound structure, can also obtain additional funds from other sources. The commenter requests that OSM clarify the language to make clear the intent. OSM agrees and states that the intent of the sentence is to mean that a program, notwithstanding its actuarially sound structure, can also obtain additional funds from other sources. This interpretation is meant to ensure that mine subsidence insurance programs established in the States can have a rate structure that can be subsidized from non-Federal sources. Another commenter suggested that in order to make the State programs "self-sustaining", a requirement should be included that the State-administered programs, in order to be eligible for funding, contain clauses which require subrogation of the rights of the insured against the company or companies responsible for the subsidence occurrence to the limits of the payments made under the policy. This commenter further suggested that the State program contain procedures to obtain such recovery of payments made from the responsible company or companies consistent with the subsidence laws of that State. This commenter further argues that such a provision is necessary because only with such a provision can the subsidence insurance program "truly be self-sustaining, since the premiums paid by individuals for elective coverage in many of the coal States would be insufficient unless they were set at a prohibitively high rate, if the program were dependent entirely on premiums after the seed money was expended." OSM agrees and has added the following provision to the definition of "self-sustaining" in the final rule: "Self-sustaining requires that State subsidence insurance programs provide for recovery of payments made in settlements for damages from any party responsible for the damages under the law of the State."

State administered—is defined to mean a subsidence insurance program administered either directly by a State agency or for a State through a State authorized commission, board, contractor, such as an insurance company, or other entity subject to State direction. This grant program is intended only to provide seed money for the creation of State programs which will be administered solely by the participating States. Neither the establishment or operation of these programs will give rise to any further Federal responsibility. One commenter noted that the Congressional direction (in establishing the program) indicates that the program may only cover those damages caused by land subsidence "resulting from underground coal mining." The commenter asked if there is a need to define the broadness of the phrase "resulting from underground coal mining". The commenter further asked if the phrase could include land subsidence which is indirectly related to underground mine voids? The commenter also asked how conclusive must the facts be to support a claim that the damage was a result of an undergound mine void? For this commenter, it is "often, without extensive testing, hard to affirmatively conclude that damage is mine subsidence related." The commenter asks "should your office (OSM) provide direction on this point?" OSM's response is that it does not have to provide direction on the issue because the party which asserts damage bears the burden of proof of such damage and that such damage be directly related to past coal mining practices. The nature and adequacy of such proof will necessarily vary on a case-by-case basis.

Section 887.11 (Eligibility for Grants)

Provides that only States with approved reclamation plans under 30 CFR Part 884 are eligible to receive grants for subsidence insurance programs provided the State has sufficient funds in its State share of the AMLR Fund.

Section 887.12 (Coverage and Amount of Grants)

Paragraph (a) provides that moneys granted may be used to cover costs to the grantee agency for services and materials obtained from other State and Federal agencies or local jurisdictions according to OMB Circular A–87. One commenter expressed concern that proposed paragraph (a) does not permit use of the funds to pay claims, to pay adjusters, and for administrative costs involved with issuing policies under a program. The commenter asserts that these costs often are billed to the State program directly by a private contractor and will not necessarily be charged by "State or Federal agencies or local jurisdictions." For this commenter, it is

preferable for the granted funds to be used for a broad range of purposes. The commenter concluded that "if OSM interprets the Act to forbid use of these funds to pay claims, it should consider allowing these funds to be used for other expenses, such as payments to claim adjusters and administrative expenses." OSM's response is that the commenter is reading section (a) too narrowly. The intent of section (a) was to authorize the grantee agency to use moneys to cover costs to that agency for services and materials obtained from other State, Federal or local agencies. The intent was not to exclude payments to other persons or entities.

Moreover, it is clearly the intent of the Congressional amendment and these implementing rules to allow granted funds to be used to pay for administrative costs associated with the establishment and operation of subsidence insurance programs.

One commenter indicated that it is "stated (in the proposed rule) that the grant monies may be used to cover capitalization requirements and initial reserve requirements if allowed by law or Federal regulations." The commenter requested clarification with respect to the phrase "if otherwise allowed by law or Federal regulation." OSM's response is that the phrase was included in the proposed rules because pending enabling legislation to set up subsidence insurance programs in some States contained capitalization or initial reserve requirements. OSM wanted to assist the establishment of such programs by allowing granted funds to be utilized for capitalization or initial reserve requirements as mandated by any enabling State legislation. In reviewing the proposed rule, OSM does not know of any applicable Federal regulation on the issue of capitalization or initial reserve requirements. OSM has, therefore, modified the language in the final rule to clarify the issue by deleting the phrase "if otherwise allowed by law or Federal regulation" so that the final rule now reads: "Moneys granted may be used to cover capitalization requirements and initial reserve requirements mandated by State law provided use of such moneys is consistent with OMB Circular A–102." To comply with OMB Circular A–102, grant funds may be identified in the letter of credit as being used to meet capitalization or reserve requirements. However, such funds must remain in the Federal letter of credit until the time they are needed for expenditure. Funds may not be withdrawn from the letter of credit and deposited in State accounts prior to their being needed.

Paragraph (b) provides that grant applications must contain narrative statements describing how the subsidence insurance program is "State administered" and how the funds requested will achieve a self-sustaining individual State administered program to insure private property against subsidence resulting from underground coal mining. These narrative statements are necessary in order to evaluate the grant application's objectives relative to the purposes for which the subsidence insurance program was established. One commenter indicated that proposed paragraph (b) lacks sufficient level of detail in the requirement that a State demonstrate that the State insurance program will be self-sustaining. For this commenter, the State should provide a "reasoned analysis of the insurance risk under the proposed State program, including an assessment of the historical and projected magnitude of the subsidence program and the population at risk, the projected level of participation and premium costs involved, and other factors necessary for a reasoned and informed OSM projection that the program will truly be self-sustaining beyond the seed funding." OSM's response is that it declines to specify what particular elements need to go into the narrative statement describing how the funds requested will achieve a self-sustaining individual State administered program. OSM will review each narrative on its merits and determine if the statement is reasonable and justifiable since it believes the requirements for "self-sustaining" will vary from State-to-State.

Section (c) provides that grants cannot exceed a total of $3,000,000 per State. This provision allows each State the flexibility to request grant funds as needed or as available in its State share of the AMLR Fund up to a total of $3,000,000. Grant funds can be used for all eligible and necessary expenses related to establishment, administration, and operation of a subsidence insurance program, including payments to other State agencies for services provided in establishing and administering the Program.

Paragraph (d) provides that moneys granted may not be used for lands that are ineligible for reclamation funding under Title IV of SMCRA. Specifically, this provision excludes payments from granted funds for subsidence damage caused by all active mining, mines abandoned or inadequately reclaimed after August 3, 1977, and noncoal mining. In addition, granted funds cannot be used to pay for the actual construction costs of housing or for damages to public property.

Paragraph (e) provides that insurance premiums shall be considered program income and must be used to further eligible subsidence insurance program objectives in accordance with the Uniform Administrative Requirements for Grants to States and Local Governments, OMB Circular A–102, attachment E. The purpose of this Subsection is to clarify for the States how to account for moneys received as insurance premiums. The insurance premiums, however, will only be considered program income during the existence of the grant. Once the grant is closed out, there are no further obligations on the State. One commenter expressed a preference that "income to a subsidence insurance program as premiums not be treated as program income under A–102." For this commenter, the "accounting, reporting and possible threat of return of premiums could impact the overall objective of establishing self-sustaining programs in States needing these programs." OSM's response is that the treatment of insurance premiums as program income is required under OMB Circular A–102 and program income must be used to further eligible subsidence insurance program objectives.

Section 887.13 (Grant Period)

Establishes the grant funding period to be no longer than eight years. Eight years was chosen in order to allow sufficient time for granted funds to be utilized in operating the subsidence insurance program.

Section 887.13 (Grant Administrative Requirements and Procedures)

Cross references the rules applicable to State reclamation grants. This cross reference provides for consistency and uniform treatment of grants under the AMLR program. One commenter indicated that the grant of funds should be subject to the same provision for termination or suspension where it appears that they are being utilized inconsistently with amended section 401 of SMCRA. OSM's response is that by cross referencing the rules applicable to State reclamation grants, provisions governing termination or suspension of subsidence insurance grants are addressed (see 30 CFR 886.18).

Procedural matters

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a

major rule under 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.*).

These rules will not result in 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 foreign markets; nor would they increase costs or prices for consumers, individual industries, Federal, State, Tribal or local governmental agencies or geographic regions.

There would be no significant demographic effects, direct costs, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Since the information collection requirement contained in the rules involve fewer than 10 respondents annually, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and does not require clearance by OMB.

National Environmental Policy Act

With respect to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), OSM has prepared an environmental assessment (EA) on this final rule and has determined that this rule will not significantly affect the quality of the human environment. The EA and finding of no significant impact are on file in the OSM Administrative Record, Room 5124B, 1100 L Street, NW, Washington, DC.

Under 5 U.S.C. 553(d), good cause exists to make this rule effective immediately upon publication. The legislative mandate for use of AML moneys for establishing insurance programs was passed in 1984 and must be fully implemented. At least one state has informed OSM that it intends to submit its subsidence insurance program for approval as soon as this rule is made final. The immediate implementation of this rule will assist in providing essential protection to citizens who may be affected by coal mine-related subsidence.

List of Subjects in 30 CFR Part 887

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

Acordingly, 30 CFR Chapter VII, Subchapter R is amended by adding part 887.

Dated: January 21, 1986.

James E. Cason,

Deputy Assistant Secretary, Land and Minerals Management.

1. Part 887 is added as follows:

PART 887—SUBSIDENCE INSURANCE PROGRAM GRANTS

Sec.

887.1 Scope.
887.3 Authority.
887.5 Definitions.
887.10 Information collection.
887.11 Eligibility for grants.
887.12 Coverage and amount of grants.
887.13 Grant period.
887.15 Grant administration requirements and procedures.

Authority: Sec. 401(c)(1), Pub. L. 95–87, 91 Stat. 456, as amended by Pub. L. 98–473, 98 Stat. 1875 (30 U.S.C. 1231).

§ 887.1 Scope.

This part sets forth procedures for grants to States having an approved State reclamation plan for the establishment, administration and operation of self-sustaining individual State administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining.

§ 887.3 Authority.

The Director is authorized to approve or disapprove applications for grants up to a total amount of $3,000,000 for each State with an approved State reclamation plan provided moneys are available under § 872.11(b)(2) of this chapter and section 402(g)(2) of Pub. L. 95–87 (30 U.S.C. 1232).

§ 887.5 Definitions.

As used in this part—

Establishment—means either the development of a subsidence insurance program or the administration or operation of a subsidence insurance program.

Private Property—means any or all of the following: dwellings and improvements, commercial and industrial structures, utilities, underground structures such as sewers, pipes, wells and septic systems, sidewalks and driveways, and land.

Self-sustaining—means maintaining an insurance rate structure which is designed to be actuarially sound. Self-sustaining requires that State subsidence insurance programs provide for recovery of payments made in settlement for damages from any party responsible for the damages under the law of the State. Actuarial soundness implies that funds are sufficient to cover expected losses and expenses including a reasonable allowance for underwriting services and contingencies. Self-sustaining shall not preclude the use of funds from other non-Federal sources.

State Administered—means administered either directly by a State agency or for a State through a State authorized commission, board, contractor, such as an insurance company, or other entity subject to State direction.

§ 887.10 Information collection.

Since the information collection requirement contained in 30 CFR 887.12 has fewer than 10 respondents per year, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and does not require clearance by OMB.

§ 887.11 Eligibility for grants.

A State is eligible for grants under this part if it has a State reclamation plan approved under Part 884 of this Chapter and if it has funds available under § 872.11(b)(2) of this Chapter and section 402(g)(2) of Pub. L. 95–87 (30 U.S.C. 1232).

§ 887.12 Coverage and amount of grants.

(a) An agency may use moneys granted under this Part to develop, administer, and operate a subsidence insurance program to insure private property against damages caused by subsidence resulting from underground coal mining. The moneys may be used to cover costs to the agency for services and materials obtained from other State and Federal agencies or local jurisdictions according to OMB Circular A–87. Moneys granted may be used to cover capitalization requirements and initial reserve requirements mandated by applicable State law provided use of such moneys is consistent with OMB Circular A–102.

(b) The grant application shall contain the following:

(1) A narrative statement describing how the subsidence insurance program is "State administered," and

(2) A narrative statement describing how the funds requested will achieve a self-sustaining individual State administered program to insure private property against subsidence resulting from underground coal mining.

(c) Grants funded under this Part cannot exceed a total of $3,000,000 per State.

(d) Moneys granted may not be used for lands that are ineligible for reclamation funding under Title IV of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87).

(e) Insurance premiums shall be considered program income and must be

used to further eligible subsidence insurance program objectives in accordance with the Uniform Administrative Requirements for Grants to States and Local Governments, OMB, Circular A–102, attachment E.

§ 887.13 Grant period.

The grant funding period shall not exceed eight years from the time the grant is approved by OSM. Unexpended funds remaining at the end of any grant period shall be returned according to OMB Circular A–102, attachment E.

§887.15 Grant administration requirements and procedures.

The requirements and procedures for grant administration set forth for State reclamation grants in Part 886 of this chapter shall be used for subsidence insurance grants.

[FR Doc. 86–3207 Filed 2–12–86; 8:45 am]
BILLING CODE 4310–05–M

federal register

Thursday
February 13, 1986

Part V

Department of the Interior

Minerals Management Service

Outer Continental Shelf Lease Sale 91 in the Northern California Area; Call for Information and Nominations and Intent To Prepare Environmental Impact Statement; Notice

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE
Northern California
OCS Lease Sale 91
Call for Information and Nominations
and
Notice of Intent to Prepare an Environmental Impact Statement

CALL FOR INFORMATION AND NOMINATIONS

Purpose of Call for Information and Nominations

The purpose of the Call is to assist the Secretary of the Interior in carrying out his responsibilities under the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and regulations appearing at 30 CFR 256.23, with regard to proposed OCS Lease Sale 91 in the Northern California Planning Area tentatively scheduled for April 1988.

This early information gathering step is important for ensuring that all interests and concerns are communicated to the Department of the Interior (DOI) for future decision points in the leasing process. This Call does not indicate a preliminary decision to lease in the area described below.

Information submitted in response to this Call will be used for several purposes. First, responses will be used to identify the areas of potential for oil and gas development. Second, comments on possible environmental effects and use conflicts will be used in the analysis of environmental conditions in and near the Call area. Together these two considerations will allow a preliminary determination of the potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. Thus, it may be possible to make key decisions in connection with the next step in the planning process--Area Identification--to further resolve conflicts by deferring blocks where there is sufficient information to justify that action. However, the Area Identification represents only a preliminary step to select the area to be analyzed in the environmental impact statement (EIS). The Area Identification is scheduled for July 1986.

A third purpose for this Call is to use the comments collected to initiate scoping of the EIS, which will include public meetings, and to identify and analyze alternatives to the proposed action. A Notice of Intent to Prepare an EIS which covers scoping is located later in this document. Fourth, comments may be used in developing lease terms and conditions to assure safe offshore operations. Fifth, comments may be used to point out potential conflicts between offshore oil and gas activities, California coastal zone management policies as established by the California Coastal Act of 1976 (as amended December 1984), and approved local coastal plans.

Description of Area

The area of this Call is offshore Northern California from about 12 miles south of Point Arena north about 75 miles to Pt. Delgada, and from about 12 miles south of Eureka to about 15 miles north of Eureka. The area is shown in general on the map at the end of this Call, and in more detail on the Call map available free from the Regional Supervisor, Office of Leasing and Environment, Pacific Region, Minerals Management Service (MMS), 1340 West Sixth Street, Los Angeles, California 90017, telephone (213) 894-7107.

For the presale steps for this sale, we are using the proposed Northern California Planning Area since the sale, if held, would occur under the new 5-Year OCS Oil and Gas Leasing Program. If adopted, the proposed Northern California Planning Area would extend northward from the approximate seaward extension of the Sonoma-Mendocino County line northward to the California-Oregon border.

One Federal OCS sale was held in 1963 in this planning area. Only five leases were awarded in the area of this Call as a result of that sale. Three wells were drilled on those leases and hydrocarbons were encountered but were not considered to be economically recoverable. All five leases were relinquished in June 1967.

The Fiscal Year (FY) 1986 Continuing Resolution (Public Law 99-190) for DOI directs the Secretary of the Interior to make every effort during the balance of FY 1986 to resolve outstanding conflicts with respect to the future leasing of lands on the California OCS. The DOI will carefully address the issues and concerns raised by the 19-member congressional delegation during this planning and negotiation process. Presale activities such as this Call for Information and Nominations were, however, recognized and anticipated under the Statement of Managers Report relative to the FY 1986 Continuing Resolution. Public Notice is hereby provided that the congressional concerns will also be considered throughout the prelease decision process with a view to resolving underlying issues as the presale process continues.

The following list identifies the Official Protraction Diagrams and blocks comprising this Call area. The diagrams may be purchased for $2.00 each from the Regional Supervisor, Office of Leasing and Environment, Pacific Region, at the address given above.

NK 10-7, Crescent City (Approved November 5, 1976)

994-1001

NK 10-10, Eureka (Revised April 18, 1979)

27-34
71-77
115-121
159-164
203-208
247-251
291-295
335-338
1001-1003

NJ 10-1, Noyo Canyon (Approved November 2, 1976)

34-36	473-476
78-80	517-520
122-124	561-564
166-168	607-608
210-212	651-652
254-256	695-696
298-300	739-740
341-344	783-784
385-388	827-828
429-432	871-872
	916

NJ 10-2, Ukiah (Approved November 2, 1976)

1	529-532
45-46	573-576
89-90	617-620
133-135	661-664
177-179	705-708
221-223	749-752
265-268	793-797
309-312	837-841
353-356	881-885
397-400	925-930
441-445	970-974
485-488	

NJ 10-5, Santa Rosa (Approved November 2, 1976)

2-5
46-49
91-94
136-139
180-184

Instructions on Call

The Call map delineates the Call area. Respondents are requested to nominate any or all of the Federal blocks within the Call area that they wish to have included in Sale 91. Although the identities of those submitting nominations become a matter of public record, the individual indications of interest are considered to be proprietary and confidential information.

Those indicating such interest are required to do so on the Call map, available free from the Regional Supervisor, Office of Leasing and Environment, Pacific Region, at the address stated under "Description of Area." Interest should be shown by listing block numbers or outlining the area(s) of interest along block lines.

Companies may submit a detailed list of whole and partial blocks nominated (by OCS Official Protraction Diagram designations) to ensure correct interpretation of nominations.

Respondents should rank areas in which they have expressed interest according to priority of their interest (e.g., priority 1 (high), 2, or 3). If there are areas within the Call area for which respondents have no interest, no priority should be assigned to them. Areas where interest has been indicated but on which respondents have not specified priorities will be considered priority 3. The telephone number and name of a person to contact in the respondent's organization for additional information should be included. Information concerning both location and priority of interest submitted by individual companies will be held proprietary and will help determine the area upon which the EIS analysis will be focused. In addition to indications of interest by respondents, further consideration of areas for analysis in the EIS will be based on hydrocarbon potential and environmental, economic, and multiple-use (including military use) considerations.

Comments are sought from all interested parties about particular geologic, environmental, biological, archeological, or socioeconomic conditions or conflicts, or other information which might bear upon potential leasing and development of particular areas. Comments are also sought on potential conflicts that may result from the proposed sale between future oil and gas activities and the California Coastal Act and approved local coastal management plans. If possible, these comments should identify specific California coastal zone management policies, the nature of the conflicts foreseen, and steps that MMS can take to avoid or mitigate the potential conflict. Comments may either be in terms of broad areas or restricted to particular blocks of concern.

For this Call, the nomination and comment period is being extended. Nominations and comments must be received no later than 90 days following publication of this document in the Federal Register in envelopes labeled "Nominations for Northern California Sale 91" or "Comments on the Call for Information and Nominations for Northern California Sale 91," as appropriate.

The original Call map and indications of interest and/or comments must be submitted to the Regional Supervisor, Office of Leasing and Environment, Pacific Region, at the address stated under "Description of Area." Two copies of the Call map showing interest and any comments are also to be sent to the Chief, Offshore Leasing Management Division, U.S. Department of the Interior, MMS, Mail Stop 645, Room 2523, 18th and C Streets, N.W., Washington, D.C. 20240.

Tentative Schedule

Final delineation of the area for possible leasing will be made at a later date only after compliance with established departmental procedures and applicable laws, including all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and regulations (40 CFR 1501.7), and the OCSLA, as amended. If a decision to offer blocks is made, a final Notice of Sale will be published in the Federal Register detailing areas to be offered for competitive bidding, stating the terms and conditions for leasing, and announcing the location, date, and time bids will be received and opened.

The following is a list of tentative milestones which will precede this sale, proposed for April 1988.

Comments due on the Call	May 1986
Area Identification	July 1986
Draft EIS published	March 1987
Hearings on draft EIS held	April 1987
Final EIS published	October 1987
Proposed Notice of Sale issued	December 1987
Governor's Comments due on proposed Notice	February 1988
Final Notice of Sale published	March 1988
Sale	April 1988

Existing Information

Information already available for the Call area includes that gathered during the EIS process for the 5-Year Oil and Gas Leasing Program approved in 1982 and during the EIS process for Sales 53 and 73. Also available are results of past exploration in the area, including exploratory drilling which has occurred in the Eel River and Point Arena Basins, as a result of the 1963 Northern and Central California Lease Sale.

In addition, comments concerning past OCS actions previously received by the Department from State and local governments, other Federal Agencies, environmental groups, and the oil and gas industry will be considered.

The following is a list of other data available in the Department which have been used in making decisions on offshore Central and Northern California sales and will be available for decisions regarding Sale 91.

Pacific Region Summary Reports and Indexes

Summary Reports

Initial	May 1980
Revision	May 1982
Revision	December 1982
Revision	September 1983
Revision	July 1984
Revision	April 1985

Indexes

Initial	October 1980
Revision	June 1981
Revision	March 1983
Revision	October 1984

Summary Reports and Indexes are available for review at the Pacific Region (see address under "Description of Area"). Contact Ms. Frieda Star of that office at (213) 894-2062.

Copies of the reports and indexes may also be obtained from:

OCS Information Program
Office of Offshore Information Services
MMS, Mail Stop 640
12203 Sunrise Valley Drive
Reston, Va. 22091

The following technical and geologic reports are available for review at the Pacific Region:

Technical and Geologic Reports

1. Technical Monograph, Pacific OCS Lease Offering 1983, Northern and Central California, prepared by MMS.

2. Geologic Report for Proposed Central and Northern California Lease Offering, September 1985, prepared by MMS.

NORTHERN CALIFORNIA PLANNING AREA - COMPLETED ENVIRONMENTAL STUDIES

Air Quality

1. Air Quality Analysis in Relation to Potential OCS Oil and Gas Development off Central and Northern California. Environmental Resources Group. 1980.
2. Sale 73 and 80 Air Quality Modeling. Form and Substance, Inc. 1983.
3. Offshore Meteorological and Tracer Measurements in Central California Coastal Waters. U.S. Naval Postgraduate School. 1981.

Physical Oceanography and Meteorology

4. Climatology and Oceanographic Analysis of the California Pacific OCS Region. National Oceanic and Atmospheric Administration (NOAA). 1981.
5. California Meteorological Buoy Data Analysis. Aerocomp. 1981.
6. Establishment and Operation of a West Coast Buoy Network. NOAA. 1982, 1983, 1984, 1985.
7. Evaluation of Effluent Dispersion and Fate Models for OCS Platforms. Marine Biological Consultants. 1983.
8. Assessment of the Long-Term Fate and Effective Methods of Mitigation of California OCS Platform Particulate Discharges. Continental Shelf Associates, Inc. 1985.
9. Formation Water Dispersion Study. Dr. Tom Dickey, University of Southern California. 1980.

Marine Mammals and Seabirds

10. California Seabird Oil Spill Behavior Study. Nero and Associates. 1982.
11. Seabird Nesting and Seasonal Use Survey for the Central and Northern California Coastal Region. Fish & Wildlife Service (FWS). 1981.

Marine Ecology

12. Summary of Knowledge of Central and Northern California Coastal Zone and Offshore Areas. Winzler and Kelly. 1977.
13. Barium and Vanadium Methodology. Science Applications, Inc. 1977.
14. Ecological Characterization of Central and Northern California Coastal Region. Jones and Stokes Associates/FWS. 1981.

15. Central and Northern Coastal California Marine Habitats: Oil Residence and Biological Sensitivity Indices. Woodward and Clyde Consultants. 1982.
16. California Commercial and Sports Fish Oil Toxicity Study. Marine Biological Consultants. 1983.

Socioeconomics

17. Inventory and Evaluation of California Coastal Recreation and Aesthetic Resources. The Granville Corporation. 1981.
18. Mitigation of Sea Floor Conflicts Between Oil and Gas Pipelines and Commercial Trawl Fisheries. Centaur Associates, Inc. 1984.
19. Development of Baseline Data for Socioeconomic Characterization and Modeling in California as Related to Offshore Oil and Gas Activities. ECOS Management Criteria, Inc. 1985.

Environmental Hazards

20. Potential Geological Hazards to Oil and Gas Development in the Eel River Basin off Northern California and Coos Bay, Oregon. USGS. 1980.
21. Geological Hazards Assessment for Proposed Lease Sale No. 53; Central and Northern California. USGS. 1980.
22. California Geological Hazards Assessment for Proposed Lease Areas for OCS Sales 73 and 80. USGS. 1981.
23. Assessment of Earthquake Risk in Certain Areas of the United States OCS. USGS. 1977.

Program Support

24. Northern California Public Meeting. San Francisco State University. 1977.

Completed study reports are available for review at the Pacific Region at the address listed under "Instructions on Call" above and at many depositories throughout the State. Also, many reports may be purchased from the National Technical Information Service (NTIS). For a list of depositories or to obtain an NTIS phone number, please contact Ms. Ora Woods, Pacific Region, at (213) 894-6626.

NORTHERN CALIFORNIA PLANNING AREA - ACTIVE ENVIRONMENTAL STUDIES

Air Quality

1. Air Quality Modeling for OCS Lease Sales. Jacobs Engineering.

Physical Oceanography and Meteorology

2. California Shelf Physical Oceanography Circulation Model. Dynalysis of Princeton, Inc. Initiated October 1981 and continuing through July 1986.

3. Operation of a West Coast OCS Meteorological Buoy Monitoring Network. NOAA. Initiated 1981, continuing through 1986.
4. Central California Coastal Circulation Study. Raytheon Service Co. 1986.

Marine Mammal and Seabirds

5. Population Status of California Sea Otters. University of Minnesota. 1987.
6. Seabird Oil Toxicity Study. Nero & Associates, Inc. Initiated September 1981, continuing through February 1986.
7. Central and Northern California Marine Mammal and Seabird Study. University of California, Santa Cruz. Initiated September 1979, continuing through 1985.
8. California Seabird Ecology Study. University of California, Santa Cruz. Initiated September 1984, continuing through 1987.
9. Sea Otter Oil Spill Avoidance Study. Hubbs Marine Research Institute. 1987.
10. Sea Otter Oil Spill Mitigation Study. Hubbs Marine Research Institute. 1986.

Marine Ecology

11. Successional and Seasonal Variation of the Central and Northern California Rocky Intertidal Communities as Related to Natural and Man-Induced Disturbances. Kinnetic Laboratories, Inc. Initiated September 1983 and continuing through 1985.
12. Study of the Effects of Offshore Geophysical Acoustic Survey Operations on Important Commercial Fisheries in California. Battelle Memorial Institute. 1987.

Socioeconomics

13. Impacts of OCS Development on Recreation and Tourism. David M. Dornbush & Co., Inc. Initiated October 1984 and continuing through February 1986.
14. California OCS Fisheries Data Base. MBC Applied Environmental Sciences, Inc. 1987.

Program Support

15. Environmental Data Management System for the Pacific Region. Howard University. 1986.
16. Environmental Studies Information Transfer Meeting. MBC Applied Environmental Sciences, Inc. 1986.

NORTHERN CALIFORNIA PLANNING AREA - PLANNED ENVIRONMENTAL STUDIES
(TO BE AWARDED IN FY 1986)

These studies are briefly described in the Pacific OCS Environmental Studies Plan for FY 1986.

1. Northern California Coastal Circulation Study.
2. Coastal Wave Statistical Data Base.
3. Development of Baseline Data for Socioeconomic Modeling of California Coastal Counties.
4. Whale Behavior Relative to OCS Activity.
5. Operation of a West Coast OCS Meteorological Buoy Monitoring Network, Year VI.
6. Development of Baseline Data for Socioeconomic Modeling of California Coastal Counties.
7. Sensory Detection of Oil by Seabirds.

For further information on these studies, please contact Ms. Ora Woods, Pacific Region, at (213) 894-6626.

NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT

Purpose of Notice of Intent

Pursuant to the regulations implementing the procedural provision of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), the MMS is announcing its intent to prepare an EIS regarding the oil and gas leasing proposal known as Northern California OCS Lease Sale 91. The Notice of Intent also serves to announce the scoping process which will be followed for this EIS. Throughout the scoping process, Federal, State, and local governments and other interested parties aid the MMS in determining the significant issues and alternatives to be analyzed in the EIS. The public may present comments and recommendations at scoping meetings which will be held in appropriate locations for the purpose of obtaining additional comments and information regarding the scope of the EIS following a decision on Area Identification. In addition, comments and recommendations may be submitted in writing. The times and locations of these scoping meetings and the date scoping comments are due will be announced at a future date in the Federal Register and by press release.

The EIS analysis will focus on the potential environmental effects of leasing, exploration, and development of the blocks included in the area defined in the Area Identification procedure as the proposed area of the Federal action. Alternatives to the proposal which may be considered are to delay the sale, cancel the sale, or modify the sale.

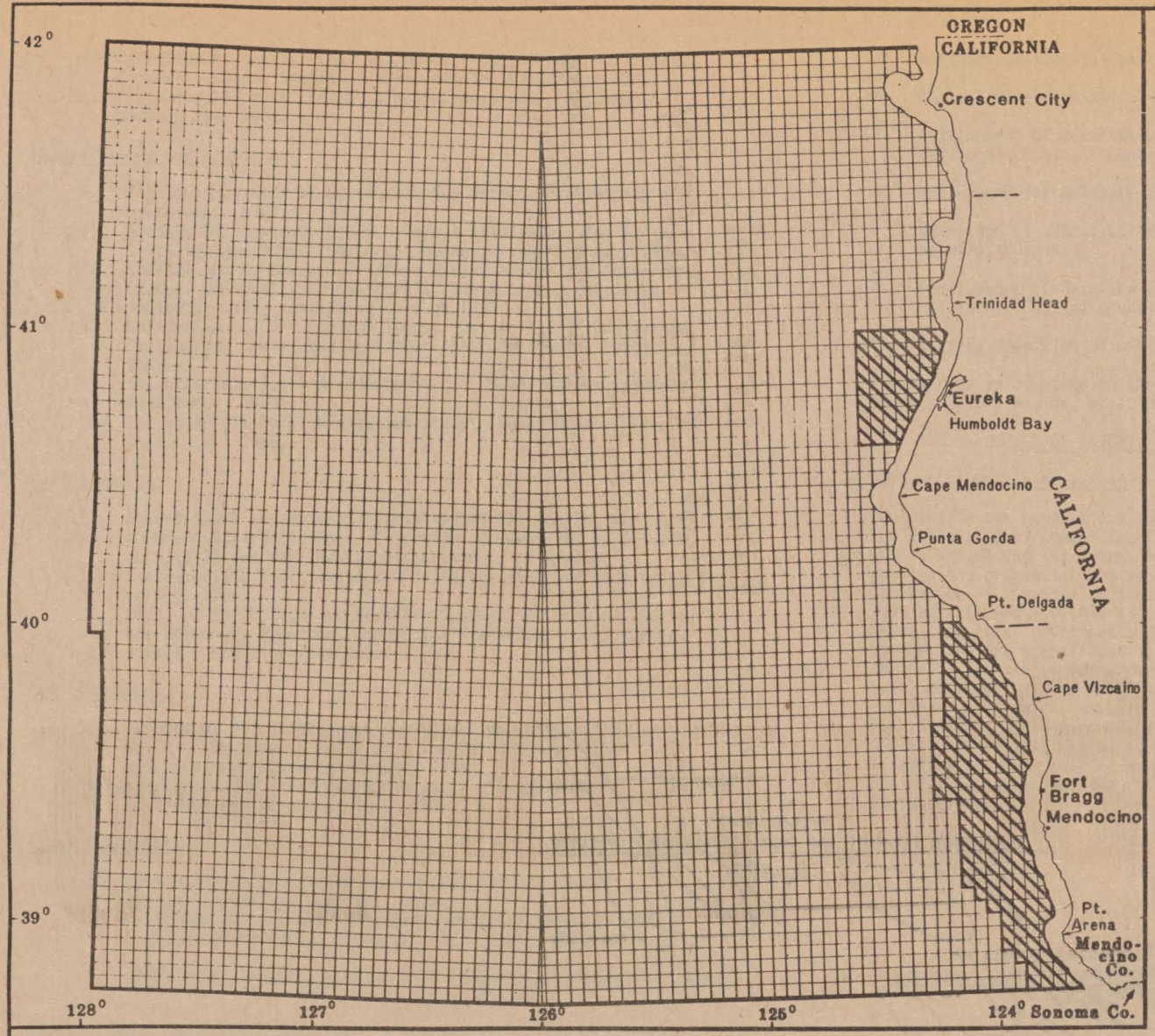
Director, Minerals Management Service
William D. Bettenberg

Approved:

Assistant Secretary - Land and Minerals Management
J. Steven Griles

Date: 2/10/86

86 FEB 12 AM 8 45

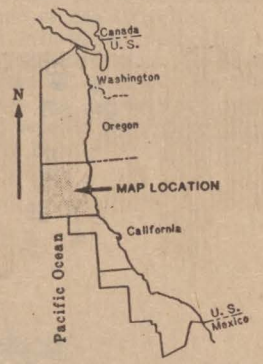


U. S. Department of the Interior
Minerals Management Service
Pacific OCS Region

PROPOSED
NORTHERN CALIFORNIA
PLANNING AREA

SALE 91
CALL FOR INFORMATION
& NOMINATIONS

CALL AREA



Maritime boundaries and planning area limits depicted on the map are for initial planning purposes only and do not prejudice or affect United States jurisdiction in anyway.

FEB 1986

[FR Doc. 86-3236 Filed 2-12-86; 8:45 am]
BILLING CODE 4310-MR-C

federal register

Thursday
February 13, 1986

Part VI

Environmental Protection Agency

40 CFR Part 52

State Implementation Plans for Visibility New Source Review and Monitoring Strategy; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL-2945-5]

State Implementation Plans for Visibility New Source Review and Monitoring Strategy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: In this action EPA is promulgating Federal regulations for visibility monitoring and visibility new source review (NSR) for Kentucky, New Mexico, and Tennessee. The EPA is also promulgating visibility NSR regulations in nonattainment areas for the State of Florida. The regulations were proposed for 34 States including these four at 49 FR 42670 on October 23, 1984. These four States submitted draft State implementation plan (SIP) revisions to incorporate provisions to meet the requirements for visibility monitoring and visibility NSR. However, the SIP revisions have not been adopted by the States. Therefore, EPA is promulgating Federal regulations for these States.

Today's action also corrects an error in listing the State of Vermont in a July 12, 1985, promulgation notice at 50 FR 28544.

EFFECTIVE DATES: This action will become effective on March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Janet C. Metsa, Control Programs Development Division (MD-15), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5540, FTS 629-5540.

ADDRESSES: Docket A-84-32 was established for this rulemaking and can be inspected Monday through Friday between 8:00 a.m. and 4:00 p.m. at EPA's Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

SUPPLEMENTARY INFORMATION:

Background

Section 169A of the Clean Air Act (Act), 42 U.S.C. 7491, requires visibility protection for mandatory Class I Federal areas where EPA has determined visibility is an important value. "Mandatory Class I Federal areas" are certain national parks, wilderness areas, and international parks as described in section 162(a) of the Act, 42 U.S.C. 7472(a). The mandatory Class I Federal areas where visibility is an important value are identified in EPA regulations at 40 CFR 81.400-437. Section 169A specifically requires EPA to promulgate regulations requiring certain States to amend their SIP's to provide visibility protection. On December 2, 1980, EPA promulgated the required visibility regulations at 45 FR 80084, codified at 40 CFR 51.300 et. seq. In December 1982, the Environmental Defense Fund (EDF) filed a citizen suit alleging that EPA failed to perform a nondiscretionary duty under section 110(e) of the Act to promulgate visibility SIP's for States that had failed to submit such SIP revisions to EPA. The EPA and EDF negotiated a settlement agreement for deficient States which the court approved on April 20, 1984.

The settlement agreement requires EPA to promulgate visibility SIP's on a specified schedule for those States that have not submitted visibility SIP revisions to EPA. (For more information on the settlement agreement, see 49 FR 20647 on May 16, 1984.) The EPA proposed SIP revisions for 34 States including Florida, Kentucky, Tennessee, and New Mexico on October 23, 1984, at 49 FR 42670. The EPA promulgated Federal regulations for a visibility monitoring strategy for 19 States and for visibility NSR for 16 States on July 12, 1985, at 50 FR 28544. Fifteen States, including three of the four, submitted draft or final SIP revisions designed to meet the visibility monitoring requirements of § 51.305. Eighteen States, including the above four, submitted draft or final SIP revisions designed to meet the visibility NSR requirements of § 51.307. The settlement agreement constrains EPA to approve the State submittals or to promulgate Federal programs by January 6, 1986. The EPA is publishing decisions on the submittals in separate notices. In today's action, EPA is promulgating Federal programs for Kentucky, Florida, New Mexico, and Tennessee because while they submitted draft revisions, they have yet to submit final SIP's.

Kentucky

On May 3, 1985, Kentucky submitted a draft visibility SIP to EPA for review. As yet, Kentucky has not submitted a final SIP to EPA. Therefore, EPA is promulgating the Federal visibility monitoring strategy (§ 52.26) and visibility NSR program (§§ 52.27 and 52.28) for Kentucky.

Kentucky has informed EPA that it is continuing to develop its own programs and plans to submit final provisions to EPA as early as February 1986. If Kentucky does submit a final SIP, and EPA approves it, that approval will supersede today's promulgation.

Florida

On September 23, 1985 Florida submitted final SIP revisions to EPA. Florida's submittal included revisions to its prevention of significant deterioration (PSD) and nonattainment NSR programs designed to meet the Federal visibility NSR requirements of § 51.307. (The EPA promulgated the Federal visibility monitoring strategy for Florida on July 12, 1985, at 50 FR 28544.) The EPA found the revisions to Florida's PSD program adequate to meet the requirements of § 51.307(a) and has approved them in a separate notice. Florida's entire NSR program for nonattainment areas, Rule 17-2.510, was submitted December 23, 1981, and December 23, 1982, and has never been approved by EPA. The EPA requested the State to submit additional information and is waiting for that submittal before taking action. Therefore, EPA cannot approve the revisions to Rule 17-2.510 designed to meet § 51.307(b). The EPA is promulgating the Federal visibility NSR program for nonattainment areas (§ 52.28) for Florida. When EPA approves Florida's entire NSR program, including the provisions to meet § 51.307(b), that action will supersede today's promulgation.

New Mexico

In December 1984 and January 1985, New Mexico submitted a draft visibility SIP but subsequently withdrew the submittals. Therefore, EPA is promulgating the Federal visibility monitoring strategy (§ 52.26) and the appropriate visibility NSR programs (§ 52.21 and 52.28) for the State.

Recently New Mexico submitted SIP revisions designed to meet the PSD requirements of § 51.24 and NSR requirements of § 51.18. The State has sought to incorporate the visibility NSR requirements of § 51.307 in these revisions. The EPA is currently reviewing the submittals. If New Mexico's PSD and NSR programs are ultimately approved, that action will supersede today's promulgation.

Tennessee

On March 29, 1985 Tennessee submitted monitoring and NSR SIP. The EPA has reviewed the visibility monitoring plan and preliminarily determined that it could not approve it until the State submitted additional information on obtaining and using the monitoring data. The State has agreed to provide the information but as yet has not done so. Therefore, EPA is promulgating the Federal visibility monitoring strategy (§ 52.26) for

Tennessee. When the State submits the additional details, the EPA will review the submittal and, if it approves the submittal, that approval will supersede today's promulgation.

Tennessee also submitted NSR revisions designed to meet the requirements in § 51.307. Although the rule changes have been adopted by the State, they have not yet been made effective by the Secretary of State. The EPA is, therefore, promulgating the appropriate Federal visibility NSR programs (§§ 52.27 and 52.28) for Tennessee. Again, when the NSR provisions become enforceable in Tennessee, and are formally submitted as revision to the SIP, EPA will review them. If EPA approves the submittal, that action will supersede today's promulgation.

Comments

The EPA took comment on the proposed disapprovals and Federal programs in the fall of 1984. These comments can be obtained through Docket A–84–32 at the address given in the beginning of this notice. All major issues raised during the comment period were addressed in the promulgation notice of July 12, 1985, at 50 FR 28544. No comments were submitted that were specific to these four States.

Correction for the State of Vermont

The section on visibility protection for the State of Vermont was incorrectly listed as 52.2382 in revisions to the Code of Federal Regulations in the July 12, 1985, promulgation notice at 50 FR 28544. The correct listing is 52.2383. Today's notice corrects this error.

Classification

The Administrator certifies pursuant to the provisions of 5 U.S.C. 605(b) that the attached rules will not have a major impact on a substantial number of small entities.

The rules promulgated today do not contain any information collection requirements subject to Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1980, U.S.C. 3501 et. seq.

The rules have been submitted to OMB for review under Executive Order 12291. Any written comments from that office have been placed in Docket A–84–32.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxides, Nitrogen dioxide, Lead, Particulate matter, Hydrocarbons, Carbon monoxide, Incorporation by reference.

Dated: February 3, 1986.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

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

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.936 (Kentucky) is added to read as follows:

§ 52.936 Visibility protection.

(a) The requirements of section 169A of the Clean Air Act are not met because the plan does not include approvable procedures meeting the requirements of 40 CFR 51.305 and 51.307 for protection of visibility in mandatory Class I Federal areas.

(b) Regulations for visibility monitoring and new source review. The provisions of §§ 52.26, 52.27, and 52.28 are hereby incorporated and made part of the applicable plan for the State of Kentucky.

3. Section 52.2234 (Tennessee) is added to read as follows:

§ 52.2234 Visibility protection.

(a) The requirements of section 169A of the Clean Air Act are not met because the plan does not include approvable procedures meeting the requirements of 40 CFR 51.305 and 51.307 for protection of visibility in mandatory Class I Federal areas.

(b) Regulations for visibility monitoring and new source review. The provisions of §§ 52.26, 52.27, and 52.28 are hereby incorporated and made part of the applicable plan for the State of Tennessee.

4. Section 52.1636 (New Mexico) is added to read as follows:

§ 52.1636 Visibility protection.

(a) The requirements of section 169A of the Clean Air Act are not met because the plan does not include approvable procedures meeting the requirements of 40 CFR 51.305 and 51.307 for protection of visibility in mandatory Class I Federal areas.

(b) Regulations for visibility monitoring and new source review. The provisions of §§ 52.21, 52.27, and 52.28 are hereby incorporated and made part of the applicable plan for the State of New Mexico.

5. Section 52.2383 (Vermont) is revised to read as follows:

§ 52.2383 Visibility protection.

(a) The requirements of section 169A of the Clean Air Act are not met because the plan does not include approvable procedures meeting the requirements of 40 CFR 51.305 and 51.307 for protection of visibility in mandatory Class I Federal areas.

(b) Regulations for visibility monitoring and new source review. The provisions of §§ 52.26 and § 52.27 are hereby incorporated and made part of the applicable plan for the State of Vermont.

6. Section 52.534 (Florida) is revised to read as follows:

§ 52.534 Visibility protection.

(a) The requirements of section 169A of the Clean Air Act are not met because the plan does not include approvable procedures meeting the requirements of 40 CFR 51.305 and 51.307 for protection of visibility in mandatory Class I Federal areas.

(b) Regulations for visibility new source review. The provisions of § 52.28 are hereby incorporated and made part of the applicable plan for the State of Florida.

[FR Doc. 86–3179 Filed 2–12–86; 8:45 am]

BILLING CODE 6560–50–M

federal register

Thursday
February 13, 1986

Part VII

Department of Energy

Office of Fossil Energy

Solicitation of Statements of Interest; Prospective Offer To Sell the Great Plains Coal Gasification Facility in Mercer County, North Dakota, in the Event the Secretary Pursues a Proposed Sale; Notice

DEPARTMENT OF ENERGY

Office of Fossil Energy

Solicitation of Statements of Interest; Information Regarding the Prospective Offer To Sell the Great Plains Coal Gasification Facility Located in Mercer County, North Dakota, in the Event That the Secretary Pursues a Proposed Sale of the Facility

AGENCY: Office of Fossil Energy; Department of Energy.

ACTION: Solicitation of Statements of Interest to Assist the Office of Fossil Energy to Identify and Qualify Prospective Offerors for a Proposed Purchase of the Great Plains Coal Gasification Facility Located in Mercer County, North Dakota.

SUMMARY:

Introduction

The United States Department of Energy (DOE), Office of Fossil Energy (FE), is issuing this announcement pursuant to its authority under the Federal NonNuclear Energy Research and Development Act of 1974 (Act), Pub. L. 93–577, as amended by section 207 of Title II of Pub. L. 95–238, as amended. On January 29, 1982, acting under authority of the Act, the DOE entered into a loan guarantee agreement in the principal amount of $2,020,000,000 with the Great Plains Coal Gasification Associates (GPGA) in connection with a coal gasification facility to be constructed in Mercer County, North Dakota. GPGA has constructed and operated a 125 million standard cubic feet/day (mmscf/d) gasification facility at that location until August 1, 1985. On that date, GPGA defaulted on the repayment of the guaranteed notes. DOE has paid to the Federal Financing Bank the amount equal to the outstanding principal and interest of $1,571,500,000. It is the intention of the Secretary to utilize the proceeds of the sale of the facility to recover as much as possible of the principal and interest which has been paid.

The Act provides that if the borrower of indebtedness guaranteed by DOE fails to make principal and interest payments, as a result of which DOE is required to pay the indebtedness pursuant to its guarantee, DOE, through its security interest in the project's assets, may recover from those assets to the extent of their value any payments made by DOE pursuant to the guarantee. In addition, because a default(s) has occurred, DOE has the right to complete, operate or dispose of the facility and all its assets. While DOE has elected to operate the facility since August 1985, such operations may only continue so long as revenues exceed expenses.

The Secretary of Energy (Secretary), wishes to take action to sell the project to an appropriate buyer(s) who would be bound by the Gas Purchase Agreements (as described elsewhere herein) and would make a good faith effort to keep the project in operation for the duration of the Gas Purchase Agreements. Therefore, DOE has elected to identify qualified sources who, through the purchase of the facility and its assets, can obtain economic benefit from the ownership and long-term operation of a technologically advanced coal gasification facility. The facility consists of real and personal property, tangible and intangible, including, but is not limited to, the gasification complex, including all real and personal property, certain pieces of mining equipment (e.g., draglines), excess real estate, improved and unimproved, located in the town of Beulah and elsewhere, and a large semipermanent construction worker camp made up of modular units. No coal resource is subject to this announcement. DOE holds a first lien in all of the real and personal, tangible and intangible, property owned by GPGA. All of the real property is located in Mercer County, North Dakota. DOE has not yet obtained title to the property but has prevailed in a suit to foreclose its mortgage and security interest in the project. DOE may sell its first lien interest in the project or title to the project after the foreclosure sale.

It should be emphasized that DOE is not with this announcement soliciting proposals for the purchase of the facility. DOE expects to analyze Statements of Interest which are submitted in response to this notice with the intent of using these in the DOE's deliberations to determine the most appropriate means to secure a viable owner of the Great Plains Gasification Project (Project) in order to recover as much as possible of the principal and interest which has been paid pursuant to DOE's guarantee and to continue, for a sustained period of time, the operation of the gasification plant to produce substitute natural gas (SNG) and other product slates for sale in the marketplace.

Objective

The objective of this announcement is to request Statements of Interest and Information Proposals from the public and private sector, for expressions of interest and information regarding acquisition of the project for the principal purposes (1) repayment to DOE of funds expended pursuant to the guarantee and (2) sustained operation of the facility in Beulah, North Dakota, to produce and sell SNG, as well as marketable co- and by-products in the marketplace.

It is DOE's intent to review and analyze all submissions, provide a summary of such activities to the Secretary and, utilizing input contained in the Statements of Interest and Information Proposals, consider which one of several options to dispose of the facility would be the most appropriate and advantageous. DOE cannot reimburse respondents for any expenses that they may incur in responding to this announcement.

Plant Description

The Project represents the first major commercial coal gasification plant constructed in the United States for the production of SNG. The SNG production process is based on Lurgi Coal Gasification technology. Fourteen Lurgi Mark VI moving bed, dry bottom gasifiers are included in the plant. Additional Lurgi Units in the plant are Gas Cooling, Shift Conversion, Rectisol, Methanation, Gas Liquor Separation and Phenosolvan. A small methanol plant is also included to provide makeup methanol to the Rectisol Unit. Other licensed processes included USS Engineers & Consultants' Phosam-W Ammonia Recovery Process and R. M. Parsons' Stretford Sulfur Recovery Process.

In addition to the process units, various utility and support units comprise the balance of the plant. These units include Coal Handling, Ash Handling, Oxygen Plant, Boiler Plant, Superheaters, Primary Water Treatment, Cooling Water System, Wastewater Treatment, Liquid Storage, Flare and Potable Water.

Plant Location

The site of the coal gasification complex is approximately 90 miles northwest of Bismarck, North Dakota, in a multistate region generally known as the Northern Great Plains. Within North Dakota, the plant and mine lie entirely within Mercer County, 7 miles south of Lake Sakakawea, a large reservoir formed by Garrison Reservoir on the Missouri River. The Fort Berthold Indian Reservation is located 9 miles to the northwest. Straighline distances to North Dakota cities are: 65 miles SE to Bismarck, 65 miles NNE to Minot, 58 miles SW to Dickinson, and 100 miles NW to Williston. Local municipalities nearby include: Beulah, 7 miles SSE; Hazen, 11 miles SE; and Zap, 7 miles SSW.

Land Requirements

The site for the coal gasification complex includes both the plant site and the mine site. Land acquired for the Project consists of 1,127 acres. of the acreage, about 535 acres are occupied by the Project's buildings, process equipment, and coal storage. The remainder of the Project's property (about 592 acres) was used for construction laydown or as areas to deposit overburden from the initial mining cuts. Any property unused is left for future development.

In addition to the plant site proper, a railroad spur was extended 9 miles from an existing Burlington Northern railroad spur near Hazen to the plant. About 6.2 miles of new roads were built near the plant and mine. An underground water pipeline, 7.6 miles in length, was construction from Lake Sakakawea southward to the plant site. The product pipeline (24 inches in diameter) extending 32 miles SSE from the plant site connects into the existing 365-mile long Northern Border Pipeline, near Elen Ullin. The SNG mixes with large volume natural gas carried in the Northern Border Pipeline and pumped SE into North Central Iowa.

The mine site consists of four areas within close proximity of the plant. The mines and future coal resources are not included as part of the contemplated sale action. Three areas are located adjacent to the plant site and one is located about 5 miles NE. Approximately 500 acres per year are scheduled to be mined, totaling about 12,500 acres during the first 25 years of mine operation. The mining plan allows the majority of land within the mine area to remain in its current use until mining reaches each segment. Reclamation will commence as soon as mining of each segment is completed.

The identification of what property may be sold and what property may be made available for use by a purchaser of the plant is available in the public reading rooms referred to later herein.

Coal Resources

The estimated size of the coal reserves near the plant site is about 1.5 billion tons (947 million currently recoverable tons). All of the coal to be mined for the proposed project could come from private coal leases held by Coteau Properties Company or the Meridian Minerals Company. However, the Federal Government has retained extensive coal rights in the area and, at some future date, some of these rights could be obtained by Coteau Properties Company or the plant owner for use by the project, subject to appropriate laws and regulations.

Product Slate

Substitute Natural Gas (SNG)

The main product of the Project is NG of sufficient quality to make it suitable for use in place of, or mixed with, natural gas.

The plant design capacity is 137.5 mmscf/d SNG on a stream day basis. The average production, which is guaranteed by Lurgi based on a 0.91 onstream factor, is 125 mmscf/d on a calendar day basis. The 0.91 onstream factor takes into account the planned and unplanned production interruptions. Heating value guarantee is 970 Btu/scf minimum.

Other Products

Sulfur

Sulfur is a product of the Stretford Unit. The H_2S content of the waste gas is converted to a saleable molten sulfur. The expected production is 93 long tons per stream day or 84.6 long tons per calendar day. Specific gravity is 1.8 and weight percent purity is 99.8%.

Ammonia

Ammonia is a product of the Phosam-W Unit. The ammonia from the gasification process wastewater is recovered and upgraded to anhydrous ammonia. The expected production is 92.4 tons per stream day and 84.0 tons per calendar day. The quality is agricultural grade containing not less than 99.5 weight percent NH_3.

Carbon Dioxide

The treated waste gas from the Stretford Unit can be considered as a saleable product. In the present design, the treated waste gas is consumed as a fuel by burning in the boilers. As an alternative, the treated waste gas, after drying and compressing (units not included in the present plant design) could be sold as CO_2 primarily for tertiary oil recovery. Approximately 8 mmscf/h (11,000 tons/stream day) could be available containing approximately 98.5 volume percent of CO_2.

Operations

Information regarding the operating history and associated costs of the facility are available in the public reading rooms referred to later herein.

Environmental Permitting Status

A total of 48 Federal, state and local permits have been issued to the operators of the facility to ensure compliance with appropriate regulations. A listing of all permits and status of such permits is included in documents which are presently available in the public reading rooms identified herein.

Statements of Interest and Informational Proposals

Statements of Interest and Informational Proposals submitted under this announcement shall be limited to a total of fifty (50) 8½"×11" double-spaced pages and shall include:

(1) The proposed ownership of the facility.

(2) A description of the financial structuring of the project including the identification of lenders and/or investors or other sources of capital (and the form of the capital) together with evidence of a commitment, if such commitment is available, from these sources and an evidence of the financial ability of each to honor its prospective commitment.

(3) Information regarding the management experience of the submitting organization and the experience of each officer or key person in the submitting organization who will be associated with the project.

(4) A general description of the submitting organization's management concept and business plan or plan of operations to be employed in carrying out the business of the facility, including, to the extent possible, the methodology to be used for securing contracts for sale of products and by-products.

(5) A statement of the project economics which identifies the assumptions used.

(6) Any other options, alternatives, etc., which the submitter believes the Secretary might wish to consider in assessing his options, or for consideration in the evaluation of various sale methodologies which are available to DOE.

(7) Specified period of time during which submitter would commit to operate the facility.

(8) A description of the plan to carry out the business of the project by the use of environmentally acceptable processes in such manner as to comply with any applicable environmental protection and pollution control requirements.

(9) A statement of the estimated time that it would take the submitting organization to prepare a formal proposal under a competition to purchase the facility should the DOE seek an owner by the process of a competitive sale.

(10) A brief history of the existing organization and the impact of the facility acquisition.

(11) The company's audited financial statements for the previous three (3) years and unaudited financial statements for such "stub" periods as are less than an audit year.

(12) The current balance sheet dated within the last 90 days.

(13) A description of the submitting organization's plans for supplying adequate working capital.

(14) Identification of those contracts and agreements (available in the reading rooms referred to later herein) that would be deemed necessary to the successful operations of the plant under the submitter's proposed plan for purchase and continued operation of the facility.

The limitation of submission length does not include or restrict appendices or other such supplementary material or attachments.

Qualifications

No restrictions are placed with respect to ownership. DOE seeks Statements of Interest from qualified submitters from either the public or private sector.

Qualifications that are required of all submitters are:

1. The submitter must commit to operate the facility in Beulah, North Dakota, and make a good faith effort to keep the project in operation for the duration of the Gas Purchase Agreements. The DOE will not provide any additional financial assistance to the project.

2. The submitter must be able to meet the qualifications set by the licensors of proprietary process equipment utilized at the plant.

Proprietary Information

License rights to certain proprietary data which was utilized, embodied or generated in the project and which may be necessary for the continued operation of the facility will be transferable to the awardee after selection upon realization by the Secretary of the security under the Mortgage, subject to the requirements of the applicable licenses or contracts under which the data were obtained. In the case of Lurgi Kohl and Mineraloeltechnik Gmbh, USS Engineers and Consultants, Inc., and the Ralph M. Parsons Company, the applicable license agreements require, as a minimum, that any successor licensee be a financially responsible nongovernmental person who is not engaged in the design or development of technology having features similar to the licensor proprietary data nor engaged in the construction of plants using a similar technology or, if so engaged, the person must be a licensee or the owner of the proprietary technology. The awardee may not be able to obtain a license under or access to the proprietary data of these licensors unless these conditions are met. Copies of the license and contract documents containing these requirements are available in the reading rooms referred to later herein. The available data and terms relating thereto are to be determined solely by reference to these documents. DOE makes no warranty with respect to infringement of patents or proprietary rights of any person.

If prospective respondents are providing, as part of their Information Proposal certain data containing trade secrets or commercial or financial information that is privileged or confidential and which the respondent does not want disclosed to the public or used by the Government for any purpose other than proposal evaluation, the respondent should place the following notice on the Information Proposal:

Notice

The data contained in pages —— of this Statement of Interest have been submitted in confidence and contain trade secrets or commercial of financial information that is confidential or privileged, and such data should be used or disclosed only for evaluation purposes, provided that if an agreement is entered into as a result of or in connection with the submission of this Statement of Interest, the Government shall have the right to use or disclose the data herein to the extent provided in such agreement. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the respondent.

Reference to this notice should be placed on each page to which the notice applies.

Current Litigation

DOE has sued in federal court in North Dakota to foreclose its mortgage and security interest in the project. DOE also sought a declaration that the four Gas Purchase Agreements are valid and enforceable. On January 14, 1986, the federal district court held that the four Gas Purchase Agreements are valid and enforceable, and that the gas purchasers must pay the price stipulated in the Gas Purchase Agreements. The court also held that DOE is entitled to foreclose its security interest in the mortgaged property. A judicial foreclosure sale will be held in the near future. Other litigation may be pending.

Information Sources

Additional detailed information on design, process, process areas and plant systems, and other documents and reports associated with the Project may be found in microfiche at the following DOE Public Reading Room locations:

Public Reading Room, U.S. Department of Energy, Forrestal Building, 1000 Independence Ave., SW., Washington, DC
Public Reading Room, U.S. Department of Energy, San Francisco Operations Office, Oakland, California
Public Reading Room, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois

Documents Available for Review

The following are the types of documents and reports that are available in the listed DOE Public Reading Rooms:

GPGA Project Management Plans
The Loan Guarantee Agreement (Including Gas Purchase Agreement)
Financial Analysis and Economic Feasibility
DOE's Great Plains Monitoring Plans
GPGA Monthly Progress Reports
GPGA Quarterly Technical Progress Reports
GPGA Quarterly Environmental Progress Reports
DOE Monthly GPGP Progress Reports
Environmental Assessments and Impact Statements
Socioeconomic Impact Reports
Technical Feasibility Studies
GAO Reports to Congress
Advisory Committee on Federal Assistance for Alternative Fuels Demonstration Facilities Reports
Public Design Report
Current Financial Cost/Revenue Statements
Schedule 3.19 Contracts
Comprehensive Property Listing (available after February 20, 1986).

Title listings of other documentation pertaining to the Great Plains Coal Gasification Project and/or the gasification technology may be found in issues of the following publications, which are generally available in libraries:

Fossil Energy Update;
Coal-Based Synfuels;
Energy Research Abstracts;
Government Reports Announcements and Index;
Scientific and Technical Abstract Reports; and
NTIS–PR–360

NTIS–PR–360 is available from the:

National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22061

Assistance in locating reports may also be obtained by contacting the:

Technical Information Division, Office of Scientific and Technical Information, U.S.

Department of Energy, P.O. Box 62, Oak Ridge, Tennessee 37831

Number of Copies Required and Marking of Submission

Each submission should be provided in one (1) original and eight (8) copies, and should clearly identify itself as a submission under this announcement by carrying the following legend on its face page:

This submission is provided in response to the DOE Program Announcement for Information Regarding the Prospective Offer to Sell the Great Plains Coal Gasification Facility Located in Mercer County, North Dakota.

Submission Preparation Costs

The Department is under no obligation to pay for any costs associated with the preparation of Statements of Interest or Informational Proposals.

Date

The deadline date for receipt of submissions at the addresses identified below is 3:30 p.m., e.s.t., on April 4, 1986.

Hand-delivered submissions should be brought Monday through Friday, except Federal holidays, between the hours of 8:30 a.m. to 3:30 p.m., e.s.t., to: U.S. Department of Energy, North Lobby, 1000 Independence Ave., SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

(As to legal matters):

U.S. Department of Energy, Mail Stop GC–43, 1000 Independence Avenue, SW., Washington, DC 20585. ATTN: Lawrence R. Oliver, Acting Assistant General Counsel for Procurement and Financial Incentives.

(As to Contracting Officer matters):

U.S. Department of Energy, Mail Stop MA–454, 1000 Independence Avenue, SW., Washington, DC 20585. ATTN: Stephen J. Michelsen, Contracting Officer (202) 252–5655.

Issued in Washington, DC, February 10, 1986.

Donald L. Bauer,

Acting Assistant Secretary, Fossil Energy.

[FR Doc. 3271 Filed 2–12–86; 8:45 am]

BILLING CODE 6450-01-M

Reader Aids

Federal Register

Vol. 51, No. 30

Thursday, February 13, 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, FEBRUARY

4131-4286.....3
4287-4474.....4
4475-4584.....5
4585-4700.....6
4701-4886.....7
4887-5028.....10
5029-5144.....11
5145-5304.....12
5305-5512.....13

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

326.....4566

3 CFR

Executive Orders:
12546.....4475
11920.....5029
12547.....5029

Proclamations:
5437.....4287
5438.....4289
5439.....5033
5440.....5305
5441.....5307

Administrative Orders:
Orders:
February 1, 1986.....4291
Presidential Determinations:
No. 86-5 of January 16, 1986.....4701

5 CFR

Ch. XIV.....4131
1411.....4566
1701.....4566

7 CFR

51.....4293
54.....5145
226.....4293
400.....5147
403.....5309
404.....5309
408.....5309
409.....5309
411.....5309
413.....5309
420.....4131
421.....4131
424.....4131
425.....4131
430.....5149
431.....4131
432.....4131
434.....5154
436.....5154
439.....5309
907.....5035
987.....4477
991.....4887
1464.....4703
1472.....5158
1822.....4132
1872.....4132
1900.....4132
1903.....4132
1924.....4132
1927.....4132
1943.....4132
1945.....4132
1951.....4132
1955.....4132
1962.....4132
1965.....4132

Proposed Rules:
52.....4605
250.....4370
252.....4370
417.....5341
444.....5345
445.....5341
449.....5356
905.....5361
913.....5361
985.....4373
1006.....4374, 5363
1007.....4374, 5363
1011.....4374, 5363
1012.....4374, 5363
1013.....4374, 5363
1030.....4374
1032.....4374
1033.....4374
1036.....4374
1040.....4374
1046.....4374, 5363
1049.....4374
1050.....4374
1064.....4374
1065.....4374
1068.....4374
1076.....4374
1079.....4374
1093.....4374, 5363
1094.....4374, 5363
1096.....4374, 5363
1097.....4374
1098.....4374, 5363
1099.....4374, 5363
1102.....4374
1106.....4374
1108.....4374
1120.....4374
1124.....4374
1125.....4374
1126.....4374
1131.....4374
1132.....4374
1134.....4374
1135.....4374, 5199
1136.....4374, 5070, 5367
1137.....4374
1138.....4374
1139.....4374, 5070, 5368

8 CFR

238.....4158

Proposed Rules:
245.....5369

9 CFR

78.....4478, 5309

92 4479
327 4585

10 CFR

436 4586
600 4296
1040 4566
1535 4566
Proposed Rules:
50 5086
904 4376

12 CFR

11 ..... 4887, 4889
410 4566
614 4891
615 4891
795 4158
Proposed Rules:
18 4504
329 4376

13 CFR

101 4703
115 4297

14 CFR

39 ..... 4298–4304, 4586, 4588, 4892, 5159, 5311
71 ..... 4589, 4705, 4872, 4893, 5161, 5312–5314
91 4894
95 4705
97 4158
Proposed Rules:
Ch. I 4382
27 4504
29 4504
39 ..... 4383–4385, 4607, 4609, 4929, 5203, 5204
71 ..... 4610, 4611, 4930
99 4756

15 CFR

13 5161
2007 5035

16 CFR

13 4894
1033 4566
Proposed Rules:
13 4758
703 5205

17 CFR

15 4712
16 4712
17 4712
18 4712
21 4712
200 ..... 4305, 5314
202 4160
Proposed Rules:
240 4612
270 4386

18 CFR

45 4900
271 ..... 4306, 4905
381 4310
Proposed Rules:
271 4930
410 5369
430 5369

19 CFR

6 4161
10 4163
18 5040
24 5040
112 5040
113 5040
141 5040
144 5040
146 5040
178 ..... 4721, 5040
191 5040
201 4566
Proposed Rules:
12 4760
101 4172
201 5087
210 5087

20 CFR

404 4480
701 4270
702 4270
703 4270
Proposed Rules:
629 4762

21 CFR

2 4590
173 5315
175 ..... 4312, 5316
177 4165
178 5316
520 4165
540 ..... 4483, 4484, 5317, 5318
558 5162
1301 5319
1302 5319
1303 5319
1304 5319
1305 5319
1306 5319
1307 5319
1308 ..... 4722, 5319
1311 5319
1312 5319
1316 5319
Proposed Rules:
Ch. I 4505
101 4931
163 4391
172 ..... 4173, 4177
175 ..... 4173, 4177
176 ..... 4173, 4177
177 ..... 4173, 4177
179 ..... 4173, 4177
181 ..... 4173, 4177
606 4763
610 4763
640 4763
700 4931
870 5296
880 4188
1308 ..... 4763, 5370

22 CFR

219 4566
607 4566
1103 4566
1304 4566

24 CFR

201 5068

26 CFR

1 ..... 4312, 5163, 5320, 5322
20 ..... 4312, 5322
25 5322
54 4312
301 4312
602 ..... 4312, 5163, 5322
Proposed Rules:
1 ..... 4391, 5208
20 4391
54 4391
301 4391
602 4391

27 CFR

4 4338
5 4338
7 4338
9 5323
Proposed Rules:
4 ..... 4392, 5372
5 4396
19 4396

28 CFR

Proposed Rules:
16 ..... 4614, 4764

29 CFR

Proposed Rules:
1910 5090
2619 4484

30 CFR

887 5490
906 4485
916 4724
Proposed Rules:
7 4688
18 4688
202 4507
203 4507
206 4507
212 4507
733 4396
935 ..... 4188, 4765, 5373
938 4766

31 CFR

Proposed Rules:
210 4508

32 CFR

251 4732
Proposed Rules:
249 5210

33 CFR

89 4591
100 4592
110 4592
117 5325
146 4338
165 ..... 4906, 4907, 5325
166 4593
175 4338
181 4338
334 4907
401 4340
Proposed Rules:
100 4931
117 4933
151 4768
154 4768
155 4768
166 4615

34 CFR

223 4497
251 4733
690 4472
Proposed Rules:
674 5483

36 CFR

7 4734
406 4566

38 CFR

3 4341
36 4596
Proposed Rules:
13 4774

39 CFR

265 5326
3000 5068
Proposed Rules:
111 4189
265 5374

40 CFR

52 ..... 4908, 4910, 4912, 4916, 5504
60 4343
61 4343
81 4917
141 4165
180 4498
261 5327
271 5327
799 4736
Proposed Rules:
Ch. I 5091
52 ..... 4934, 5092, 5093
60 5212
65 ..... 4617, 5094
141 4618
146 4775
153 4513
166 4513
180 4514
260 5095
261 ..... 5095, 5472
266 5095
270 5095
271 5095
501 4458
796 4397
797 4397
799 ..... 4397, 5376

41 CFR

Proposed Rules:
Ch. 101 4619

42 CFR

412 4166
Proposed Rules:
405 4619

43 CFR

2 5197
3110 5331
Proposed Rules:
11 ..... 4397, 5376
6613 5197

44 CFR

65 ..... 4345, 4346
67 4347
Proposed Rules:
67 4398

45 CFR

1175.....4566
1181.....4566
1706.....4566

Proposed Rules:

1625.....4882

46 CFR

25.....4349
35.....4349
78.....4349
97.....4349
108.....4349
160.....4349
167.....4349
196.....4349
308.....4352

Proposed Rules:

25.....4620
58.....4620, 5377
147.....4620
160.....4401, 5377
184.....4620
282.....4627
381.....5012
383.....5012

47 CFR

Ch. I.....4918
1.....4596
2.....4166, 4352
15.....4362
22.....4167
43.....4736, 4749
65.....4596
73.....4168, 4169, 4352, 4499, 4500, 4750, 4925, 4926
74.....4599
90.....4352
94.....4596

Proposed Rules:

73.....4190–4199, 4515–4521, 4935, 4936, 4938, 4939, 4940, 4942, 4943
74.....4523
81.....4525
95.....5212

48 CFR

222.....4501
252.....4501
501.....5331
522.....4366
533.....5331
536.....5331
552.....4366, 5335
1822.....4502
1852.....4502

49 CFR

175.....4368
571.....5335
807.....4566
1175.....4927
1180.....4928

Proposed Rules:

172.....4405
173.....4405
584.....5383
1004.....4944
1057.....4944

50 CFR

550.....4566
611.....4603, 5198
671.....4170, 4369, 4603, 4753, 4754
672.....4603, 5198

Proposed Rules:

14.....4945
17.....5384
18.....5214
21.....4775
649.....4640
652.....5384
654.....4527
655.....4777

LIST OF PUBLIC LAWS

Last List February 12, 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.J. Res. 520/Pub. L. 99–243

Making an urgent supplemental appropriation for the fiscal year ending September 30, 1986, for the Department of Agriculture. (Feb. 10, 1986; 100 Stat. 5; 1 page) Price: $1.00

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 185 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued. Or, the previous year's full set may be purchased at a reduced price and mailed as a single shipment.

Microfiche Subscription Prices:

Federal Register:

One year: $145 domestic; $181.25 foreign
Six months: $72.50 domestic; $90.65 foreign

Code of Federal Regulations:

Current year (as issued): $185 domestic; $231.25 foreign
Previous year's full set (single shipment): $125 domestic; $156.25 foreign



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 $_____

Customer's Telephone No's

Area Code Home Area Code Office

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Charge orders may be telephoned to GPO order desk at (202)783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays)

24x MICROFICHE FORMAT:

_____ **Federal Register:** ___ One year as issued: $145 domestic; $181.25 foreign ___ Six months: $72.50 domestic; $90.65 foreign

_____ **Code of Federal Regulations:** ___ Current year: $185 domestic; $231.25 foreign ___ Previous year's full set (single shipment): $125 domestic; $156.25 foreign

PLEASE PRINT OR TYPE

Company or Personal Name

Additional address/attention line

Street address

City State ZIP Code

(or Country)

For Office Use Only

Quantity	Charges
_____ Publications	_____
_____ Subscriptions	_____
Special Shipping Charges	_____
International Handling	_____
Special Charges	_____
OPNR	_____
_____ UPNS	
_____ Balance Due	
_____ Discount	
_____ Refund	

882

(Rev. 7.22.85)

9202 20