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Thursday
February 20, 1986

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

Selected Subjects

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Selected Subjects

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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; 9 am.
WHERE: Room 1612, Federal Building, 1520 Market Street, St. Louis, MO.
CALL: Dolores O'Guin, St. Louis Federal Information Center, 314-425-4109, for reservations.

WASHINGTON, DC

WHEN: March 20; 9 am and 1 pm. (identical sessions)
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW, Washington, DC
CALL: Ruth Reedy, 202-523-5239, for reservations.

DENVER, CO

WHEN: March 24; 9 am.
WHERE: Room 239, Federal Building, 1961 Stout Street, Denver, CO.
CALL: Elizabeth Stout, Denver Federal Information Center, 303-236-7181, for reservations.

DALLAS, TX

WHEN: April 23; 1:30 pm.
WHERE: Room 7A23, Earl Cabell Federal Building, 1100 Commerce St Dallas, TX.
CALL: local numbers:

Ft. Worth	817-334-3624
Dallas	214-767-8585
Houston	713-229-2552
Austin	512-472-5494
San Antonio	512-224-4471

for reservations.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

Revised Rules for Collecting Cotton Research and Promotion Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the Cotton Board's rules and regulations governing the collection of cotton research and promotion assessments. The Cotton Board determined that collection procedures needed to be revised to reduce the risk of non-collection of assessments and permit the early detection of program violations. Revisions require all collecting handlers to submit a no cotton purchased handler report when appropriate and also set forth specific measures to be taken if collecting handlers fail to comply with the regulations, including escrow accounts and interest charges on delinquent accounts. In addition, miscellaneous changes are made for clarity.

EFFECTIVE DATE: March 24, 1986.

FOR FURTHER INFORMATION CONTACT: Naomi Hacker, Chief, Research and Promotion Staff, Cotton Division, AMS, USDA, Washington, DC 20250, (202) 447–2259.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Executive Order 12291 and Department Regulation 1512–1 and was determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order. William T. Manley, Deputy Administrator, AMS, has certified that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The costs of compliance will not be significantly increased in that most of the changes reflect practices that are presently used by the Cotton Board. In addition, while the changes in the regulations will revise collection procedures, such changes will not affect the competitive position or market access of small entities in the cotton industry. The addition of interest charges will apply to only those entities that do not comply with current collection procedures and the addition of a "no cotton purchased" form is a self-certification form only. The changes will be applied to all entities regardless of size.

The information collection provisions in this rule have been given the OMB clearance number 0581–0115.

Background

The Cotton Research and Promotion Act (7 U.S.C. 2101 *et seq.*) provides for the collection of assessments on each bale of upland cotton marketed to support cotton research and promotion activities. The Cotton Research and Promotion Order (7 CFR 1205.301 *et seq.*), which implements the Act, was approved in a beltwide referendum of cotton producers. A 19-member Cotton Board appointed by the Secretary of Agriculture administers the program and collects the assessments. Collecting handlers, generally the first buyers of cotton from producers, are required to collect and remit the assessments to the Cotton Board. Producers who do not wish to participate in the research and promotion program may request a refund of any assessments paid.

The Cotton Research and Promotion Order authorizes the Cotton Board, subject to the Secretary of Agriculture's approval, to make rules and regulations to effectuate the terms and provisions of the Order, and to investigate and report to the Secretary violations of the Order (7 CFR 1205.327). The collection, remittance and reporting requirements are set forth in the Cotton Board Rules and Regulations (7 CFR 1205.500 *et seq.*).

The Cotton Board Rules and Regulations provide in § 1205.514 that each collecting handler shall transmit assessments to the Cotton Board as follows:

a. Each calendar month is a reporting period ending at the close of business on the last day of the month;

b. Collecting handlers prepare a report for each reporting period that cotton is handled on which the handler is required to collect the assessments. These reports are to be mailed to the Cotton Board along with the collected assessments within 10 days after the close of the reporting period.

The Cotton Board collects the research and promotion assessments with the cooperation of collecting handlers and followup efforts by the Cotton Board staff as needed. The objective of this action is to further strengthen the program's collection procedures. Collecting handlers will be more closely monitored to detect actual violations soon after they occur and to help prevent potential violations. The revisions will also enable the Cotton Board to more effectively deal with the small number of collecting handlers who are found to be in violation of the Act and Order. The collection procedures will be strengthened as follows.

First, the Cotton Board Rules and Regulations are amended to require collecting handlers to submit a report to the Cotton Board for reporting periods when no cotton was handled on which assessments were due. This "no cotton purchased" report form will be provided to collecting handlers each month by the Cotton Board. To accommodate handlers who purchase cotton only during certain months, provision will be made for the filing of a final no cotton purchased report at the conclusion of his/her marketing season. The report will be in the form of a certification. It will contain a statement that the collecting handler did not and, for a final report, would not handle any cotton on which assessments were due during the month(s) covered by the report. The handler will be required to sign, date and return the form to the Cotton Board.

Handlers will be required to mail the report to the Cotton Board within 10 days after the close of the reporting period when no cotton was handled on which assessments are due. If a collecting handler handles cotton during any month following submission of the final report for his/her marketing season, such handlers shall send a collecting handler report and remittance to the Cotton Board by the 10th day of the month following the month in which cotton was handled. The report will be a monitoring tool which will allow the

Cotton Board to detect violations earlier than under current procedures.

Further, the regulations are revised by adding a new section 1205.515 to specify certain of the actions that will be available for use by the Cotton Board whenever a collecting handler failed to report and remit assessments that were collected as required by § 1205.514. The actions available to the Cotton Board include: (a) Audits of the collecting handler's books and records to determine assessments due the Cotton Board; (b) requiring the establishment of an escrow account for the deposit of assessments collected, with the frequency and schedule of withdrawals and deposits to be determined by the Cotton Board with the approval of the Secretary; and (c) referral of the matter to the Secretary for appropriate legal action against the collecting handler. The Cotton Board will employ these measures singly or in combination in light of the circumstances of the particular case.

In addition, a new paragraph (d) is added to § 1205.514 to provide that if a collecting handler does not remit his assessments when due the assessments will be increased by an interest charge at rates prescribed by the Cotton Board with the approval of the Secretary. A 5-percent late charge will also be authorized if overdue assessments are not received prior to the subsequent report and assessment payment due from the handler. These provisions are expected to provide further incentive to collecting handlers to pay their assessment obligations promptly.

This rule is intended to reduce the risk of non-collection of research and promotion assessments, thereby enhancing the integrity of the program by helping to ensure that all funds collected are properly transmitted to the Cotton Board.

Proposed Rule

The revisions in the Cotton Board Rules and Regulations were published as a proposed rule in the January 3, 1986 **Federal Register** 51 FR 209.

Comments

Comments on the proposed rule were solicited from interested parties until February 1, 1986. Only one comment was received from a handler of cotton in overall opposition to the proposal. No other comments were received.

Final Rule

The Department believes that there is a need to strengthen regulations to ensure that all funds collected are properly transmitted to the Cotton Board. Therefore, after careful evaluation of all relevant factors, the Department has decided to finalize as proposed the revisions to the Cotton Board's rules and regulations governing the collection of cotton research and promotion assessments.

In 7 CFR Part 1205, § 1205.514 is revised and reorganized to include the no cotton purchased collecting handler report. The heading is changed to "Reports and remittance to Cotton Board." The first sentence of the section is amended because not all reports would transmit assessments. Paragraph (a) remains unchanged. The introductory text of paragraph (b) is shortened for clarity and the remainder of the paragraph is divided into two subparagraphs.

Subparagraph (1) describes the collecting handler report and lists the information needed in the report. Generally the information is the same as that which is currently required except for the deletion of the reference to PIK cotton.

Section 1205.514(b) is amended to clarify the requirement that collecting handler reports be mailed within 10 days after the close of the reporting period. The Cotton Board will use the postmarked date to determine whether a report was mailed on time.

Additionally, § 1205.514(b)(3) now requires the gin code number or, for PIK cotton, the county in which PIK cotton was earned. The provision regarding PIK cotton was promulgated on October 19, 1983 (48 FR 48451) and refers to cotton received by producers as payment-in-kind for acreage diversion. Since this program is no longer in effect, such a provision is obsolete and the revised § 1205.514 requires only the gin code number.

Subparagraph (2) describes the newly proposed no cotton purchased handler report. The collecting handler or the handler's agent will be required to sign and date the report form.

Paragraph (c) of § 1205.514 remains unchanged.

A new paragraph (d) is added to § 1205.514 to provide that if a collecting handler does not remit assessments when due, interest will be charged on the overdue assessments at rates prescribed by the Cotton Board with the approval of the Secretary. In addition to the interest charge, if assessments are not remitted within 10 days after the end of the next reporting period, there shall be a late payment charge of 5 percent of the value of the overdue assessments.

The present § 1205.515, covering receipts for payments of assessments, is redesignated § 1205.516, with paragraph (b) amended to remove as obsolete and unnecessary the reference to the county in which PIK cotton was earned.

Similarly, paragraph (n) of § 1205.500, defining the term "PIK cotton", is removed because it is obsolete.

A new § 1205.515 is added to set forth the actions that could be taken by the Cotton Board against collecting handlers who fail to comply with the requirements of § 1205.514.

Additionally, the procedure cotton producers must follow to obtain refunds of assessments in § 1205.520 is amended to clarify the requirement that producers mail refund applications within 90 days from the date assessments were collected. Paragraph (b) is changed to require that mailed refund applications be postmarked within 90 days from the date assessments were paid. The Cotton Board will use the postmark date to determine whether a refund application was mailed on time.

List of Subjects in 7 CFR Part 1205

Cotton, Administrative practice and procedure, Research and promotion, Cotton Board, Producer assessments, Producer refunds, Reporting and recordkeeping requirements.

Accordingly, Part 1205 of Chapter II, Title 7 of the Code of Federal Regulations of Part 1205 is amended as shown. The Table of Contents is amended accordingly.

PART 1205—[AMENDED]

1. The authority citation for Subpart—Cotton Board Rules and Regulations of Part 1205 is revised to read as follows:

Authority: Sec. 15, 80 Stat. 285; 7 U.S.C. 2114.

§ 1205.500 [Amended]

2. Section 1205.500 is amended by removing paragraph (n).

3. Section 1205.514 is amended by revising paragraphs (a) and (b) and adding paragraph (d) to read as follows:

§ 1205.514 Reports and remittance to Cotton Board.

Each collecting handler shall transmit assessments and reports to the Cotton Board as follows:

(a) *Reporting periods.* Each calender month shall be a reporting period and the period shall end at the close of business on the last day of the month.

(b) *Reports.* Each collecting handler shall make reports on forms made available or approved by the Cotton Board. Each report shall be mailed to the Cotton Board and postmarked within 10 days after the close of the reporting period.

(1) *Collecting handler report.* Each collecting handler shall prepare a separate report form each reporting period for each gin from which such handler handles cotton on which the handler is required to collect the assessments during the reporting period. Each report shall be mailed in duplicate to the Cotton Board and shall contain the following information:

(i) Date of report.

(ii) Reporting period covered by report.

(iii) Gin code number.

(iv) Name and address of handler.

(v) Listing of all producers from whom the handler was required to collect the assessments, their addresses, total number of bales, and total assessments collected and remitted for each producer.

(vi) Date of last report remitting assessments to the Cotton Board.

(2) *No cotton purchased report.* Each collecting handler shall submit a no cotton purchased report form for each reporting period in which no cotton was handled for which the handler is required to collect assessments during the reporting period. A collecting handler who handles cotton only during certain months shall file a final no cotton purchased report at the conclusion of his/her marketing season. If a collecting handler handles cotton during any month following submission of the final report for his/her marketing season, such handler shall send a collecting handler report and remittance to the Cotton Board by the 10th day of the month following the month in which cotton was handled. The no cotton purchased report shall be signed and dated by the handler or the handler's agent.

* * * * *

(d) *Interest and late payment charges.* (1) There shall be an interest charge, at rates prescribed by the Cotton Board with the approval of the Secretary, on any handler failing to remit assessments to the Cotton Board when due.

(2) In addition to the interest charge specified in paragraph (d)(1) above, there shall be a late payment charge on any handler whose remittance has not been received by the Cotton Board within 10 days after the close of the next reporting period. The late payment charge shall be 5 percent of the unpaid balance before interest charges have accrued.

4. Section 1205.515 is redesignated as § 1205.516. Paragraph (b) of newly designated § 1205.516 is revised to read as follows:

§ 1205.516 Receipts for payment of assessments.

* * * * *

(b) Gin code number of gin at which cotton was ginned.

* * * * *

5. A new § 1205.515 is added to read as follows:

§ 1205.515 Failure to report and remit.

Any collecting handler who fails to submit reports and remittances according to reporting periods and time schedules required in § 1205.514 shall be subject to appropriate action by the Cotton Board which may include one or more of the following actions:

(a) Audits of the collecting handler's books and records to determine the amount owed the Cotton Board.

(b) Require the establishment of an escrow account for the deposit of assessments collected. Frequency and schedule of deposits and withdrawals from the escrow account shall be determined by the Cotton Board with the approval of the Secretary.

(c) Referral to the Secretary for appropriate enforcement action.

6. Paragraph (b) of § 1205.520 is revised to read as follows:

§ 1205.520 [Amended]

* * * * *

(b) *Submission of refund application to Cotton Board.* Any producer requesting a refund shall mail an application on the prescribed form to the Cotton Board. The application shall be postmarked within 90 days from the date the assessments were paid on the cotton by such producer. The refund application shall show (1) producer's name and address; (2) collecting handler's name and address; (3) gin code number; (4) number of bales on which refund is requested; (5) total amount to be refunded; (6) date or inclusive dates on which assessments were paid; and (7) the producer's signature or properly witnessed mark. Where more than one producer shared in the assessment payment on cotton, joint or separate refund application forms may be filed. In any such case the refund application shall show the names, addresses and proportionate shares of all such producers. The refund application form shall bear the signature or properly witnessed mark of each producer seeking a refund.

* * * * *

Dated: February 13, 1986.

William T. Manley,

Deputy Administrator Marketing Programs.

[FR Doc. 86-3646 Filed 2-19-86; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards

AGENCY: Small Business Administration.

ACTION: Statement of General Policy, SBA Size Policy Statement No. 1.

SUMMARY: The Small Business Administration (SBA) hereby gives notice of its intended application and interpretation of the definition of "number of employees," at 13 CFR 121.2(b). This Agency regulation has for a number of years provided for the calculation of the number of employees of a business for size standard purposes on several alternative bases, including employees retained on a ". . . full-time, part-time, temporary or other basis . . . ." The Agency has examined its administrative precedents interpreting 13 CFR 121.2(b) as it applies to the treatment of employees not clearly full-time, part-time or temporary employees of a business, and finds that a line of cases exists which deal with employees provided by temporary employment agencies and other employment contractors (hereafter jointly referred to as employment contractors) in a way which is overly mechanical and has the potential for subjecting SBA size determinations to abuse. In these cases, the Agency has merely applied the common law indicia of an employee/employer relationship, i.e., who hires, fires, pays and withholds taxes and provides benefits, to determine whether such individuals should be treated as employees of the business or not. This approach creates a potential for firms to avoid the consequences of their true size by imaginative use of employment contractors. Recognizing this potential for abuse and seeking a way to fairly ascertain which businesses are truly small and which are truly large, the Agency hereby announces that it shall examine the totality of the circumstances under which businesses have obtained employees from employment contractors to determine whether such employees should be considered employees of the subject business on some "other basis," under the existing regulatory language even if not temporary employees of the business under the common law. This general statement of policy also provides specific guidelines as to how the Agency intends to apply the language "other basis" contained in 13 CFR 121.2(b).

EFFECTIVE DATE: February 20, 1986.

ADDRESS: Written comments should be addressed to Robert J. Moffitt, Chairman, Size Policy Board, U.S. Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: David R. Kohler, Associate General Counsel, Office of General Law, (202) 653–6660.

SUPPLEMENTARY INFORMATION: The Small Business Administration (SBA) has determined that the definition of "number of employees" at 13 CFR 121.2(b) requires clarification in light of the decisions issued to date by the former Size Appeals Board (Board) and the current Office of Hearings and Appeals (OHA). This determination is based on the Agency's conclusion that certain size appeal determinations could be read to *necessarily* exclude employees obtained through employment contractors from the number of employees of a business considered in determining such business' size status. Two cases have directly addressed this particular issue: *Appeal of Marinette Marine Corporation and Marine Power Equipment Co.*, No. 1495, September 28, 1981, [*affirmed*, 527 F. Supp. 587 (D.D.C. 1981)], and *Size Appeal of Aeromech Industries, Inc.*, No. 1979, June 22, 1984. The purpose of this statement of general policy is to clarify the approach the Agency intends to take in the future for resolving questions arising under 13 CFR 121.2(b) and involving employment contractors.

Before discussing the specific question of whether individuals whose services are procured through an employment contractor should be counted as employees of a business for size determination purposes, a brief review of the Agency's interpretation of the language "number of employees" is in order. Two general principles have governed size determinations where the number of employees of the business has been in issue. Foremost of these is that all employees of a business, including those of its affiliates, whether full-time, part-time, temporary or otherwise (including floaters), and regardless of whether they are engaged in industries related to the procurement involved in the size protest, count as employees of the business for size status purposes. Second, individuals who are clearly employees of *bona fide* independent contractors/consultants of the business whose size is in question have not been generally considered as temporary employees of that business.

The Agency's decisions in *Marinette Marine* and *Aeromech* follow these general principles. In *Marinette Marine*, the Board held that employees retained for a short period of time through an employment contractor were not "temporary" employees of the protested concern since they were *bona fide* employees of the employment contractor, an unaffiliated business. In that case, the protested concern had utilized replacement workers for the completion of a Navy Contract. While the protested concern maintained surpervision and control over the worker's performance, all other incidents of employment were supplied by the employment contractor. The Board held that the term "temporary" employee in the size regulations does not include employees of other concerns, even if they are performing work on the premises of the prime contractor and subject to its supervision. *See Also Marinette Marine Corp.* v. *Department of Navy*, 527 F. Supp. 587, 590–92 (D.D.C. 1981). The Board appeared to draw on the precedent it established in *Size Appeal of Newton Lumber Co., Ltd.*, No. 502, July 14, 1971, where the status of certain logging contractors was in issue. There, the Size Appeals Board expressly applied the common law test for finding a master/servant relationship, i.e., who hires, fires, pays and withholds taxes, provides benefits and supervises performance. In *Aeromech*, where the status of certain consultants was in issue, OHA referred without further discussion to *Marinette Marine* as standing for the proposition that "persons on the payroll of a temporary personnel agency are not treated as employees of the firm whose small business size status is under consideration." *Aeromech, supra*, p. 6. The decisions in both of these cases follow the reasoning first applied in the context of the independent contractor/consultant cases not involving temporary personnel agencies. The rationale used was that where an individual was either self-employed or employed in the traditional sense by an independent company, i.e., such company selected him or her, paid his or her wages, withheld and paid employment taxes and benefits, etc., he or she could not be considered as also being an employee of the concern whose size was in question. While the Agency does not dispute the general wisdom of this rationale, it is concerned that mechanical application of this rationale ignoring the "other basis" portion of its regulations will result in decisions at variance with the spirit of the Small Business Act and the small business size standards promulgated pursuant thereto.

This concern is based, in part, on the manner in which the Board, and later OHA, analyzed the cases presenting the issue. In the decisions discussed above, the Board and OHA focused on only the common law indicia of an employer/employee relationship, without addressing the totality of the circumstances under which the individuals in question came to labor for the business whose size was in issue.

The mechanical exclusion of employees retained through an employment contractor from the number of employees counted in determining a business' size status would encourage circumvention of the size standards by means of creative employment practices. Therefore, in order to preserve the integrity of its size regulations, the SBA has determined that in appropriate cases individuals whose services have been procured through an employment contractor should be considered "individuals employed on . . . [an] other basis," under 13 CFR 121.2(b) and be counted as part of that business' "number of employees" even if technically the employees of the contractor under common law principles. To do otherwise would be to permit form to prevail over substance. The Agency will not condone the use of employment practices that allow a business to create the facial appearance of being small under the size standards while at the same time deriving the usual benefits from the services of individuals in excess of those standards.

Agency officials charged with the responsibility of making size determinations shall take special care in such cases to determine whether any "other basis," aside from whether a full-time, part-time or temporary employee/employer relationship exists, to properly treat such employees as employees of the subject firm. In doing so, they should consider any information or data relevant to the question of whether an employer is deriving the usual benefits incident to employment of such individuals, and the circumstances under which the situation came to exist. The totality of the circumstances should be considered in order to prevent circumvention of SBA's size regulations, including, but not limited to:

1. Did the company engage and select the employees?

2. Does the company pay the employees wages and/or withhold employment taxes and/or provide employment benefits?

3. Does the company have the power to dismiss the employees?

4. Does the company have the power to control and supervise the employees' performance of their duties?

5. Did the company procure the services of the employees from any employment contractor involved in close proximity to the date of self-certification as a small business?

6. Did the company dismiss employees from its own payroll and replace them with the employees from any employment contractor involved? Were they replaced soon after their dismissal?

7. Are the individual employees supplied by any employment contractor involved the same individuals that were dismissed by the company?

8. Do the employees possess a type of expertise or skill that other companies in the same or similar lines of business normally employ in-house (as opposed to procuring by sub-contract or through an employment contractor)?

9. Do the employees perform tasks normally performed by the regular employees of the business or which were previously performed by the company's own employees?

10. Were the employees procured through an employment contractor to do other than fill in for regular employees of the company who are temporarily absent?

11. Does the contract with the independent contractor have a term based on the term of an existing Government contract?

The presence of one or more single factors on the list in a particular case may but will not necessarily support a finding that the employees should be attributed to the business whose size is in issue. This listing is not meant to be exhaustive, and other factors not listed that demonstrate an effort on the part of the firm to satisfy the SBA size standard in form, while deriving the benefits of a much larger number of employees in fact, must be considered.

In announcing this policy, the Agency recognizes that in the normal course of business operations there are legitimate business reasons in some cases for procuring employees through employment contractors or other kinds of independent contractors. The policy expressed herein should not be construed so as to penalize a business engaging in legitimate business arrangements to adversely affect its size status. The Agency believes that the regulatory language "other basis" was intended to reach situations where the number of employees is *artificially* reduced to meet particular size standards for the purpose of becoming eligible for a particular procurement or for receipt of some other SBA program benefit, while the firm continues to operate or be capable of operating for all intents and purposes as though it employed a larger number of individuals.

Dated: February 10, 1986.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 86-3647 Filed 2-19-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-103-AD; Amdt. 39-5241]

Airworthiness Directives; McDonnell Douglas Model DC-9 and C-9 (Military) Series Airplanes, Fuselage Numbers 1 Through 1087

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) 85-01-02 applicable to certain McDonnell Douglas Model DC-9 and C-9 (Military) series airplanes, that requires inspection and repairs, if necessary, of certain aft pressure bulkheads. This amendment requires a modification that is referenced in the existing AD as an optional terminating action. This amendment is necessary to clarify the intent of AD 85-01-02, regarding those airplanes modified in accordance with McDonnell Douglas DC-9 Service Bulletins 53-139, 53-139 R1, or production equivalent.

EFFECTIVE DATE: March 31, 1986.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to amend an existing airworthiness directive (AD) 85-01-02 to require inspection and repair, as necessary, of the aft pressure bulkhead on certain McDonnell Douglas DC-9 series airplanes was published in the **Federal Register** on October 22, 1985 (50 FR 42714). The comment period for the proposal closed December 10, 1985.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

The first commenter suggested the addition of an alternative initial compliance period of 15,000 landings after accomplishment of the modification or after aircraft delivery (as applicable), or prior to the accumulation of 5,400 additional landings after the effective date of this amendment. The FAA agrees with the addition of an alternative initial compliance period based upon the anticipated effective date of this rule, and supplemental data received. The final rule has been changed accordingly.

The second comment, though received late, is being considered herein. The commenter disagreed with the proposed requirements of paragraph K., to accomplish rework of previously modified pressure bulkheads, unless a crack has been detected. The FAA disagrees. In view of the results of fatique testing of the ventral aft pressure bulkhead by McDonnell Douglas, and the relatively low fatigue life associated with these cracks, the FAA has determined that the accomplishment of paragraph k. of this rule is necessary for all affected airplanes.

Paragraphs K. and L. of the final rule have been changed to incorporate an alternative terminating action. This has been done to clarify the original intent of the rule, and is based on the fact that no viable nondestructive inspection presently exists for the required modifications.

It is estimated that 221 airplanes of U.S. registry will be affected by this AD, that it will take approximately 245 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD is estimated to be $2,165,800.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule, with the changes previously noted.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant

under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model DC–9 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

Authority: 49 U.S.C. 1345(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 amending AD 85–01–02, Amendment 39–4978 (50 FR 2043; January 15, 1985), as follows:

McDonnell Douglas: Applies to Model DC–9 and C–9 (Military) series airplanes, Fuselage Numbers 1 through 1087, certificated in any category. Compliance required as indicated, unless previously accomplished.

A. Revise paragraph A. to read as follows:

"A. Except for those airplanes that are subject to paragraph K., below, for airplanes with 15,000 or more landings . . . ."

B. Reidentify paragraphs K. through P. as L. through Q., respectively.

Add a new paragraph K. to read as follows:

"K. For airplanes previously modified in accordance with DC–9 Service Bulletin 53–139 (Original Issue or Revision 1), or production equivalent, accomplish modification of the pressure bulkhead in accordance with Part 2 of the Accomplishment Instructions of DC–9 Service Bulletin 53–165 prior to the accumulation of 15,000 cycles after accomplishment of the modification or aircraft delivery (as applicable) or prior to the accumulation of the 5,400 landings after the effective date of Amendment 39–5241, whichever occurs later. Accomplishment of the modification referenced above constitutes terminating action for the requirements of this AD."

C. Revise reidentified paragraph L. to read as follows:

"L. For airplanes not previously modified in accordance with DC–9 Service Bulletin 53–139 (Original Issue and Revision 1), or production equivalent, accomplishment of modifications in accordance with DC–9 Service Bulletin 53–166, Revision 1, dated January 31, 1983, or later FAA–approved revision, constitutes terminating action for the requirements of this AD."

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective March 31, 1986.

Issued in Seattle, Washington, on February 12, 1986.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 86–3616 Filed 2–19–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 85–AWA–29]

Alteration of VOR Federal Airways; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; change of effective date.

SUMMARY: ASD 85–AWA–29 was published in the **Federal Register** on January 2, 1986, and this action corrects that docket by changing the effective dates for certain NAVAID name changes. Due to technical and administrative problems associated with the implementation of name changes to several NAVAID's located in California, FAA finds it necessary to change the effective dates for implementation of these new name changes on a scheduled basis.

DATES: For the specific effective dates see the amendatory text under "Adoption of the Correction."

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

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 85–30934, published on January 2, 1986, amended the descriptions of all airways where the NAVAID's with new names appeared in the descriptions (51 FR 7). Due to technical, procedural and administrative problems, the effective dates for certain NAVAID name changes will be implemented on a scheduled basis. This action corrects the effective dates for the NAVAID name changes described in the final rule.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 85–30934, as published in the **Federal Register** on January 2, 1986, (51 FR 7) is corrected 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. § 71.123 is amended as follows:

V–283 and V–372 [Amended]

For the substitution of "Box Springs" for "March," the effective date is March 13, 1986.

V–6, V–32, V–28, V–113, V–200 and V–452 [Amended]

For the substitution of "Mustang" for "Reno," the effective date is March 13, 1986.

V–12, V–25, and V–186 [Amended]

For the substitution of "San Marcus" for "Santa Barbara," the effective date is August 28, 1986.

V–109 [Amended]

For the substitution of "Manteca" for "Stockton," the effective date is August 28, 1986.

Issued in Washington, D.C., on February 12, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–3617 Filed 2–19–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 85-AWA-30]

Alteration of VOR Federal Airways and Compulsory Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; change of effective date.

SUMMARY: ASD 85-AWA-30 was published in the **Federal Register** on January 2, 1986, and this action corrects that docket by changing the effective dates for certain NAVAID name changes. Due to technical and administrative problems associated with the implementation of name changes to several NAVAID's located in California, FAA finds it necessary to change the effective dates for implementation of these new name changes on a scheduled basis.

DATES: For the specific effective dates see the amendatory text under "Adoption of the Correction."

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

SUPPLEMENTARY INFORMATION:

History

Federal Register Docket 85-30935, published on January 2, 1986, amended the discriptions of all airways and changed the names of compulsory reporting points where the NAVAID's with new names appeared (51 FR 8). Due to technical, procedural and administrative problems, the effective dates for certain NAVAID name changes will be implemented on a scheduled basis and Section 71.127 will be withdrawn from this docket action. This action corrects the effective dates for the NAVAID name changes described in the final rule.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 85-30935, as published in the **Federal Register** on January 2, 1986, 51 FR 8) is corrected 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. § 71.123 is amended as follows:

V-23, V-165, V-183, V-197 and V-248 [Amended]

For the substitution of "Shafter" for "Bakersfield," the effective date is July 3, 1986.

V-23, V-165 and V-230 [Amended]

For the substitution of "Pinedale" for "Fresno," the effective date is August 28, 1986.

V-23, V-113 and V-244

For the substitution of "Manteca" for "Stockton," the effective date is August 28, 1986.

V-165, V-105 and V-113 [Amended]

For the substitution of "Mustang" for "Reno," the effective date is March 13, 1986.

V-183 [Amended]

For the substitution of "San Marcus" for "Santa Barbara," the effective August 28, 1986.

V-113 and V-27 [Amended]

For the substitution of "Morro Bay" for "San Luis Obispo," the effective date is August 28, 1986.

3. § 71.127 is amended as follows:

V-5, V-7, V-20 and V-11 [Amended]

The substitution of "Kailua" for "Kona," is being withdrawn from this docket.

4. § 71.203 is amended as follows:

For the substitution of "Shafter, CA" for "Bakersfield, CA," the effective date is July 3, 1986.

For the substitution of "Pinedale, CA" for "Fresno, CA," the effective date is August 28, 1986.

For the substitution of "Morro Bay, CA" for "San Luis Obispo, CA," the effective date is August 28, 1986.

For the substitution of "Manteca, CA" for "Stockton, CA," the effective date is August 28, 1986.

For the substitution of "Mustang, NV" for "Reno, NV," the effective date is March 13, 1986.

For the substitution of "San Marcus, CA" for "Santa Barbara, CA," the effective date is August 28, 1986.

Issued in Washington, DC, on February 12, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and, Aeronautical Information Division.

[FR Doc. 86-3618 Filed 2-19-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 85-AWA-31]

Alteration of Jet Routes and Compulsory Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; change of effective date.

SUMMARY: ASD 85-AWA-31 was published in the **Federal Register** on January 2, 1986, and this action corrects that docket by changing the effective dates for certain NAVAID name changes. Due to technical and administrative problems associated with the implementation of name changes to several NAVAID's located in California, FAA finds it necessary to change the effective dates for implementation of these new name changes on a scheduled basis.

DATES: For the specific effective dates see the amendatory text under "Adoption of the Correction."

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

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 85-30937, published on January 2, 1986, amended the descriptions of all jet routes and changed the names of compulsory reporting points where the NAVAID's with new names appeared (51 FR 9). Due to technical, procedural and

administrative problems, the effective dates for certain NAVAID name changes will be implemented on a scheduled basis. This action corrects the effective dates for the NAVAID name changes described in the final rule.

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, Jet routes and compulsory reporting points.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 85–30937, as published in the **Federal Register** on January 2, 1986 (51 FR 9) is corrected 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. § 71.207 is amended as follows:

For the substitution of "Shafter, CA" for "Bakersfield, CA," the effective date is July 3, 1986.

For the substitution of "Pinedale, CA" for "Fresno, CA," the effective date is August 28, 1986.

For the substitution of "Mustang, NV" for "Reno, NV," the effective date is March 13, 1986.

For the substitution of "Manteca, CA" for "Stockton, CA," the effective date is August 28, 1986.

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

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

4. § 75.100 is amended as follows:

J–5, J–50 and J–65 [Amended]

For the substitution of "Shafter, CA" for "Bakersfield, CA," the effective date is July 3, 1986.

J–5, J–92, J–94, J–7 and J–32 [Amended]

For the substitution of "Mustang, NV" for "Reno, NV," the effective date is March 13, 1986.

J–65 and J–110 [Amended]

For the substitution of "Pinedale, CA" for "Fresno, CA," the effective date is August 28, 1986.

J–94, J–58 and J–80 [Amended]

For the substitution of "Manteca, CA" for "Stockton, CA," the effective date is August 28, 1986.

Issued in Washington, DC, on February 13, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–3619 Filed 2–19–86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. C–3042]

Bendix Corp.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set Aside Order.

SUMMARY: The Federal Trade Commission has modified a 1980 consent order with the Bendix Corporation by setting aside portions of the order that required prior approval by the FTC before the respondent could acquire any interest in companies that manufacture or sell certain machine-tool products. The Commission ruled that the provision has no longer necessary since Bendix, and its parent company, Allied Corp., no longer manufacture or sell any kind of machine-tool product referred to in the order.

DATES: Consent Order issued Sept. 23, 1980. Set Aside Order issued Feb. 6, 1986.

FOR FURTHER INFORMATION CONTACT: Elliot Feinberg, FTC/L–301, Washington, D.C. 20580. (202) 634–4604.

SUPPLEMENTARY INFORMATION: In the Matter of The Bendix Corporation, a corporation. The prohibited trade practices and/or corrective actions, as set forth at 45 FR 74469, remain unchanged.

List of Subjects in 16 CFR Part 13

Industrial machines, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Before Federal Trade Commission

Commissioners: Terry Calvani, Acting Chairman, Patricia P. Bailey, and Mary L. Azcuenaga.

[Docket No. C–3042]

Order Reopening and Setting Aside Portions of Order Issued September 23, 1980

In the Matter of The Bendix Corporation, a corporation.

On October 16, 1985, Allied Corporation ("Allied") filed a Request pursuant to section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b) and § 2.51 of the Commission's Rules of Practice. The Request asked the Commission to reopen the consent order issued on September 23, 1980 ("the order") and terminate Paragraphs VIII and X thereof. Allied became subject to the order when it acquired the Bendix Corporation ("Bendix") on January 31, 1983.

Paragraph VIII, the only substantive provision of the order which still has prospective application, prohibits Bendix, for a ten year period, from acquiring without prior Commission approval, any company engaged in the manufacture or sale in the United States of rotating toolholders, external cylindrical grinding machines, or numerically controlled machine tools. Paragraph VIII exempts from this requirement any company engaged in the manufacture of numerically controlled machine tools whose assets devoted to such manufacture or whose sales thereof during the year preceding such acquisition were not in excess of $10 million. Paragraph X of the order requires respondent to report its compliance with Paragraph VII annually for a ten-year period.

After reviewing Allied's Request, the Commission has concluded that changed conditions of fact and the public interest warrant reopening the proceeding and setting aside Paragraphs VIII and X of the order. Allied has divested or sold off all of the product lines that gave rise to the order and the concerns that led to the order are no longer applicable to Allied's current operations. The Commission believes that under the circumstances presented here the costs, both to Allied and to the Commission, associated with continuing the moratorium provision, are sufficient to outweigh the need for the order and the general presumption in favor of the repose and finality of Commission orders.

Accordingly, it is ordered that this matter be, and it hereby is reopened and that Paragraphs VIII and X of the

Commission's order issued on September 23, 1980, shall terminate as of the effective date of this order.

By the Commission. Commissioner Bailey was recorded as recused.

Issued: February 6, 1986.

Emily H. Rock,

Secretary.

[FR Doc. 86-3644 Filed 2-19-86; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket C-3177]

Roy B. Kelly; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a former corporate officer of a Washington, DC-based employment counseling service, among other things, to cease misrepresenting: (1) The basis on which clients are accepted; (2) the number of clients who have obtained interviews, job offers, or jobs through respondent's services; and (3) the chances that the clients' fees would be refunded because the employer would likely pay the respondent a finder's fee. Additionally, respondent is required to have a reasonable basis for any placement claims he makes, and whenever such placement claims are made, to maintain records of his placements and make a composite of these records available to clients on request. Further, respondent is prohibited from accepting a fee until a client has obtained employment through respondent's services.

DATE: Compliant and order issued Feb. 4, 1986.[1]

FOR FURTHER INFORMATION CONTACT: Charles Lane, FTC/H-272, Washington, DC 20580. (202) 523-3937.

SUPPLEMENTARY INFORMATION: On Wednesday, Nov. 27, 1985, there was published in the **Federal Register**, 50 FR 48791, a proposed consent agreement with analysis In the Matter of Roy B. Kelly, individually and as a former officer of John William Costello Associates, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.115 Jobs and employment service. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-45 Maintain records; 13.533-45(a) Advertising substantiation. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1553 Services.—Services: § 13.1843 Terms and conditions. Subpart—Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1995 Job guarantee and employment.

List of Subjects in 16 CFR Part 13

Employment counseling services, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 86-3643 Filed 2-19-86; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket C-3179]

National Energy Associates, Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Norcross, Ga. manufacturer and marketer of home energy controlling devices, and its corporate officer, among other things, to cease making claims of energy savings associated with the product "Cyclematic", or any other energy-control device, without competent and reliable substantiation. Additionally, respondents are prohibited from representing that consumers are eligible for a federal income tax credit with the purchase of their products, unless that is true.

DATE: Complaint and Order issued February. 5, 1986 [1].

FOR FURTHER INFORMATION CONTACT: FTC/B-407, Michael Dershowitz, Washington, DC 20580. (202) 376-8720.

SUPPLEMENTARY INFORMATION: On Thursday, November. 14, 1985, there was published in the **Federal Register**, 50 FR 47063, a proposed consent agreement with analysis In the Matter of National Energy Associates, Inc., a corporation, and James B. Brooks, individually and as an officer of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.170 Qualities or properties of product or service; § 13.170-34 Economizing or saving; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45 Maintain records; § 13.533-45(a) Advertising substantiation. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities of properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Energy controlling devices, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 86-3641 Filed 2-19-86; 8:45 am]

BILLING CODE 6750-01-M

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[1] Copies of the Complaint and the Decision and Order are filed with the original document.

[1] Copies of the Complaint and the Decision and Order are filed with the original document.

16 CFR Part 13

[Docket C-3176]

Wyoming State Board of Registration in Podiatry; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires the Wyoming State Board of Registration in Podiatry ("Board"), among others things, to cease restricting or discouraging podiatrists from truthfully advertising their goods and services by: (1) Adopting rules or policies prohibiting such advertising; (2) suspending or revoking podiatrists' licenses as a result of such advertising; or (3) declaring such advertising illegal or unethical. Under the terms of the order, the Board is allowed to prohibit and enforce restrictions that ban false or misleading ads or to seek legislation related to the practice of podiatry.

DATE: Complaint and Order issued January, 24, 1986.[1]

FOR FURTHER INFORMATION CONTACT: Dean Graybill, FTC/H-272, Washington, DC 20580. (202) 523-3914.

SUPPLEMENTARY INFORMATION: On Friday, November. 8, 1985, there was published in the **Federal Register**, 50 FR 46453, a proposed consent agreement with analysis In the Matter of Wyoming State Board of Registration in Podiatry, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in dispositing of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.367 Members. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.395 To control marketing practices and conditions; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements; § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–45 maintain records. Subpart—Cutting Off Supplies or Service: § 13.655 Threatening disciplinary action or otherwise.

List of Subjects in 16 CFR Part 13

Advertising, Podiatrists, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 86–3642 Filed 2–19–86; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are filed with the original document.

RAILROAD RETIREMENT BOARD

20 CFR Parts 234, 237, and 238

Annuities; Lump-Sum Payments

Correction

In FR Doc. 85–1420 beginning on page 3035 in the issue of Thursday, January 23, 1986, make the following corrections:

1. On page 3035, in the last line of the third column, "1977" should read "1974".

2. On page 3036, the second column, in the first column of the Distribution Table, the section number "237.502" in the fourth line from the bottom of the page should read "237.503"

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 107

[Docket No. 82N-0270]

Exempt Infant Formula; OMB Approval of Collection of Information Requirement

AGENCY: Food and Drug Administration.

ACTION: Announcement of OMB approval of collection of information requirement.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Office of Management and Budget (OMB) has approved a collection of information requirement in the final rule that establishes the terms and conditions under which certain specialty infant formulas will be exempt from some of the requirements established by the Infant Formula Act of 1980 (50 FR 48183; November 22, 1985).

EFFECTIVE DATE: February 20, 1986.

FOR FURTHER INFORMATION CONTACT: Nicholas Duy, Center for Food Safety and Applied Nutrition (HFF–204), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3117.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 22, 1985 (50 FR 48183), FDA published a final rule that amended the infant formula regulations (21 CFR Part 107; Subpart C) to establish the terms and conditions under which certain specialty infant formulas will be exempt from some of the requirements established by the Infant Formula Act of 1980. The final rule also established quality control, nutrient, and labeling requirements for exempt formulas.

OMB Approval

In the preamble to the final rule (50 FR 48186), FDA stated that it had submitted to OMB the collection of information requirements in 21 CFR 107.50 for review and approval. The requirements were approved by OMB and assigned OMB control number 0910–0158.

In response to comments received on the proposed rule (48 FR 31875; July 12, 1983), FDA amended 21 CFR 107.50 by adding new paragraph (b)(4) to make explicit a notification requirement that was implicit in the proposal. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), FDA submitted to OMB for its review and approval the new collection of information requirement contained in new § 107.50(b)(4). FDA also stated that § 107.50(b)(4) would not be effective until OMB approved this requirement. FDA stated that it would publish a notice in the **Federal Register** regarding the effective date of these requirements once the approval had been obtained.

On December 3, 1985, OMB approved without change the information collection requirement in 21 CFR 107.50(b)(4) and included it under OMB control number 0910–0158 that it assigned to the collection of information requirements in 21 CFR 107.50(b) (3) and (5), (c) (3) and (5), and (e)(2). This approval for 21 CFR 107.50(b) (3), (4), and (5), (c) (3) and (5), and (e)(2) is until December 31, 1988. The effective date for compliance with the final rule remains February 20, 1986.

Dated: February 14, 1986.

Adam J. Trujillo,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–3818 Filed 2–18–86; 3:37 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

Outer Continental Shelf Minerals and Rights-of-Way Management, General

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: The Minerals Management Service (MMS) is revising 30 CFR 256.22, General, by replacing the phase "The Director shall request . . ." with the phrase "The Director may request. . . ." The revision is necessary to remove a burdensome and unnecessary requirement that commits MMS to request other Federal Agencies to prepare reports on other resources or potential effects of mineral operations upon offshore lands being considered for leasing. The need for these reports does not exists in every case.

EFFECTIVE DATE: March 24, 1986.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, Chief, Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646; Reston, Virginia 22091; Telephone (703) 860–7916 or FTS 928–7916.

SUPPLEMENTARY INFORMATION: The imposition of a requirement on MMS to request other interested Federal Agencies to prepare reports on the impact of leasing OCS lands is not appropriate in every case and creates unnecessary paperwork for MMS. The revision will reduce this burden and at the same time maintain the present level of intergovernmental information exchange. It would also more accurately reflect the practical situtation addressed by the requirement. The MMS normally contacts all Federal Agencies having an interest in a particular sale area and actively solicits their input on the impact that mineral operations would have on the environment or upon other uses of the area. In a Notice of proposed rulemaking (NPR) published on October 3, 1985 (50 FR 40406), MMS announced its intent to revise the existing regulation at 30 CFR 256.22. The MMS provided a 30-day public comment period on the NPR.

Comments

One timely comment was received in response to the NPR. It was from the regulated industry.

Discussion of Comments

The commenter agreed in principle with changing the requirement on MMS to request other interested Federal Agencies to prepare reports discretionary rather than mandatory. Moreover, the commenter suggested that MMS place a deadline of 30 days upon any Agency from which a report is requested in order to expedite rights-of-way decisions.

While MMS is supportive of eliminating unnecessary delays in the permitting and approval process, it must be recognized that this section refers to the entire leasing process and not solely rights-of-way. A 30-day timeframe would not be appropriate in all leasing activities which necessitate a report from other Federal Agencies. Consequently, DOI is promulgating the final rule as originally proposed.

Differences Between Proposed Rule and Final Rule

There are no differences between the Proposed rule and the Final rule.

The DOI has determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an environmental impact statement is not required.

The DOI has also determined that this document is not a major rule under Executive Order 12291 because the proposed revision is an administrative change. There are no economic effects associated with the revision.

The DOI also certifies that the rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), as the revision to the rule is procedural, and no economic effect is expected.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Author

The document was prepared by William S. Cook, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 256

Administrative practice and procedure; Continental shelf; Government contracts; Oil and gas exploration; Pipelines; Public lands/mineral resources; Public lands/rights-of-way; Reporting and recordkeeping requirements; Surety bonds.

Dated: January 3, 1986.

John B. Rigg,

Acting Director, Minerals Management Service.

For the reasons set forth above, 30 CFR Part 256, Subpart C, is amended as follows:

PART 256—[AMENDED]

1. The authority citation for Part 256 continues to read as follows:

Authority: Secretarial Order 3071, Amdt. No. 1, May 10, 1982, and the OCS Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629.

2. Section 256.22 is proposed to be revised as follows:

§ 256.22 General.

For oil and gas lease sales shown in an approved leasing schedule and as the need arises for other mineral leasing, the Director shall prepare a report describing the general geology and potential mineral resources of the area under consideration. The Director may request other interested Federal Agencies to prepare reports describing, to the extent known, any other valuable resources contained within the general area and the potential effect of mineral operations upon the resources or upon the total environment or other uses of the area.

[FR Doc. 86–3605 Filed 2–19–86; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 222

Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends certain provisions of the regulations governing the program of school assistance authorized by Pub. L. 81–874 (the Act), as amended. The Act authorizes maintenance and operations assistance for local educational agencies (LEAs) in federally affected areas. The provisions that are substantively revised by these final regulations concern applications, payments, and records and reports required by the Secretary relating to sections 2, 3, 4, and 5 of the Act.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. David G. Phillips, Division of Impact Aid, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2109, Washington, DC 20202–6272. Telephone: (202) 245–1975.

SUPPLEMENTARY INFORMATION: Under sections 2, 3, and 4 of the Act, commonly referred to as the Impact Aid program, the Secretary provides financial assistance to certain LEAs for financial burdens that result from Federal activity. Section 2 of the Act authorizes financial assistance for LEAs that experience a substantial and continuing financial burden as the result of the Federal Government's acquisition of real property in their districts. Section 3 of the Act authorizes financial assistance for LEAs that provide a free public education to certain types of federally connected children: children residing on Federal property; children residing with parents who are employed on Federal property; children residing with parents who both reside on and are employed on Federal property; and children whose parents are on active duty in one of the uniformed services. Section 4 of the Act, which the Congress has not funded for the past several years, authorizes financial assistance for LEAs that are unable to adjust financially to a sudden and substantial increase in attendance caused by Federal activity. Finally, section 5 provides, among other things, for the submission of applications and for payments of entitlements under sections 2, 3, and 4.

The Commissioner of Education published a notice of proposed rulemaking (44 FR 38223) on June 29, 1979, that contained the provisions in these regulations, among others. Since publication of the notice of proposed rulemaking (NPRM), the Division of Impact Aid has continued to review the regulations that implement the Act. The provisions in these regulations, which concern sections 2, 3, 4, and 5 of the Act, are being published now as a part of the Division of Impact Aid's on-going review of those regulations. Because of the complex and lengthy nature of the drafting and review process, only a portion of the provisions in the NPRM are being published at this time.

When the NPRM was published in 1979, the regulations implementing the Act were designated as 45 CFR Part 115. The specific provisions concerning sections 2, 3, 4, and 5 of the Act that are published in these regulations, that is, Subpart B—Applications, Subpart C—Payments, and Subpart E—Records and Reports Required by the Secretary, were proposed in the NPRM as 45 CFR 115.9 et seq., 45 CFR 115.20 et seq., and 45 CFR 115.45 et seq., respectively. The public was invited to comment on the NPRM. Nine substantive comments were received from the public concerning the provisions published in these final regulations. Those comments are summarized and responded to in this preamble.

The NPRM provisions published here as final regulations delete the requirement that an LEA file a final report on fiscal and student data and make corresponding changes that are necessary because of that deletion. For example, because a final report is no longer required, the ratio of an LEA's ADA for the previous year to its membership for the previous year is used to calculate the ADA of its federally connected children for the year of application. These provisions are consistent with current policy. Consistent with the NPRM, these final regulations also delete the requirement that a parent who is a member of the uniformed services on active duty provide his or her serial number on the parent-pupil survey questionnaire.

In addition, other NPRM provisions published here as final regulations make changes to promote the efficient administration of the program. These changes include requiring that: (1) Certain new applications and all amendments to applications be filed by the end of the Federal fiscal year, and (2) applicants retain records proving their entitlement to payment for five years after the end of the Federal fiscal year for which the funds were received.

Summary of Changes From the NPRM

These final regulations contain two changes from the NPRM which are made for the purpose of clarification. First, consistent with current policy, these regulations clarify that an LEA may amend its application based upon "actual satisfactory data" only if that data regards "eligible Federal property or federally connected children" (§ 222.11(b)(2)). Second, consistent with current policy and the previous regulations, § 222.15 clarifies that the survey date for the first or only membership count must be before January 31 of the fiscal year for which assistance is sought.

In addition to these changes, other minor technical and editorial changes are made in these regulations. For example, "Commissioner" is changed to "Secretary"; certain sections are removed because the statutory authority for those sections has expired (§§ 222.27 and 222.21(f)); certain sections in Subparts B, C, and E are renumbered; and other sections, such as § 222.22, are reworded to make them more easily understood. Other than the changes explained here, the provisions in these final regulations are the same as the applicable provisions proposed in the NPRM that was published in the **Federal Register** on June 29, 1979.

Summary of Public Comments on the NPRM and the Department's Responses

Part 222—Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education (Impact Aid Program)

The regulations implementing the Act, which are now designated as 34 CFR Part 222, were designated as 45 CFR Part 115 at the time the NPRM was published. For ease of reference, each section of the final regulations referred to in this summary is followed by the citation of the corresponding NPRM section.

Section 222.15 (§ 115.16) First or only membership count.

Comment.—One commenter stated that the parent-pupil survey form should indicate the survey date.

Response.—No change has been made. Section 222.15 requires only that a survey date be established and that the same date be used in surveying all schools within the school district. It is not necessary for the parent-pupil survey form to indicate the survey date. However, applicants must keep documentation to substantiate their compliance with the requirements of this section and may wish to indicate the survey date on the form for their own convenience in meeting those requirements.

Section 222.16 (§ 115.17) Second membership count.

Comment.—One commenter questioned the need and rationale for a second membership count.

Response.—No change has been made. The option of conducting a second membership count benefits an applicant district that has experienced an increase in federally connected children during the school year. It provides the district an opportunity to average a larger second count with a smaller first count to establish a larger

entitlement that takes the increase in federally connected children into account.

Section 222.17 (§ 115.18) Alternative methods for making membership counts.

Comment.—One commenter asked in what instances either of the two methods for obtaining federally connected membership data is more appropriate.

Response.—No change has been made. The parent-pupil survey is the most frequently used method of obtaining the necessary membership data. However, an applicant should use whichever method is the most helpful and convenient in obtaining an accurate membership count.

Section 222.22 (§ 115.28) Computation of ADA of federally connected children.

Comment.—One commenter asked, if the child counts are done on the basis of membership, where the average daily attendance (ADA) figures come from that are used with membership figures to obtain a ratio to compute the ADA of federally connected children.

Response.—No change has been made. In its application for the current year, each applicant reports its ADA for all children for the previous year.

Comment.—One commenter stated that, according to the amendment in section 1014 of Pub. L. 95–561, the Secretary only has to convert average daily membership (ADM) into ADA for LEAs in States which do not require LEAs to keep records on ADA. The commenter asked why this section of the regulations seems to apply to all LEAs.

Response.—No change has been made. This section of the regulations does apply to all applicant LEAs under sections 3 and 4 of the Act. Section 1014 of Pub. L. 95–561 amended section 403(10)(B) of the Act to require the Secretary to provide a method for converting ADM to ADA for States that distribute State aid to LEAs on the basis of ADM. However, § 222.22 of these regulations does not implement that portion of the law. Rather, § 222.22 implements a portion of section 403(10)(A) of the Act which requires the Secretary to determine the ADA of federally connected children for payment purposes for all applicant LEAs under sections 3 and 4 of the Act.

Comment.—One commenter asked whether in those States that keep records based on ADA, it would be simpler to count attendance instead of membership in the surveys.

Response.—No change has been made. The Secretary has determined that a count of attendance for any single day does not result in an accurate reflection of ADA for the entire school year.

Comment.—One commenter indicated that the method of tabulating ADA by using the previous year's percentage relationship of ADM to ADA resulted in 40 fewer students for his school district over a five-year period. The commenter is concerned that there is no alternative method of using actual ADA for final payment purposes.

Response.—No change has been made. This section of the regulations provides for the determination of ADA of federally connected children for payment purposes by using a ratio of final ADA for the previous year to membership on the survey date for the previous year, not a ratio of ADA to ADM. Using actual ADA for final payments would delay those payments for all applicants until well into the following school year.

Section 222.40 (§ 115.45) Maintenance of records.

Comment.—One commenter questioned that 20 U.S.C. 1232f (section 437 of the General Education Provisions Act (GEPA)) was cited following this section, rather than a provision of the Act.

Response.—A change has been made. In these final regulations, specific provisions of the Act are cited following this section. In some instances, however, section 437 of GEPA also applies to records and reports required of applicants under the Act, see e.g., 34 CFR 75.730 and § 222.79 which concern claims for financial assistance under section 3(d)(2)(C) of the Act related to the provision of a free public education to handicapped children and children with specific learning disabilities.

Section 222.41 (§ 115.46) Retention of records.

Comment.—One commenter stated that the law does not require a grantee to keep all records substantiating its entitlement to payment until any question raised in a Federal audit or review is finally resolved and the necessary adjustments to payments have been made. The commenter asked why the regulations add this requirement.

Response.—No change has been made. The requirement in § 222.41(b) that a grantee keep all records substantiating its entitlement to payment until any question raised in a Federal audit or review is finally resolved and the necessary adjustments to payments have been made, is similar to provisions in the previous regulations. Under section 401(b) of the Act, the Secretary has general authority to administer the Impact Aid program. He may require an applicant to keep any records that may be necessary for that administration.

Executive Order 12291

These 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.

List of Subjects in 34 CFR Part 222

Education, Education of the handicapped, Elementary and secondary education, Federally affected areas, Grant programs—education, Public housing, Reports and recordkeeping requirements.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance No. 84.041, School Assistance in Federally Affected Areas—Maintenance and Operation)

Dated: February 13, 1986.

William J. Bennett,

Secretary of Education.

PART 222—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR EDUCATION OF CHILDREN WHERE LOCAL EDUCATIONAL AGENCIES CANNOT PROVIDE SUITABLE FREE PUBLIC EDUCATION

The Secretary amends Part 222 of Title 34 of the Code of Federal Regulations as follows:

1. The Table of Contents for Subparts B, C, and E of Part 222 and the authority citation for Part 222 are revised to read as follows:

* * * * *

Subpart B—Applications

Sec.

Authority: Titles I and IV, Pub. L. 81-874, 64 Stat. 1100 (20 U.S.C. 236-244), as amended, unless otherwise noted.

2. Section 222.3 is amended by removing paragraphs (e) and (f), redesignating paragraphs (g) through (q) as paragraphs (e) through (o), and by revising redesignated paragraphs (h)(2)(iv) and (m)(3) to read as follows:

§ 222.3 Definitions.

* * * * *

(h)(2)(iv) If the parent is a member of the uniformed services on active duty, the name, the rank, and branch of service of such parent;

* * * * *

(m)(3) A portion, to be determined by the Secretary, of the persons working on commingled Federal and non-Federal properties other than those covered by paragraph (m)(1) of this section.

* * * * *

§ 222.10 [Redesignated as § 222.9]

3. Section 222.10 is redesignated as § 222.9.

4. Section 222.11 is redesignated as § 222.10, and is amended by removing paragraphs (c), (d), and (f), redesignating paragraphs (e) and (g) as paragraphs (c) and (d), respectively, and revising paragraph (b) to read as follows:

§ 222.10 Final date for filing applications.

* * * * *

(b)(1) If any of the following events, giving rise to eligibility or entitlement, occurs within the fiscal year for which assistance is sought, an LEA seeking assistance shall file an application within the time limits required by paragraph (b)(2) of this section:

(i) The United States Government initiates or reactivates a Federal activity, or acquires real property.

(ii) The United States Congress enacts new legislation.

(iii) A reorganization of school districts takes place.

(iv) Property, previously determined in writing by the Secretary not to be Federal property, is determined to be Federal property.

(2) An LEA shall file an application as permitted by paragraph (b)(1) of this section on or before January 31 of the fiscal year for which assistance is sought or within 60 days after the applicable event occurs, whichever date is later, but not later than the end of the fiscal year for which assistance is sought.

* * * * *

5. A new § 222.11 is added to read as follows:

§ 222.11 Amendments to applications: Filing dates.

(a) An LEA may amend its application following any of the events described in § 222.10(b). The LEA shall file an amendment permitted by this paragraph within 60 days after the applicable event occurs, or by the end of the fiscal year for which assistance is sought, whichever is earlier.

(b) The LEA may also amend its application no later than the end of the fiscal year for which assistance is sought—

(1) For an adjustment to its entitlement based on data obtained from a second membership count; or

(2) For an adjustment to its entitlement based on actual satisfactory data regarding eligible Federal properties or federally connected children if that data were not available at the time the LEA filed its application.

(20 U.S.C. 240(a))

6. Section 222.12 is revised to read as follows:

§ 222.12 Applications under sections 2, 3, and 4 received after deadline not considered for payment.

The Secretary does not accept or consider for payment applications for assistance under sections 2, 3, and 4 of the Act which are received by the Secretary after the applicable filing date prescribed by § 222.10.

(20 U.S.C. 240(a))

§ 222.14 [Redesignated as § 222.18]

7. Section 222.14 is redesignated as § 222.18.

8. A new § 222.14 is added to read as follows:

§ 222.14 How membership data must be obtained: General.

(a) The Secretary determines the amount of an LEA's entitlement on the basis of information in the LEA's application including information regarding membership of federally connected children.

(b) In its application the LEA shall supply information regarding membership on the basis of any count described in §§ 222.15 through 222.17.

(20 U.S.C. 240(a))

(Approved by OMB under Control No. 1810-0036)

9. A new § 222.15 is added to read as follows:

§ 222.15 First or only membership count.

(a)(1) An applicant shall select a given day in the current school year as the survey date for making the membership count.

(2) The survey date must be at least three days after the start of the school year and before January 31 of the fiscal year for which assistance is sought.

(3) The applicant shall use the same survey date for all schools in the school district.

(b)(1) As of the survey date, the applicant shall count the membership of all federally connected children within the categories described in sections 3 and 4 of the Act.

(2) The LEA shall also count as of that same date the membership of all its children—federally connected and non-federally connected.

(20 U.S.C. 238, 239, 240(a))

(Approved by OMB under Control No. 1810-0036)

§ 222.16 [Redesignated as § 222.19]

10. Section 222.16 is redesignated as § 222.19.

11. A new § 222.16 is added to read as follows:

§ 222.16 Second membership count.

(a) The applicant may, but is not required to, make a second count of membership during the last quarter of the current school year.

(b) For this count the applicant shall select a survey date in that quarter.

(c) The applicant shall use the same survey date for all schools in the school district.

(d) Information obtained from this count is used in amending the LEA's application as described in § 222.111 (b)(1).

(20 U.S.C. 238, 239, 240(a))

(Approved by OMB under Control No. 1810–0036)

12. A new § 222.17 is added to read as follows:

§ 222.17 Alternative methods for making membership counts.

The applicant may use one of two alternative methods in making the membership counts:

(a) The applicant may conduct a parent-pupil survey to determine federally connected membership. Information that the applicant shall collect in the survey is described in § 222.3(h).

(b) The applicant may determine federally connected membership by obtaining certificates from—

(1) Employers as to the employment of parents of children claimed; or

(2) Housing officials as to the residence of the children on the survey date; or

(3) Both (b) (1) and (2), if necessary.

(20 U.S.C. 238, 239, 240(a))

(Approved by OMB under Control No. 1810–0036)

13. Section 222.20 is amended by revising the introductory text of paragraph (c) to read as follows:

§ 222.20 Changes in boundaries, classification, and governing authority of applicants.

* * * * *

(c) Except as provided in § 222.21(d), an LEA which assumes administrative control and direction of free public education in all or a portion of the area of a previously existing applicant, may (if it is not already an applicant under the section involved or if it files an application in accordance with § 222.10(b)(1)(iii)) have its entitlement under section 3(d)(1) or 4(a)(1) of the Act for the entire fiscal year determined by either of the following, whichever is more favorable to it:

* * * * *

14. Section 222.21 is amended by removing paragraphs (e) and (f) and revising paragraph (d)(1) to read as follows:

§ 222.21 Payments under section 3 when percentage eligibility requirement is not met.

* * * * *

(d)(1) Files an application in accordance with § 222.10(b)(1)(iii) (unless already an applicant under section 3); and

* * * * *

§ 222.25 [Redesignated as 222.26]

15. Section 222.25 is redesignated as § 222.26.

16. Section 222.24 is redesignated as § 222.25, and is amended by revising paragraph (b) to read as follows:

§ 222.25 Election under section 4(c).

* * * * *

(b) Otherwise eligible to be counted under section 3 of the Act. This election may be made only if an application under section 4 is filed in a timely manner in accordance with § 222.10.

(20 U.S.C. 239(c))

§§ 222.22 and 222.23 [Redesignated as §§ 222.23 and 222.24]

17. Sections 222.22 and 222.23 are redesignated as §§ 222.23 and 222.24, respectively.

18. A new § 222.22 is added to read as follows:

§ 222.22 Computation of ADA of federally connected children.

This section describes the manner in which the Secretary computes the average daily attendance (ADA) of federally connected children for each category in sections 3 and 4 of the Act—for the application year—in order to determine an applicant's entitlements under those sections. The Secretary—

(a) Determines the ratio of the applicant's final ADA of all children for the previous year to the applicant's membership of all children on the previous year survey date (or, in the case of an applicant that conducted two membership surveys in the previous year, the average of the applicant's membership of all children on the two survey dates); and

(b) Multiplies this ratio by the number of federally connected children in each subcategory for the application year (obtained as described in § 222.15). The product obtained the ADA of federally connected children in each subcategory.

(c) If the applicant is making two counts; the Secretary—

(1) Adds the total federally connected membership for each subcategory for each count;

(2) Divides that sum by two to compute the average federally connected membership for each subcategory for both counts;

(3) Determines the ratio of total ADA to total membership for the previous school year; and

(4) Multiplies this ratio by the average federally connected membership in each subcategory obtained as described in paragraph (c)(2) above.

The product is the ADA of federally connected children in each subcategory.

(20 U.S.C. 238, 239, 240(a)

§ 222.27 [Removed]

19. Section 222.27 is removed.

20. Section 222.40 is amended by redesignating paragraph (b) as paragraph (c), and by revising paragraph (a) and adding a new paragraph (b) to read as follows:

§ 222.40 Maintenance of records.

(a) An LEA shall maintain adequate written records to prove its entitlement to whatever amount of payment it received under this part for any fiscal year.

(b) On request the LEA shall make its records available to the Secretary for the purpose of examination or audit.

* * * * *

(20 U.S.C. 237, 238, 239, 240, 224(b))

§ 222.41 [Removed]

21. Section 222.41 is removed.

22. Section 222.42 is redesignated as § 222.41 and is revised to read as follows:

§ 222.41 Retention of records.

An LEA shall retain all the records referred to in § 222.40(a) until the later of the following:

(a) Five years after the end of each fiscal year for which funds were received.

(b) If the records have been questioned on Federal audit or review, until the question is finally resolved and the necessary adjustments to payments have been made.

(20 U.S.C. 237, 238, 239, 240, 242(b))

23. A new § 222.42 is added to read as follows:

§ 222.42 Adjustment for or recovery of overpayment.

(a) If the Secretary determines that an LEA has received a payment in excess of what it should have received under the Act and this part, the Secretary deducts the amount of the overpayment

from subsequent payments to which the LEA is entitled under the Act.

(b) If the LEA is not entitled to subsequent payments under the Act, the LEA shall refund the amount of the overpayment to the Secretary.

(20 U.S.C. 240, 242(b), 1226a–1)

§ 222.43 [Redesignated as § 222.44]

24. Section 222.43 is redesignated as § 222.44.

25. A new § 222.43 is added to read as follows:

§ 222.43 Information submitted after deadlines.

(a) *General.* Except as indicated in paragraph (b) of this section, the Secretary does not consider information submitted by an applicant after the deadlines prescribed in Subpart B for submission of applications and amendments to applications.

(b) *Information solicited by the Secretary.* After the deadlines prescribed in Subpart B the Secretary may solicit from the applicant, in writing, additional clarifying information for the purpose of processing an application.

(20 U.S.C. 240, 242(b))

26. Section 222.66 is amended by revising paragraph (d)(1) to read as follows:

§ 222.66 Proportion of funds that may be taken into consideration.

* * * * *

(d) *Application of proportion to payments under the Act.* (1) The proportion established under this section (or a lesser proportion) for any local educational agency receiving payments under the Act may be applied by a State to actual receipts of those payments or to the prorated entitlements provided for under section 5 of the Act and § 222.26 of Subpart C.

* * * * *

[FR Doc. 86–3583 Filed 2–19–86; 8:45 am]

BILLING CODE 4000–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6702]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The dates listed in the fourth column of the table.

ADDRESSEE: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or Federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities

List of Subjects in 44 CFR Part 64.

Flood insurance—floodplains

The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Florida: Levy	Inglis, town of	120586A	Jan. 10, 1986, Emerg.; Jan. 10, 1986, Reg.	Dec. 29, 1978 and Mar. 1, 1984.
Texas:				
Brazos	Unincorporated areas	481195A	Jan. 13, 1986, Emerg.	Oct. 18, 1977.
Travis	Jonestown, city of [1]	481597-New	Jan. 29, 1976, Emerg.; Apr. 1, 1982, Reg.	Do.
Utah: Salt Lake	Sandy City, city of	490106B	Feb. 3, 1975, Emerg.; Dec. 18, 1985, Reg.; Dec. 18, 1985, Susp.; Jan. 13, 1986, Rein.	July 26, 1974, Jan. 16, 1976, and Dec. 18, 1985.
Illinois: Alexander	Unincorporated areas	170811B	June 6, 1974, Emerg.; Jan. 3, 1986, Reg.; Jan. 3, 1986, Susp.; Jan 15, 1986, Rein.	Dec. 27, 1974, July 22, 1977, and Jan. 3, 1986.
New Jersey: Bergen	Fairview, borough of	340034B	July 16, 1975, Emerg.; Aug. 2, 1982, Reg.; Aug. 2, 1982, Susp.; Jan 3. 1986, Rein.	Feb. 1, 1974 and July 30, 1976.
Connecticut: Windham	Hampton, town of [2]	090170A	Dec. 29, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.; Jan. 8, 1986, Rein.	Jan. 10, 1975 and Dec. 4, 1985.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Pennsylvania: Chester	West Sadsbury, township of	422281A	Mar. 23, 1976, Emerg.; Aug. 5, 1985, Reg.; Aug. 5, 1985, Susp.; Jan. 21, 1986, Rein.	Apr. 11, 1975 and Aug. 5, 1985.
Vermont: Orleans	Albany, town of [2]	500243	Feb. 10, 1976, Emerg.; Jan. 3, 1986, Reg.; Jan. 3, 1986, Susp.; Jan. 21, 1986, Rein.	Feb. 7, 1975 and Jan. 3, 1986.
Pennsylvania: Huntingdon	Dublin, township of [2]	421689B	Jan. 20, 1978, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.; Jan. 22, 1986, Rein.	Dec. 13, 1974, Oct. 31, 1980, and Dec. 4, 1985.
Illinois: Pike	Unincorporated areas	170551A	May 1, 1974, Emerg.; Jan. 3, 1986, Reg.; Jan. 3, 1986, Susp.; Jan. 27, 1986, Rein.	Dec. 13, 1974, Feb. 18, 1977, and Jan. 3, 1986.
Connecticut: Tolland	Union, town of [2]	090190B	Nov. 7, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.; Jan. 29, 1986, Rein.	Jan. 31, 1975, May 21, 1976, and Dec. 4, 1985.
Pennsylvania: Wayne	Cherry Ridge, township of	422161A	Nov. 14, 1975, Emerg.; Dec. 4, 1985, Reg.; Dec. 4, 1985, Susp.; Jan. 29, 1986, Rein.	Dec. 20, 1974 and Dec. 4, 1985.
Florida: Flagler	Beverly Beach, town of	120569B	May 12, 1977, Emerg.; Jan. 3, 1986, Reg.; Jan. 3, 1986, Susp.; Jan. 31, 1986, Rein.	June 24, 1977 and Jan. 3, 1986.
Ohio: Erie	Kelleys Island, village of	390738A	Apr. 30, 1975, Emerg.; Aug. 17, 1981, Reg.; Aug. 17, 1981, Susp.; Oct. 7, 1981, Rein.; Nov. 18, 1981, Susp.; Dec. 9, 1982, Rein.; Jan. 29, 1986, Withdrawn.	Apr. 18, 1975 and Aug. 17, 1981.
Region I				
Maine: Cumberland	Brunswick, town of	230042B	Jan. 3, 1986, Suspension withdrawn	Nov. 1, 1974, June 14, 1977, and Jan. 3, 1986.
Rhode Island:				
Washington	South Kingstown, town of	445407D	do	Nov. 1, 1974, June 14, 1977, and Jan. 3, 1985.
Providence	Pawtucket, city of	440022D	do	July 16, 1971, July 1, 1974, June 11, 1976, Apr. 1, 1982, and Jan. 3, 1986.
Region II				
New Jersey: Bergen	Ho-Ho-Kus, borough of	340044B	do	June 22, 1973 and Jan. 3, 1986.
New York: Jefferson	West Carthage, village of	360356B	do	May 10, 1974, Nov. 28, 1975, and Jan. 3, 1986.
Region IV				
North Carolina:				
Beaufort	Belhaven, town of	370015	do	Apr. 13, 1973, May 16, 1977, and Jan. 3, 1986.
Do	Aurora, city of	370014B	do	May 3, 1974, May 28, 1976, and Jan. 3, 1986.
Georgia Glynn	Brunswick, city of	130093B	Jan. 14, 1986, Suspension withdrawn	May 24, 1974, Jan. 9, 1976, and June 19, 1985.
Region V				
Illinois:				
Mercer	Unincorporated areas	170806	Jan. 3, 1986, Suspension withdrawn	Dec. 23, 1977 and Jan. 3, 1986.
Scott	do	170905B	do	Jan. 28, 1977 and Jan. 3, 1986.
Ohio: Richland	Mansfield, city of	390477C	do	May 17, 1974, Oct. 17, 1975, Mar. 2, 1979, and Jan. 3, 1986.
Region VII				
Missouri: Moniteau	Lupus, city of	290239A	do	Jan. 3, 1986.
Colorado: Garfield	Unincorporated areas	080205B	do	Dec. 15, 1977 and Jan. 3, 1986.
Region I				
Maine: Oxford	Stoneham, town of [2]	230340A	Jan. 3, 1986, Suspension withdrawn	Feb. 21, 1975 and Jan. 3, 1986.
Rhode Island: Kent	West Greenwich, town of [2]	440037A	do	Jan. 24, 1975 and Jan. 3, 1986.
Region II				
New York: Otsego	Cherry Valley, village of	361449B	do	Nov. 15, 1974, May 28, 1976 and Jan. 3, 1986.
Region VI				
Arkansas: Lonoke	England, city of	050133B	do	May 10, 1974, Oct 3, 1975 and Jan. 3, 1986.
Region V				
Wisconsin:				
Walworth	Genoa City, village of	550465B	do	Jan. 9, 1974, May 15, 1976 and Sept. 4, 1985.
Bayfield	Bayfield, city of	550017A	do	July 16, 1976 and Sept. 18, 1985.
Region VII				
Nebraska: Buffalo	Shelton, village of	310019B	do	Mar. 19, 1976, Sept. 3, 1976 and Sept. 27, 1985.
Region I				
Maine: Sagadahoc	Bath, city of	230118B	Jan. 17, 1986, Suspension withdrawn	Nov. 1, 1974, May 10, 1977 and Jan. 17, 1986.
Massachusetts: Essex	Gloucester, city of	250082C	do	July 26, 1974, Feb. 18, 1977, Oct. 1, 1986 and Jan. 17, 1986.
Region II				
New Jersey: Morris	East Hanover, village of	340341C	do	Aug. 31, 1973, Apr. 16, 1979 and Jan. 17, 1986.
Region V				
Illinois:				
Champaign	Sidney, village of	170033B	do	Jan. 16, 1974, Oct. 10, 1975 and Jan. 17, 1986.
Morgan	Unincorporated areas	170903B	do	May 13, 1977 and Jan. 17, 1986.
Michigan: Shiawassee	Corunna, city of	260602A	do	Sept. 19, 1975 and Jan. 17, 1986.
Ohio:				
Hocking	Logan, city of	390274C	do	May 31, 1974, Sept. 10, 1970, July 13, 1979 and Jan. 17, 1986.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Athens	Nelsonville, city of	390020B	do	May 10, 1974, Apr. 16, 1976 and Jan. 17, 1986.
Do	Chauncey, village of	390017B	do	June 21, 1974, Apr. 16, 1976 and Jan. 17, 1986.
Region VI				
Texas: Brazoria	Freeport, city of	485467D	do	Nov. 17, 1970, July 1, 1974, Oct. 31, 1975 and Jan. 17, 1986.
Region VII				
Kansas: Barton	Albert, city of	200017A	do	Dec. 27, 1974 and Jan. 17, 1986.
Region I				
Rhode Island: Providence	Foster, town of [2]	440033B	Jan. 17, 1986, suspension withdrawn	Sept. 13, 1974, Sept. 10, 1976 and Dec. 4, 1985.
Region VI				
Arkansas:				
Mississippi	Dyess, town of	050143A	do	Oct. 18, 1974 and Jan. 17, 1986.
Prairie	De Valls Bluff, city of	050238A	do	Dec. 27, 1974 and Jan. 17, 1986.
Arkansas	Gillett, city of	050325A	do	Apr. 11, 1975 and Jan. 17, 1986.

[1] The City of Jonestown (Travis County) Texas is a newly incorporated community eligible 1-13-86 that was participating in the Regular Program as an unincorporated area of Travis County. The City has adopted the County's FIRM for floodplain management and insurance purposes.
[2] Minimal conversions.
Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

Issued: February 10, 1986.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 86-3528 Filed 2-19-86; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 62

[CC Docket No. 84-1330; FCC 86-53]

Common Carrier Services; Interlocking Directorates, Applications for Authorizations.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On July 19, 1985, the Commission adopted proposed revisions to Part 62 or the Commission's Rules, 47 CFR 62.1 *et seq.*, 50 FR 31370 (August 2, 1985). Part 62 Implements section 212 of the Communications Act of 1934, as amended, 47 U.S.C. 212, dealing with interlocking directorates. In this Memorandum Opinion and Order the Commission resolves petitions for reconsideration, retaining the rules as adopted with one further revision. In future, interlocks involving parents or holding companies or carriers will be monitored by receipt or reports, pursuant to 47 CFR 62.26. This action was taken in response to petitions for reconsideration and comments in this proceeding.

EFFECTIVE DATE: March 24, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah Lerner, Gay Ludington, Enforcement Divsion, Common Carrier Bureau, (202) 632-4887.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 62

Antitrust, Communications Common Carriers, Reporting and recordkeeping requirements.

Memorandum Opinion and Order

In the Matter of Amendment of Part 62 of the Commission's Rules (CC Docket No. 84-1330).

Adopted January 21, 1986.
Released January 28, 1986.
By the Commission.

I. Introduction

1. On December 31, 1984, the Commission issued a Notice of Proposed Rulemaking [1] in this proceeding seeking to simplify and streamline requirements for compliance with Part 62 of the Commission's Rules, 47 CFR 62.1, *et seq.* Part 62 implements section 212 of the Act, 47 U.S.C. 212, which sets out the Commission's responsibility to protect against anticompetitive behavior arising from the interlocking of common carriers through shared officers or directors. In the Order adopted pursuant to the NPRM,[2] we eliminated the filing of Part 62 applications for interlocks involving non-dominant carriers or cellular licensees operating in different geographic markets, perceiving no potential harm to competition in these instances. We required instead that any of these interlocks should be reported to the Commission within 30 days after the interlock occurred, in order to facilitate our oversight of carrier interlocks. We continued for the present time to require pre-interlock applications where the interlocked position was with a dominant carrier. We also clarified our position that pre-interlock authorization was required for positions with parent and holding companies of carriers.

2. Seven parties [3] filed petitions for reconsideration or comments.

These pleadings are confined to three assertions: (1) Part 62 applications should not be required for interlocks involving radio common carriers (RCCs), which have not yet been found non-dominant; (2) the Commission lacks jurisdiction to require Part 62 applications for positions with parent or holding companies; and (3) the requirement of reporting interlocks within 30 days of occurrence, pursuant to § 62.26, should be replaced by an annual report.[4] Based upon the recent submissions and upon further consideration, we have decided to modify our Part 62 requirements where the interlocked position is with a parent of a dominant carrier to further reduce the regulatory burden imposed by these rules consonant with our statutory mandate.

II. Discussion

3. The largest portion of the comments were submitted by radio common carriers (RCCs) arguing that they should not be required to file pre-interlock applications. The RCCs argued that they should be found to be non-dominant. We believe that the record in this proceeding is insufficient to support such a determination. Nevertheless, we note that in another proceeding this

[1] Notice of Proposed Rulemaking, 50 FR 976 (January 6, 1985) (NPRM).
[2] First Report and Order, 50 FR 31370 (August 2, 1985) (*Order*).
[3] *See.* Appendix A.
[4] *See* Appendix B for a summary of the comments filed in this proceeding.

Commission has proposed to treat RCCs as non-dominant, and the comments received in that proceeding largely support the proposal.[5] If we finally adopt that proposal the RCCs will automatically be exempted from filing pre-interlock applications.[6] We stated in our *Order*, 50 FR 31373, that as additional categories of carriers are found to be non-dominant, pre-interlock Part 62 applications would not be required for positions with such entities. We note that international record carriers have been determined to be non-dominant during the time period since these comments were filed.[7] As other classes of carriers are found to be non-dominant, the post-interlock reporting requirement will become automatically applicable to such carriers.

4. Second, while several parties question our jurisdiction to require Part 62 applications for positions with parent and holding companies of carriers, our *Order* clearly did not find it necessary to conclude that parents or holding companies are common carriers in order to make such interlocks subject to Part 62. We again decline to make any such determination here. The parties questioning this determination have presented no new arguments not already fully addressed in the Order which would cause us to change this finding.[8] In sum, we possess jurisdiction over parents and holding companies of carriers to require them to comply with Part 62's filing requirements.

5. It appears, however, that in many instances interlocks with parents of carriers will not pose the threat of harm to the public or private interests which section 212 was designed to prevent. Therefore, we will not require that applications for prior approval be submitted. First of all, the interlock is indirect (i.e., not with the carrier itself) and thus the possibility of anticompetitive or other harm is more attenuated than with a direct interlock.[9] In addition, the filings here have demonstrated that the interlock often involves companies primarily engaged in businesses unrelated to telecommunications.[10] Further, the commenting parties concede that this Commission can "pierce the corporate veil" on an appropriate record to prevent carriers from using corporate structure to avoid their statutory obligations under the Communications Act. An appropriate record can be compiled to pierce the corporate veil once the report of the potentially offending interlock is filed in those rare instances in which an interlock with a parent of a dominant carrier poses significant anticompetitive concerns.

6. In order to obtain the information necessary to ensure that carriers are not using corporate structures to engage in anticompetitive or other illegal practices via interlocking directorates involving their affiliated companies, we will amend part 62 to require that such interlocks be reported within 30 days of assuming office. *See* 47 CFR 62.26. Our decision to monitor interlocks involving parent or holding companies by post-interlock reports is consistent with our goal of employing the least intrusive or burdensome procedure to accomplish our statutory obligations.[11]

7. Our action today renders even more important the timely receipt of reports concerning interlocking directorates. The annual filing urged by some parties will not inform the Commission and the public of interlocks as they occur, and thus will interfere with obtaining prompt comments and with the Commission taking any necessary remedial action. We believe the 30 day filing requirement is best suited for enforcing Part 62 and section 212, and imposes a minimal burden on persons seeking interlocking positions. As we stated in our *Order*, we will reexamine this requirement as our experience and circumstances warrant.[12]

8. As a final matter, we have clarified the language in § 62.26 to reflect that applications for findings of common ownership must be filed only if dominant carriers are involved, as explained in our *Order*, 50 FR 31376.

III. Ordering Clauses

9. Accordingly, it is ordered that Part 62 of the Commission's Rules and Regulations is further amended as specified in Appendix C to the *Order*, effective thirty days after publication of this Memorandum Opinion and Order in the Federal Register.

10. Authority for this action is contained in sections 1, 4(i), 4(j), 201–209, 212, 218, 219, 301, 303, 309, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–209, 212, 218, 219, 301, 303, 309, and 403 and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Petitions for Reconsideration:
- Telocator Network of America/Radio Common Carrier Division (Telocator/RCC)
- Telocator Network of America/ Cellular Telecommunications Division (Telocator/Cellular)
- Metromedia, Inc. (Metromedia)
- American Information Technologies Corporation (Ameritech)

Petition for Clarification or, in the Alternative, Reconsideration:
- General Motors Corporation (GM)

Comments in Support of Petitions filed by Ameritech and GM:
- US West, Inc. (US West)
- United Telecommunications, Inc. (United)

Appendix B—Summary of Comments

Three parties took issue with our requirement that RCCs, not yet found to be non-dominant, should continue to file applications under Part 62. Telocator/RCC maintained that RCCs lack market

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[5] *See*, Preemption of State Entry Regulations in the Public Land Mobile Service, CC Docket 85–89, FCC 85–147 (released May 17, 1985) (RCC NPRM).

[6] As we noted in our *Order*, 50 FR 32373 n. 9, it may be appropriate in the future to undertake a further rulemaking regarding our Part 62 treatment of carriers whose status as dominant or non-dominant remains undecided and whether further modifications to Part 62 are required for all carriers. However, until that time, we will require the filing of Part 62 applications for positions with such carriers.

[7] International Competitive Carrier Policies, CC Docket No. 85–107, FCC 85–585 (released November 15, 1985).

[8] *See* Order, 50 FR 31374–5 nn. 15, 16. In addition, it is not disputed that the Commission possesses authority to require such disclosue pursuant to Sections 215, 218 and 219 of the Communications Act, 47 U.S.C. 215, 218 and 219. *Accord*, US West, Inc. v. FCC, No. 84–1448 (D.C. Cir. December 6, 1985); North American Telecommunications Association v. FCC, F.2d 1282 (7th Cir. 1985).

[9] Depending upon the degree of involvement in carrier operations and decisions of the interlocked officer or director and the number of intermediary corporations between the parent and the carrier itself, the interlocked individual may have almost no influence whatsover on carrier affairs.

[10] *See, e.g.*, Applications involving positions with the boards of General Motors (Applications of Catherine B. Cleary, EID–543; James H. Evans, EID–544; Thomas H. Wyman, EID–546) and Sears, Roebuck and Co., (Application of Warren L. Batts, EID–569). Carriers involved in such interlocks are several levels removed from the direct control of the applicant and the parent involvement in the communications business is minor. It appears that prior approval procedures are unnecessary to insure against anticompetitive harm in such instances.

[11] Almost all of the applications received are unopposed, and we have not found that the interlocks requested would have anticompetitive implications. This is not to say, however, that no situation exists where an illegal interlock might occur, even when the interlock involves a parent of a carrier. As we noted in the Order, there are situations where an interlock with a parent of a dominant carrier may raise significant anticompetitive concern. Order at 31375, n.16. Given this concern, we advise, but do not require, the reporting of potentially illegal interlocks before the appointment occurs to ensure that any Commission action found necessary would be as non-disruptive to corporate affairs as possible.

[12] *Order*, 50 FR 31370, August 2, 1985.

power as a result of the advent of cellular radio, FM radio and TV station broadcast use of subcarrier frequencies and aggressive competition by paging systems. Operation in such a competitive climate, claimed Telocator/RCC, qualifies RCCs for the same "blanket authorization" of section 212 authority granted non-dominant carriers in the *Order*. Metromedia agreed, and argued further that while there is a pending proceeding in which the Commission is addressing the issue of whether RCCs should be considered non-dominant, the record is sufficient in this proceeding to make such a finding here, at least for purposes of section 212. In the alternative, Metromedia asked that we defer imposition of Part 62 application requirements on non-wireline RCCs pending the outcome of that proceeding. Telocator/Cellular maintained that the Commission should not require section 212 applications for interlocks between cellular carriers and RCCs. Since the Commission has encouraged applicants to form partnerships to capitalize on ownership experience, it argues, to then require that such combinations be approved does not make sense. Further, Telocator/Cellular took issue with our reporting requirement, urging that the Commission's filing requirements for cellular interlocks be limited to an annual filing only.

Comments from the remaining four parties generally centered on our treatment of parent and holding companies of carriers. Ameritech maintained that the Commission specifically lacks authority to extend the reach of section 212 and Part 62 to require applications for positions on holding companies. Our decision to impute carrier status to parents and holding companies of carriers, says Ameritech, is an illegal attempt to circumvent the language of section 212 which applies to carriers only. However, it concedes that the Commission can, if necessary, pierce the corporate veil to address abuses caused by interlocking directorates involving parent or holding companies upon an appropriate record. General Motors echoed Ameritech's concerns; it was also troubled that an expansive reading of section 212 could have a "chilling effect on future acquisitions by General Motors" (GM comments at 5) and that it might make it difficult to find qualified candidates willing to serve on the GM board in the future. It asked that we clarify that our interpretation of the reach of section 212 and Part 62 extends only to parents of carriers and not to grandparents or further removed corporate generations. In the alternative, it urged us to reconsider our conclusion that we can impute carrier status to parent and holding companies, stating that the legislative history shows a clear intent by Congress to limit the reach of section 212 to carriers only. It pointed to sections 218 and 219, which give the Commission limited authority over "persons controlling carriers" as the Congressionally approved means of monitoring corporate behavior, including interlocks involving parent or holding companies. US West and United filed comments in support of the petitions filed by GM and Ameritech.

Appendix C

PART 67—[AMENDED]

Part 62 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 62 continues to read as follows:

Authority: Sec. 1, 4(i), 4(j), 201–209, 212, 218, 219, 301, 303, 309, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 154(i), 154(j), 201–209, 212, 218, 219, 301, 303, 309, and 403, and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

2. Section 62.1 is revised in its entirety as follows:

§ 62.1 Scope and method of securing authorization.

No person may hold the position of officer or director in more than one carrier subject to the Communications Act of 1934, as amended, unless duly authorized to do so pursuant to the regulations set forth in this part:

(a) Application must be made to hold interlocking positions with more than one carrier subject to the Act where any carrier sought to be interlocked has been found by the Commission to have market power and is therefore defined as a dominant carrier under 47 CFR Part 61, or where any carrier has not yet been found to be non-dominant, except for cellular licensees in different geographic markets.

(b) Persons seeking positions as officers or directors of (1) cellular radio licensees in different geographic markets; (2) carriers which have been found to be non-dominant; and (3) holding or parent companies of carriers, are authorized to serve in those capacities without making application to this Commission.

3. The introductory paragraph to § 62.12 is revised to read as follows:

§ 62.12 Information required for findings of common ownership.

Authorization to hold interlocking directorates based upon a finding of common ownership must be obtained where a carrier found to be dominant under 4 CFR Part 61 or where any carrier not yet found to be non-dominant is involved. Each application for such authorization shall state the following:

* * * * *

§ 62.26 [Amended]

4. The reference to "§ 62.1(b)" in § 62.26 is removed, and reference to "§ 62.12," is inserted in its place.

[FR Doc 86–2264 Filed 2–19–86; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 69

[CC Docket No. 85–385; FCC 86–70]

Common Carrier Services, Interstate Services; Authorized Rates of Return

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In its September 30, 1985 *Rate of Return Order* in CC Docket No. 84–800, the Commission revised the schedule for filing annual, comprehensive revisions in the access tariffs. The current June 1 through May 31 effective period was shifted to a calendar year period, January 1 through December 31. The *Rate of Return Order* provided, however, that the initial period for review would be for the period from June 1, 1986 through December 31, 1986. Under the current rules, therefore, carriers would be obliged to make three comprehensive access filings over a period of 27 months. In a Notice of Proposed Rulemaking released December 6, 1985, the Commission proposed amendment of § 69.3 of the Rules to eliminate the comprehensive filing scheduled to become effective June 1, 1986. The Notice also proposed deletion of § 69.3(e)(8) of the Rules and that (NECA) carriers participating in the National Exchange Carrier Association pools would continue to do so. This Report and Order adopts the amendments proposed regarding the comprehensive filing requirement, but permits all carriers which elected in November 1985 either to join or withdraw from a NECA pool to make such elections effective June 1, 1986.

EFFECTIVE DATE: March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Pat McQuie Nagel at (202) 632–6917.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 69

Exchange Carrier Association, Revenue pooling, Communications Common Carriers, Reporting and recordkeeping requirements, Telephone.

Report and Order

In the matter of Revision of Part 69 of the Commission's Rules and Regulations; CC Docket No. 85-385.

Adopted: February 3, 1986.

Released: February 6, 1986.

By the Commission.

I. Introduction

1. We initiated this proceeding[1] to consider amendment of Part 69 of the Commission's Rules to eliminate the requirement that carriers file comprehensive revisions to their access tariffs, to be effective June 1, 1986.[2] Our *Notice* expressed our concern that the recent revision of the schedule for filing annual, comprehensive revisions to the access tariffs[3] had placed unnecessarily burdensome filing requirements on carriers.[4] Under the current Part 69 rules, local exchange companies (LECs) are required to make comprehensive access tariff filings on an annual basis. The annual period is currently defined as June 1 to May 31. In CC Docket No 84-800,[5] we modified the definition of the annual period to coincide with the calendar year, beginning in January 1987. Under the current rules, therefore, carriers would be required to make comprehensive access tariff filings on March 3, 1986 and again on October 3, 1986. We stated in our *Notice* that it was our tentative view that a comprehensive March filing appeared to be both unnecessary and undesirable in light of the brief periods during which the current and prospective June 1 rates would remain in effect, the limited data base which would be available for the preparation of revised rates, and the burdens imposed by the preparation and review of such filings.[6] We therefore proposed amendment of that portion of § 69.3(a) relating to the scheduled June 1, 1986 access tariff and a companion revision in § 69.3(e)(6) to delete references to notification to the National Exchange Carrier Association (NECA) regarding election to continue participation in the NECA pool for that period. We also proposed repeals of § 69.(e)(8) to eliminate the requirement that carriers file with NECA projections of private line terminations that would be subject to the access charge.[7]

II. Comments of the Parties

2. Our proposal to eliminate the requirement for a comprehensive access tariff filing in March was greeted with unanimous approval from the 20 parties filing comments.[8] The Ameritech Operating Companies (Ameritech) state that "the clear benefits of the proposals and the absence of identified harms argue forcefully for adoption of the proposed rule revision." Ameritech Comments at 1. The BellSouth Corporation (BellSouth) observes that, because the current access rates did not become effective until October 1, 1985, unless the filing were eliminated, insufficient data would be available for the development of new forecasts of demand and costs in compliance with § 61.38 of the Commission's Rules. BellSouth Comments at 2. Moreover, BellSouth states, if revised access rates become effective on June 1, 1986, the companies would experience the same difficulties in making the required comprehensive filing on October 3, 1986. Other parties echoed these sentiments. Nonetheless, while supporting the proposed rule changes, several parties request clarification or modification of the proposal described in the *Notice*. Parties request, variously, that this Commission modify the treatment accorded carrier participation in the NECA voluntary pools; [9] that we clarify the meaning of "less than comprehensive filing"; [10] and that we coordinate the effective date of rule changes associated with the direct assignment of closed-end WATS [11] and the allocation of Account 645 [12] with the date of the next-scheduled comprehensive filing.[13]

III. Discussion

A. Pool Participation

3. Our *Notice* proposed that carriers participating in the NECA pool would continue to do so.[14] NECA argues against this proposal. It states that, consistent with § 69.3(e)(6) of the Commission's Rules, the November 1985 pool elections have been completed and that NECA has reviewed the results of this election and determined that the shifts requested involve only a few small companies which will have an "imperceptible" effect on the pools.[15] NECA reports that it could accommodate the pool changes resulting from the November 1985 election in its tariff filing.[16] NTCA, on the other hand, argued initially that carriers might be allowed to join the NECA pools but should not be permitted to withdraw from them.[17] Subsequently, in light of the assurances offered by NECA regarding the minor effect of such pool elections, NTCA withdrew its objections to permitting small carriers to vacate the NECA pools.[18] OPASTCO suggests that companies be permitted the option of effecting the November 1985 election either on June 1, 1986 or January 1, 1987.[19] Pioneer reports that it elected in November to withdraw from the Billing and Collection pool and that, inasmuch as the *Notice* does not address the issue of whether carriers have the right to withdraw from one of the NECA pools, Pioneer concludes that its right to

[1] Revision of Part 69 of the Commission's rules and regulations, notice of proposed rulemaking, CC Docket No. 85-385, FCC 85-631, 50 FR 50183 (Dec. 9, 1985) (*Notice*).

[2] *See* § 69.3 of the Commission's rules, 47 CFR 69.3.

[3] *See* Authorized Rates of Return for the Interstate Services of AT&T Communications and Exchange Telephone Carriers, CC Docket No. 84-800, Phase I, Report and Order, FCC 85-527, 50 FR 41350 (Oct. 10, 1985) (*Rate of Return Order*).

[4] *Notice* at para. 1.

[5] *See* n. 3, *supra*.

[6] *Notice* at para. 3.

[7] The proposed amendments are set forth in Appendix A, *infra*.

[8] Parties filed comments on December 23, 1985 and reply comments on December 30. Parties filing such comments are listed at Appendix B.

[9] *See* Comments of National Telephone Cooperative Association (NCTA) at 3; Comments of National Exchange Carrier Association, Inc. (NECA) at 3; Comments of the Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) at 2; Comments of Pioneer Telephone Cooperative, Inc. (Pioneer) at 1-2.

[10] *See* Comments of Cincinnati Bell Telephone Company (CBT) at 2; Comments of GTE Sprint Communications Corporation (GTE Sprint) at 2; Comments of MCI Telecommunications Corporation (MCI) at 1.

[11] MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72 and 80-286, Decision and Order, FCC 85-655 (released Jan. 7, 1985) (*Direct Assignment Order*).

[12] MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72 and 80-286, Recommended Decision and Order, FCC 85-611 (released Nov. 15, 1985).

[13] *See* Comments of Continental Telecom Inc. (Contel) at 1-2; Comments of the NYNEX Telephone Companies (NYNEX) at 4; Comments of CBT at 1-2; Comments of GTE Sprint at 3.

[14] *Notice* at para. 7.

[15] NECA Comments at 3.

[16] *Id.*

[17] NTCA Comments at 3-4.

[18] NTCA Reply Comments at 1.

[19] OPASTCO Comments at 2. OPASTCO also suggests that existing waivers related to access tariffs be permitted to remain in effect through 1986. *Id.* In the absence of any demonstration that extensions of existing waivers is necessary, we decline to grant such blanket extensions.

withdraw from the pool has been preserved.[20]

4. We conclude that permitting the companies to exercise their elections on June 1, 1986 would have an inconsequential effect on the NECA pools and that the necessary tariff revisions impose a minimal burden. We will therefore permit all carriers which elected in November 1985 either to join or to withdraw from a NECA pool to file tariff revisions reflecting such elections effective June 1, 1986. Carriers may also elect to change their pool participation effective January 1, 1987.

B. March Filing Requirements

5. We stated in our *Notice* that deferral of comprehensive revisions of access rates need not delay implementation of steps necessary to achieve the recovery of local loop costs by carriers from customers who actually cause those costs. We noted that the one dollar increase in the end user charge and the attendant reduction in the carrier common line (CCL) element could be effectuated through "a filing that is less comprehensive than an annual filing for all access elements." [21] Parties seeking a definition of "less than comprehensive" suggest that a broad range of matters be addressed in this abbreviated filing. MCI proposes that this Commission require that substantial supporting cost materials be submitted with the access tariffs and appends to its Comments a list of materials which it identifies as "necessary cost support material for effective evaluation of access tariff rate changes." [22] The materials listed by MCI range from "description and justification," through "development of the total company budget" to "access computer models." GTE Sprint suggests that, if the Commission requires the March 3 filing to reflect changes due to the dedicated treatment of WATS closed end facilities, carriers should also be required to reflect "all changes which would have an impact upon interstate traffic volume and revenue requirements." [23] NECA recommends that the filing include the implementation of new average schedules as well as the direct assignment of closed end WATS.[24]

6. NECA also asserts that retention of the March 3 filing date "may jeopardize the ability of NECA and the exchange carriers to reflect the Commission's decision" in CC Docket No. 78–72 and proposes April 1, 1986 as a more reasonable target date for the less than comprehensive filing.[25] Inasmuch as final decisions in CC Docket No. 86–1 and the proceeding to revise the apportionment of commercial expenses probably could not be reflected in a March 3 filing, we have decided to adopt NECA's suggestion and will defer the filing of tariffs to become effective June 1, 1986, until April 1, 1986.

7. MCI and GTE Sprint seek to impose filing requirements as burdensome as those which we proposed to eliminate. The data requested by both these parties would be far more extensive than that which should accompany a simplified filing and would include many more carriers. MCI and GTE Sprint have not demonstrated that such filing requirements are warranted in the present circumstances. The April filing must include those tariff revisions and cost support material necessitated by changes in pool participation and by implementation of the increased subscriber line charge and the resultant flow-through to CCL charges.

8. As indicated in our *Notice* at para. 25, elimination of the comprehensive filing does not foreclose any carrier from filing any revision it chooses to make with a June 1 or any other effective date and would not excuse such a carrier from filing cost support that is as comprehensive as the filing warrants. It also does not excuse the carrier from its obligation to maintain just and reasonable rates. We will require, however, as a procedural matter, that any voluntary tariff revisions be filed separately from the required filings.

C. Relationship to Other Commission Decisions

9. Contel, NYNEX, GTE Sprint and CBT request coordination of the revisions proposed in this *Notice* with anticipated revisions to Part 67 and Part 69 consequent to the Commission's decisions regarding allocation of Account 645 and the direct jurisdictional assignment of costs relating to WATS service.[26] Contel advocates delay in the implementation of direct assignment of closed-end WATS and other Part 67 regulatory changes until the next comprehensive filing.[27] Were Part 67 changes implemented in June 1986, Contel argues annual cost companies would lose most of the benefits derived from eliminating the June 1986 tariff filing requirements since a filing to implement the Joint Board's recommendations would require that carriers marshal the same types of resources needed to prepare a comprehensive one.[28] CBT, on the other hand, suggests that the direct assignment of WATS and Account 645 changes could be accommodated by tariff text changes.[29] NYNEX also indicates that these changes can be accommodated in a less than comprehensive filing.[30] GTE Sprint, as discussed at para. 3, *supra*, would have the Commission expand the March filing requirements if carriers are required to include adjustments to interstate traffic volume and revenue requirements due to the revised treatment of WATS closed ends.[31]

10. Substantial revisions in access charges would be required to reflect all rule changes proposed in the January 7 and January 8 *Notices* in addition to the increased subscriber line charge, changes in separation rules that have already been adopted and any other June 1 changes that we may require in collateral proceedings. All such changes can be implemented through adjustments to investment, expense and demand data that were used to compute the access charges that are currently in effect. Such an adjustment process would impose a smaller burden upon exchange carriers, participants in the tariff review process and our staff than a comprehensive filing based upon *de novo* projections for a June–December 1986 period. These additional burdens would not be warranted even if we adopt all changes that are presently being considered.

11. In light of the burdens which would be imposed by a comprehensive filing on April 1, 1986, we are adopting the proposed revision of § 69.3(a) to accept a less than comprehensive filing for tariff changes that become effective on June 1, 1986.

IV. Ordering Clauses

12. Accordingly, it is ordered that §§ 69.3(a) and 69.3(e)(8) of the Commission's Rules, 47 CFR 69.3(a) and 69.3(e)(8), are amended as set forth at Appendix A of this Order, effective March 17, 1986.

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[20] Pioneer Comments at 2. Pioneer's conclusion is erroneous, though as discussed at para. 4, *infra*, it may exercise its November election in this instance.

[21] *Notice* at para. 4.

[22] MCI Comments at 2–3.

[23] GTE Sprint Comments at 4.

[24] NECA Comments at 2.

[25] *Id.* at 4.

[26] *See* WATS-Related and Other Amendments of Part 69 of the Commission's Rules, Notice of Proposed Rulemaking, CC Docket No. 86–1, FCC 86–1 (released Jan. 7, 1986); MTS and WATS Market Structure, CC Docket No. 78–72, FCC 86–12, Notice of Proposed Rulemaking (released Jan. 8, 1986).

[27] Contel Comments at 1–3.

[28] *Id.* at 3.

[29] CBT Comments at 2.

[30] NYNEX Comments at 4.

[31] GTE Sprint Comments at 3.

13. Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354), it is certified that sections 603 and 604 of the Act do not apply to this proceeding because this rule change will not have a significant impact on a substantial number of entities. *See* 5 U.S.C. 603 and 605(b).

14. It is further ordered, pursuant to section 220(i) of the Communications Act, 47 U.S.C. 220(i), that the Secretary shall serve a copy of this Order on each state commission.

15. It is further ordered that CC Docket No. 85–385 is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 69—[AMENDED]

Part 69, Chapter 1 of Title 47, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 69 continues to read:

Authority: Sections 4, 201, 202, 203, 205, 218, 403, 48 stat. 1066, 1070, 1072, 1077, 11094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403, unless otherwise noted.

2. In § 69.3, paragraph (a) is revised and (e)(8) is removed to read as follows:

§ 69.3 Filing of access service tariffs.

(a) A tariff for access service shall be filed with this Commission for an annual period. Such tariffs shall be filed so as to provide a minimum of 90 days notice with a scheduled effective date of January 1.

* * * * *

Appendix B

Comments were filed by:

Alltel Corporation
The Ameritech Operating Companies
The Bell Atlantic Telephone Companies
BellSouth Corporation
Centel Telephone Company
Cincinnati Bell Telephone Company
Continental Telecom Inc.
GTE Sprint Communications Corporation
MCI Telecommunications Corporation
Mountain Bell, Northwestern Bell, Pacific Northwest Bell
National Exchange Carrier Association, Inc.
National Telephone Cooperative Association
NYNEX Telephone Companies
OPASTO
Pacific Bell
Pioneer Telephone Cooperative, Inc.
Southern New England Telephone Company
Southwestern Bell Telephone Company
United Telephone System, Inc.
Waitsfield-Fayston Telephone Company, Bay Springs Telephone Company, Elkhart Telephone Company and S&T Telephone Cooperative Association

Reply Comments were filed by:

NYNEX Telephone Companies
Pacific Bell
Southwestern Bell Telephone Company

[FR Doc. 86–3621 Filed 2–19–86; 8:45 am]

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47 CFR Part 73

[MM Docket No. 85–211; RM–4740]

FM Broadcast Station in Santa Isabel, PR and Christiansted, VI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein dismisses the request to allocate Class B Channel 258 to Santa Isabel, Puerto Rico, and substitute Channel 268 for Channel 258 at Christiansted, Virgin Islands. The allocation was requested by Pablo Rodriguez.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order

(Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Santa Isabel, Puerto Rico, and Christiansted, Virgin Islands); (MM Docket No. 85–211, RM–4740).

Adopted: January 31, 1986.
Released: February 13, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 50 Fed. Reg. 29450, published July 19, 1985, proposing the allocation of Class B Channel 258 to Santa Isabel, Puerto Rico, at the request of Pablo Rodriguez ("petitioner" or "Rodriguez"). The allocation requires the substitution of Channel 268 for Channel 258 at Christiansted, Virgin Islands, licensed to Leisure Market Radio of St. Croix, Inc., Station WIVI–FM, in order for the Santa Isabel allocation to comply with the Commission's minimum distance separation requirement.[1] Further, the Commission held in abeyance an application filed by Estereotempo, Inc. ("Estereotempo"), licensee of Station WIOB(FM), Channel 260, San Juan, Puerto Rico, to move its transmitter site and improve its facilities since its new site would be short-spaced to a Channel 258 operation at Santa Isabel. Petitioner filed untimely comments supporting the new allotment. Estereotempo filed comments in opposition as well as a "Petition to Vacate the Notice of Proposed Rule Making and Order to Show Cause."

2. Estereotempo opposes the Santa Isabel allocation as it would preclude grant of its application to change site (BPH–831116AK). It states that the Commission has ruled on two occasions prior to the release of the *Notice* herein that the pendency of the Santa Isabel request could not be used to defeat or preclude final action on the WIOB application. Therefore, while it does not oppose the allocation of an FM channel to Santa Isabel, it argues that its application must be considered prior to the allocation of a conflicting channel at Santa Isabel.

3. In order to put this proceeding into perspective, we believe a discussion of the background surrounding this proposal to be in order. On November 16, 1983, Estereotempo filed its application to move its transmitter site and improve Station WIOB's facilities. On January 5, 1984, Rodriguez filed his petition for the allocation of Channel 258 at Santa Isabel and simultaneously filed a Petition to Deny WIOB's application. On March 20, 1984, Rodriguez also filed a Petition to Dismiss the application. By letter of October 19, 1984, the Commission, by delegated authority, denied the Petitions to Deny and Dismiss the application. This letter also advised Rodriguez that any petition for rule making filed after December 16, 1983, such as the Santa

[1] By Public Notice of September 13, 1985, Report No. 1537, the Commission extended the reply comment deadline to September 30, 1985, and stated that this proceeding would be consolidated with the *Notice of Proposed Rule Making* in MM Docket 85–209 which proposed the allocation of Channel 268A to Naguabo, Puerto Rico, 50 FR 29447, published July 19, 1985. However, we now find that the two rule makings can proceed independently and therefore will not be consolidated.

Isabel request, would be subject to inclusion in the omnibus FM proceeding and failing to meet the necessary criteria for inclusion would not be acted upon until the Commission again permitted the filing of new FM allocation petitions.[2] On December 19, 1984, petitioner filed an untimely petition for reconsideration of the denial of his earlier Petitions to Deny and Dismiss. Although procedurally defective, the Commission nevertheless considered Rodriguez' petition for reconsideration and denied it by letter of February 1, 1985. He responded to this denial by filing an Application for Review, again in an untimely fashion.

4. As noted above, petitioner filed his Santa Isabel request after December 16, 1983. Since the request did not conflict with any proposal in the Docket 84–231 omnibus FM proceeding, the Commission took no action until after the *Report and Order* in that proceeding was adopted.[3] See *Second Report and Order*, 50 FR 15558, published April 19, 1985. The Commission adopted this *Notice of Proposed Rule Making* since it found the proposed allocation to be technically acceptable even though mutually exclusive with Station WIOB's application. Indeed, the application has not yet been granted and therefore the interim protection afforded during the Docket 84–231 rule making had expired. Thus, the Commission believed the public interest woud best be served by issuing the instant *Notice* and permitting comparative consideration of the two proposals.[4]

5. By the terms of the *Notice*, petitioner was requested to file comments supporting the allocation and reiterating his intention to apply for the channel by the close of the comment period and that absent such continuing interest, the channel would not be allocated. He was also alerted to the fact that the Commission still has before it the mutually exclusive application of Station WIOB to change transmitter site and improve its facilities. In response to the *Notice*, petitioner again failed to timely file his pleadings with the Commission. His supporting comments, filed over a month late, fail to include any reason for their lateness and are not accompanied by a request for waiver of the Commission's rules to permit their consideration. Further, Estereotempo served Rodriguez with a copy of its opposition, in compliance with the Commission's rules, but petitioner's late-filed comments, which also appear to respond to the opposition, were not served on Estereotempo, thus raising the possibility of a violation of our *ex parte* rules.

6. Normally, in the interest of administrative convenience, late-filed comments in support of a proposal are accepted to the extent of permitting continuing interest to be shown. Typically, no opposition to the proposal is received and the petitioner shows good reason for its lateness. Here, we believe this situation to be quite different. Our procedural rules, for which Rodriguez has consistently shown a patent disregard, are designed to provide adequate time for parties to fully participate in the decision-making process while also permitting the Commission to conduct its business within a reasonable period of time so as to avoid undue delay in service to the public. In this case, the Commission's desire to fully consider Rodriguez' objections to the grant of Station WIOB's application followed by this proceeding proposing a new channel at Santa Isabel, have, at best, caused the residents of San Juan to suffer an inordinate delay in receiving improved radio service. While we ascribe no other motivation to the manner in which Rodriguez has participated in this proceeding than a sincere desire to provide Santa Isabel with its first local FM service, we find that the consistent disregard for the Commission's procedures, coupled with the resulting delay in effectuating improved coverage to the San Juan area by Station WIOB, compels us to deny acceptance of Rodriguez' late-filed comments and to dismiss his proposal.

7. Accordingly, it is ordered, that the petition for rule making filed by Pablo Rodriguez is dismissed and this proceeding is terminated.

8. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–3625 Filed 2–19–86; 8:45 am]

BILLING CODE 6712–01–M

[2] Public Notice, Mimeo No. 1306, December 9, 1983.

[3] *Notice of Proposed Rule Making*, 49 FR 11214, published March 26, 1984.

[4] As stated in *Andalusia, Alabama*, 49 FR 32201, published August 13, 1984, the Commission generally favors the new service that an allotment can provide as a greater public benefit over a change in coverage area unless the applicant can demonstrate an overriding public interest justification.

47 CFR Part 73

[MM Docket No. 85–220; RM–4928]

FM Broadcast Station in Davenport, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Wheat Waves, Inc., allots FM Channel 273A to Davenport, Washington, as that community's first FM service.

EFFECTIVE DATE: March 24, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Davenport, Washington) (MM Docket No. 85–220, RM–4928).

Adopted: January 24, 1986.

Released: February 13, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 50 FR 30975, published July 31, 1985, proposing the allotment of Channel 273A to Davenport, Washington, as that community's first FM service. The *Notice* was adopted in response to a petition filed by Wheat Waves, Inc. ("petitioner"). Petitioner submitted supporting comments reaffirming its interest in the channel. Supporting comments were also filed by the Davenport Chamber of Commerce.

2. The channel can be allotted in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules. Since Davenport is located within 320 kilometers (199 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained.

PART 73—[AMENDED]

3. Accordingly, pursuant to the authority contained in section 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended and § 0.61, 0.204(b) and 0.283 of the Commission's Rules it is ordered, That effective March 24, 1986, the FM Table of Allotments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Davenport, WA	273A

4. The filing window for application on this channel will open on March 25, 1986, and close on April 23, 1986.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–3627 Filed 2–19–86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85–178; RM–4916]

TV Broadcast Station in Mayville, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of The Pacer Television Company, assigns UHF Television Channel 52 to Mayville, Wisconsin, as that community's first commercial television service.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73:

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.606(b) Table of Assignments, TV Broadcast Stations. (Mayville, Wisconsin) (MM Docket No. 85–178, RM–4916).

Adopted: January 24, 1986.

Released: February 13, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 50 FR 26011, published June 24, 1985, proposing the assignment of UHF Television Channel 52 to Mayville, Wisconsin, as that community's first commercial television service. The *Notice* was issued in response to a petition filed by The Pacer Television Company ("petitioner"). Petitioner filed supporting comments reaffirming its intention to apply for the channel.

2. Mayville (population 4,333) [1] in Dodge County (population 75,064) is located in approximately 75 kilometers (45 miles) northwest of Milwaukee.

3. We believe the public interest would be served by the assignment of Channel 52 to Mayville, Wisconsin, in order to provide that community with its first commercial television service. The assignment can be made in compliance with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

PART 73—[AMENDED]

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 24, 1986, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended for the following community:

City	Channel No.
Mayville, WI	52

5. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–3628 Filed 2–19–86; 8:45 am]

BILLING CODE 6712-01-M

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[1] Population figures are from the 1980 U.S. Census.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 394

[BMCS Docket No. MC–117; Amdt. No. 83–16]

Notification and Reporting of Accidents

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: Section 206 of the Motor Carrier Safety Act of 1984 directs the Secretary of Transportation to reissue regulations pertaining to commercial motor vehicle safety. Pursuant to this provision, the FHWA is amending Part 394 of the Federal Motor Carrier Safety Regulations (FMCSR's) by revising those sections relating to the notification and reporting of accidents. This amendment raises the reporting threshold for property damage accidents from the present $2,000 to $4,200. In addition, under the accident reporting criteria, the definition of "bodily injury" is clarified for reporting purposes. The FHWA is further clarifying the reporting requirements under Part 394 by addressing the instances when an accident report was not timely filed, because a carrier was unaware of the accident at the time or was unaware that it was reportable. These revisions will reduce the accident reporting burden on motor carriers and clarify reporting requirements.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 755–1011; or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

Section 394.3 of the FMCSR (49 CFR 394.3) presently specifies that an accident involving a motor vehicle used in interstate, foreign, or intrastate commerce by a motor carrier who is subject to the Department of Transportation Act resulting in (1) the death of a human being; (2) bodily injury to a person who, as a result, receives medical treatment away from the scene of the accident; or (3) total damage to all property aggregating $2,000 or more, based on actual costs or reliable

estimates, constitutes a "reportable accident."

Currently, all interstate motor carriers, except private carriers engaged wholly in farm-to-market agricultural transportation, must report to the FHWA's Regional Offices accidents which result in a fatality, bodily injury, or $2,000 or more property damage.

The FHWA, anticipating the need for revision or extension of its accident reporting system, selected Part 394 for priority review in 1982. The priority review report is available for inspection in the public docket. The review team recommended that the property damage reporting criterion be raised to $4,000.

The FHWA issued a notice of proposed rulemaking (NPRM) (49 FR 1912; Docket No. MC–109) on January 16, 1984. The FHWA proposed to (1) revise the accident report forms, (2) raise the property damage reporting criterion from $2,000 to $4,000, and (3) clarify the definition of "bodily injury." All comments to the docket were to be received on or before March 16, 1984. The comment period was extended to June 1, 1984, in response to a petition from the American Trucking Associations, Inc. (ATA).

The Motor Carrier Safety Act of 1984 (Pub. L. 98–554, 98 Stat. 2829) (the Act) was enacted on October 30, 1984. Section 206 of the Act mandated repromulgation of the regulations pertaining to commercial motor vehicle safety. The Department of Transportation (DOT), in its continuing effort to ensure safety on the Nation's highways, has reviewed its existing regulations and is making appropriate revisions as necessary.

On January 23, 1985, the FHWA issued an advance notice of proposed rulemaking (ANPRM) (50 FR 2998, Docket No. MC–114; Notice No. 85–1) to (1) advise the public of the areas of the FMCSR's being considered for revision, rescission, or additions, (2) request comments on those areas under consideration, and (3) incorporate several dockets and comments into that rulemaking action. By this ANPRM, the docket of the January 16, 1984, NPRM was closed and incorporated into Docket No. MC–114.

Pursuant to section 206 of the Act and after careful review of the comments made to the dockets, this final rule is revising those provisions that were strongly supported by the comments. The proposal to revise the accident report forms is not being adopted at this time because the FHWA received a wide range of divergent views from the commenters which failed to reflect a clear consensus. The FHWA has decided to consider this proposal further before taking action on it.

Summary of Comments

An overwhelming majority of the commenters were in support of raising the reporting threshold for property damage accidents from the present $2,000 to $4,000.

The ATA, a major motor carrier association, supports raising the reporting threshold for property damage accidents and stated that this action is long overdue and should be implemented as quickly as possible. The ATA noted that the results of a recent survey showed that the trucking industry has witnessed massive increases in the cost of repair and replacement as a result of property damage in accidents. Consequently, motor carriers must report accidents which, but for the effects of inflation, would not be reportable. Raising the minimum reporting dollar level should do much to alleviate this problem. The ATA also stated that the industry supports the change in the definition of "bodily injury" which will reduce the number of reported injury accidents and the potential for carriers to be in violation of the reporting requirements where the existence of an injury was not known at the time of the accident.

Likewise, the Interstate Carriers Conference, an affiliate of the ATA, supports the proposed increase in the minimum reporting dollar amount of property damage, from $2,000 to $4,000. The conference urges that the $4,000 limit be implemented immediately, and states that the advantages, in terms of dollars and time with immediate implementation of a $4,000 minimum, will be beneficial to both the industry and the FHWA. Additionally, to further clarify the reporting requirements, the conference asked that new definitions be applied to "injuries" triggering the necessity for an accident report.

Motor Convoy, Inc., also agreed with the ATA's position in support of the proposed increase in the reporting threshold. Motor Convoy further commented that the requirement for reporting an injury should be "transportation from the accident scene for the person to receive medical attention."

Similarly, the Private Truck Council of America, Inc., (PTCA) supports the efforts of the FHWA in increasing the reporting threshold for property damage accidents from $2,000 to $4,000. The PTCA commented that this increase should prove to be of significant benefit to motor carriers.

Others commenters, such as United Parcel Service, stated that "an increase in the reporting threshold to $4,000 is an appropriate recognition of the fact that years of inflation have greatly expanded the accident universe reportable under the regulations. The new reporting threshold will reduce the number of minor accidents reported, which contribute no useful data to those monitoring highway safety."

Likewise, the Motor Vehicle Manufacturers Association (MVMA) stated that paperwork reduction aims can be achieved by raising the threshold for reporting property damage accidents from the current $2,000 to $4,000, thus reducing the number of minor accidents reported by approximately 17 percent.

Similarly, United Van Lines, Inc., commented that, "We feel with the raising of the property damage from $2,000 to $4,000 for a reportable accident, a reduction in paperwork of approximately 20 percent will be achieved."

Motor Freight Lines, Inc., stated: "Due to the fact that we are overly burdened with paperwork, any proposal which would lessen that burden without jeopardizing safety would be most desirable. If the reportable figure was increased to $4,000, our reportable accidents would decrease immensely."

The American Bus Association (ABA) agreed that the increase in the reporting threshold would ease the reporting burden and favors adoption of the proposed change. The ABA also commented that the death and injury reporting criteria should not be changed except with respect to the bodily injury definition. The ABA agreed that bodily injury should be defined with reference to person who "is transported away from the accident scene to receive medical treatment."

Other commenters in support of raising the reporting threshold to $4,000 include: Wheaton Cartage Company, Mayflower Corporation, Black Hills Trucking, Inc., Getty Refining and Marketing Company, Agway, Inc., Westinghouse Electric Corporation, Jack B. Kelley, Inc., Thurston Motor Lines, Inc., Milliken & Company, Daily Express, Inc., Kroeger Company, Gulf Oil Products Company, ANR Freight System and Kuella, Inc. These respondents concurred with the FHWA's proposal to increase the reporting threshold and agree that this objective will reduce the reporting burden placed upon motor carriers. One commenter stated that raising the property damage reporting threshold to $4,000 will eliminate the need for reporting many of the "fender bender" type accidents which are now reported. "It doesn't take much of an accident

today, involving property damage only, to add up to $2,000."

Several of the commenters favored raising the reporting threshold even higher than the proposed $4,000. Among these was the National Tank Truck Carriers, Inc., (NTTC) who stated: "We believe that the current report trigger of $2,000 in property damage is too low. Court awards, settlements and inflation have reached such large proportions that $2,000 include many minor incidents." NTTC supports the increase to $4,000 as a minimum and suggests that a $10,000 level is more in keeping with today's accident costs. Another motor carrier, Yellow Freight System, Inc., supports a reporting threshold of $10,000.

Another commenter in support of a reporting threshold higher than the proposed $4,000 was Steinbecker Brothers, Inc., a private carrier. Steinbecker Brothers, Inc., stated that, "with the tremendous increase in costs of repair over the last several years, the monetary threshold for reporting accidents has made very minor accidents fall under the reportable category." They also believe that the amount of aggregate property damage should be raised to $6,000 for a non-injury accident and supports the proposed change in the definition of what constitutes an injury.

Other commenters such as United Bus Owners of America (UBOA) and Western Express stated: "if a study of the inflation rate was applied to the $2,000 limit that now exists, the new dollar amount would come close to $4,000. In order to prevent a regulation from becoming outdated before it is published, the limit should be increased to $5,000." The Truck Renting and Leasing Association (TRALA) also concurred in this matter.

Conversely, the Oregon Department of Transportation, Highway Division, Salem, Oregon, stated that increasing the amount of property damage required for reporting of accidents from $2,000 to $4,000 is too large a step. They recommended that the minimum amount remain at $2,000 or, at the most, be increased to $3,000.

Similarly, the International Brotherhood of Teamsters (IBT) requested that the $2,000 property damage criterion not be amended since "the FHWA has found that the cost savings benefits from raising the property damage threshold to $4,000 is not significant." The IBT recognizes that for administrative reasons, a threshold must be set, but recommends that a higher threshold not be set for the reason stated. Also, the IBT disagrees with the FHWA is the proposed change in the definition of "bodily injury."

The American Automobile Association (AAA) does not believe the proposed change in the property damage criterion will seriously affect the availability of key accident data, although the AAA believes the change is bound to have some effect on the continuity of data collected in prior years. The AAA commented that the higher threshold for reporting property damage ($4,000 vs. $2,000) will reduce the number of reportable accidents which, but for chance, might otherwise have resulted in a fatality or injury. The AAA stated that "elimination of reports will reduce the size of the data base and make it difficult to determine causative factors and formulate counter measures." The AAA would prefer to leave the reporting requirements as they are.

Under the present system, the data base in being skewed because the $2,000 figure is not in keeping with inflation. While FHWA recognizes that raising the minimum dollar limit for reporting accidents resulting in property damage will lead to certain accidents not being reported which otherwise would have been, FHWA also recognizes that, as a result of inflation over the past 12 years since the adoption of the $2,000 limit, accidents are now being reported which would not have been reported in 1973. Thus, the effects of inflation have included an increased burden on industry to report accidents and a distortion in the year to year data collected by BMCS.

The FHWA has also considered that adopting any fixed dollar figure for this criteria will, over time, become out of date. Therefore, the FHWA has decided to (1) update the $2,000 criteria for reporting accidents by applying the Gross National Product (GNP) deflator to the 1973 figure, and (2) by undertaking an annual adjustment of property damage amount for reportable accidents. The DOT will adjust the reporting amount for property damage accidents using the GNP deflator as published by the Department of Commerce.

The reporting minimum was originally set at $2,000 in 1973. In 1973 the GNP deflator was 105.75, on a 1972 base. In 1984 the GNP deflator was 223.38. Multiplying $2,000 by 223.38 and dividing by 105.75 yields an equivalent level of $4,224.68. Rounding to the nearest hundred dollars yields an equivalent price of $4,200, which will be adopted as the current year base, on which the GNP deflator will be applied to derive future reporting minimums.

The DOT realizes the need for periodic adjustments to the reporting minimums, therefore, the regulations will be updated annually so that the accident reporting requirements will reflect changes attributable to inflation or deflation. With an annual adjustment for inflation, we foresee no reduction in the number of accident reports filed in future years since the adjustment merely reflects the economic condition of the country and the current costs for repairs. We realize that during the first year the number of accident reports received will be reduced. In 1984, 36,500 accidents were reported. Of that amount 17,043 were accidents involving property damage only. Those property damage accidents which involved less that $4,000 of damage but more than $2,000 totaled 7,390. Based on these figures, we anticipate a 20 percent reduction in the number of accidents reported to the FHWA. However, such a reduction will not degrade the FHWA's ability to determine causative factors and formulate countermeasures. Further, we anticipate no adverse effect on the validity of the statistics generated.

Section 394.9 of the FMCSR specifies that within 30 days after a reportable accident occurs, the motor carrier must file the original and two copies of Form MCS 50–T (property) or Form MCS 50–B (passengers), with the Director, Regional Motor Carrier Safety Office of the Federal Highway Administration. It has come to the attention of the BMCS that some motor carriers have found this provision of the FMCSR to be ambiguous. As a result of contact with motor carriers by BMCS field personnel, the BMCS has learned that there is considerable confusion on the part of some motor carriers as to their responsibility under the regulations to file accident reports (1) in those instances when a motor carrier discovers that a driver neglected to notify it that the driver was involved in a reportable accident, and (2) when a motor carrier, after first believing an accident to be not reportable, learns that the accident was in fact, reportable. Some motor carriers have advised BMCS field personnel that they were reluctant to report accidents more than 30 days after the occurrence of the accident, even though the motor carrier had only learned that the accident was, in fact, reportable only after 30 days had elapsed, because they believed they would be considered, by the BMCS, to be in violation of the requirement to report an accident within 30 days and thus subject to penalty.

It was not the intention of the BMCS to create a situation where a motor

carrier, who in good faith and exercising proper diligence did not know of an accident or did not believe an accident to be reportable, would be in violation of this regulation for failing to report such an accident within 30 days of its occurrence. Notwithstanding this however, when a motor carrier does learn of such an accident, the BMCS believes that it is imperative for the motor carrier to report that accident even if more than 30 days have elapsed since its occurrence.

This subject was not addressed in the NPRM of January 16, 1984 or the ANPRM of January 23, 1985. However, as stated above, this question or interpretation of the current regulations has been brought to the Agency's attention. Because of the confusion referred to above, and the Bureau's need for data which is as accurate as possible, the Bureau believes that 49 CFR 394.9 should be amended to eliminate any ambiguity or source of confusion.

According, § 394.9 of the FMCSR is amended to make clear that motor carriers are to make a report within 30 days of when a reportable accident occurs; or, when the motor carrier learns or should have learned that an accident was reportable after 30 days have elaped, then the motor carrier shall, immediately upon learning of such accident, make a report to the BMCS. This requirement is applicable to accidents which a motor carrier learns of or should have learned of. This is to make clear that motor carriers can not evade the requirement to report an accident by not making reasonable inquiries. Motor carriers are expected to establish procedures for the reporting of accidents to them by their drivers. When a motor carrier learns of an accident, these regulations require the motor carrier to make further reasonable inquiry to establish whether the accident was reportable.

Because this amendment merely clarifies an existing requirement, does not impose any new requirement or burden on motor carriers, and since further opportunity for comment is not anticipated to result in further useful information, this change will take effect without further opportunity for public comment thereon. Thus, this amendment is effective immediately. Affected parties or other interested persons may, however, submit comments on this amendment to the Agency, addressed to the docket number indicated above, if they so desire.

Conclusion

Upon reviewing and evaluating the comments submitted to both dockets (BMCS Docket No. MC–109, Notice No. 84–1, 49 FR 1912, January 16, 1981, and BMCS Docket No. MC–114, Notice No. 85–1, 50 FR 2998, January 23, 1985), it is evident that the majority of the commenters favor the amendments to 49 CFR 394 described herein and are convinced that such action will result in a decrease in burden on the motor carrier industry.

Currently, interstate and foreign commerce motor carriers are required to report accidents involving death, injury, or at least $2,000 property damage. Under the revised rule, the death and injury criteria would remain the same except for a change in the bodily injury definition (49 CFR 394.3(a)(2)). The change in the definition of "bodily injury" is being made to clarify the FMCSR's reporting requirements and to promote more uniform reporting.

Section 394.3(a) defines "reportable accident" in part to include an accident resulting in "Bodily injury to a person who, as a result receives medical treatment away from the scene of the accident." This language was proposed to be changed in the January 16, 1984 NPRM to read "Bodily injury to a person who, as a result, is transported away from the accident scene to receive medical treatment." After careful consideration, the FHWA has concluded that the existing language will remain as is, except that the word "immediately" will be added to further clarify the bodily injury definition.

The word "immediately" will be inserted in the existing language to read, "Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident." The insertion of the word "immediately" will lead to additional uniformity in accident reportings.

The FHWA believes that this change will reduce uncertainty and resultant discrepancies in accident reporting. It is the intent of this definition to require the reporting of accidents which result in injuries which are serious enough to warrant immediate treatment away from the accident scene, and to exclude the instances when an injury is not severe or when the injury is only discovered at some later time.

A person who is treated at the accident scene and then transported away from the scene to immediately receive medical treatment at a nearby hospital or medical facility would satisfy the intent of the "bodily injury" definition. An injured person may be transported away from an accident scene by an ambulance; a friend or someone else at the scene; or the person may wish to transport himself to a medical facility, and yet the intent of the definition will be met.

On the other hand, the "bodily injury" definition does not include an instance where a person is transported away from an accident scene, receives a routine examination, and is released from further treatment. The "bodily injury" definition does not include routine examinations, but injury treatment only. Further, a person who is treated at an accident scene (i.e. receives first-aid for an abrasion or cut, where a bandage is applied) and released to resume regular activities, would not satisfy the intent of the definition. Additionally, a person who seeks medical treatment at some later date (other than the date of the actual occurrence) would not be within the intent of the definition.

A new reporting threshold for property damage accidents was recommended to normalize the data over time. The purchasing power of the dollar has changed during the past 12 years since the $2,000 reporting figure was instituted in 1973. Bureau historical data indicates that increasing the reporting threshold from $2,000 to $4,200 will result in a burden reduction of approximately 5,500 hours (20 percent). The current burden is approximately 28,698 hours. The estimated burden for calendar year 1986 is approximately 23,198 hours.

Although this rulemaking action will reduce the accident reporting burden industry-wide by approximately 20 percent, it will not have a significant economic effect because a burden reduction of approximately 5,500 hours is considered to be relatively minimal given the magnitude of the motor carrier industry. Accordingly, a regulatory evaluation is not required.

Inasmuch as a NPRM proposing the changes here adopted was published on January 16, 1984, and since the comments in response to both the January 1984 NPRM and the January 1985 ANPRM overwhelmingly supported these changes, the FHWA finds good cause to make the amendments final without additional notice and opportunity for comment. For the same reason, additional notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of further useful information.

The reporting requirements under § 394.9 will remain the same except that new language will be added to clarify the motor carrier's responsibility to file

an accident report after learning that a reportable accident has occurred. This change in paragraph (a) of § 394.9 is intended to clarify the existing rule and promote reporting uniformity. Therefore, we believe that inasmuch as this change will have no adverse impact on the motor carrier industry notice and opportunity for comment is not required.

The FHWA has determined that this document contains neither a major proposal under Executive Order 12291, nor a significant proposal under the regulatory policies and procedures of the Department of Transportation.

For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 394

Motor carriers, Highway safety, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Number, 20.217, Motor Carrier Safety)

Accordingly, 49 CFR 394.3(a)(2) is amended to change the definition of "bodily injury"; 49 CFR 394.3(a)(3) is amended to change the property damage reporting criterion from $2,000 to $4,200; and 49 CFR 394.9(a) is amended as set forth below.

Issued on: February 14, 1986

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

In consideration of the foregoing, the Federal Highway Administration is amending Title 49, Code of Federal Regulations, Subtitle B, Chapter III, by revising Part 394 as set forth below.

PART 394—[AMENDED]

1. The authority citation for Part 394 is revised to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 3102; 49 CFR 1.48 and 301.60.

2. In § 394.3, paragraphs (a) (2) and (3) are revised to read as follows:

§ 394.3 Definition of "reportable accident."

(a) * * *

(2) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(3) Total damage to all property aggregating $4,200 or more based upon actual costs or reliable estimates.

* * * * *

3. In § 394.9, paragraph (a) is revised to read as follows:

§ 394.9 Reporting of accidents.

(a) Within 30 days after a motor carrier learns or should have learned that a reportable accident occurred, the motor carrier must file the original and two copies of Form MCS 50–T (property) or Form MCS 50–B (passengers), completed as specified in paragraph (b) of this section, with the Director of the Regional Motor Carrier Safety Office of the Federal Highway Administration region in which the carrier's principal place of business is located. The addresses and jurisdictions of the Federal Highway Administration regions are specified in § 390.40 of this subchapter.

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Proposed Rules

Federal Register
Vol. 51, No. 34
Thursday, February 20, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

Capital Maintenance; Supplemental Adjusted Capital Proposal

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Request for comments.

SUMMARY: Capital adequacy is one of the critical factors the Federal Deposit Insurance Corporation ("FDIC") is required to analyze in taking action on various types of applications, such as mergers and branches, and in the conduct of the FDIC's various supervisory activities related to the safety and soundness of individual banks and the banking system. In February 1985, the FDIC's Board of Directors adopted a capital regulation and related policy statement that set forth minimum standards for adequate capital for insured state nonmember banks and set forth standards to determine when an insured bank is operating in an unsafe or unsound condition by reason of the amount of its capital (50 FR 11128, March 19, 1985). This regulation, contained in Part 325 of the FDIC's Rules and Regulations, 12 CFR Part 325, was designed to establish, in conjunction with the other federal bank regulatory agencies, uniform capital standards for all federally regulated banking organizations regardless of size. These uniform capital standards were based on ratios of primary and total capital to total assets.

The FDIC historically has taken account of risk factors in addition to relying on capital-to-total-assets ratios, and the nature and degree of risk exposure have always been important subjective factors in assessing capital adequacy. The FDIC belives that it may be useful to modify its capital regulation to be more explicitly and systematically sensitive to the risk exposure of individual banks. Consequently, the FDIC is requesting comment on the following proposed supplemental adjusted capital measure that the FDIC would consider in tandem with existing minimum primary and total capital-to-total-assets ratios in analyzing the capital levels of insured state nonmember banks.

DATE: Comments on the proposal must be received by May 21, 1986.

ADDRESS: All comments should be submitted to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, or delivered to Room 6108 at the same address, between the hours of 9:00 a.m. and 5:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Robert F. Storch, Planning and Program Development Specialist, or Stephen G. Pfeifer, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-6903 (after February 23, 1986); (202) 389-4761 (before February 24, 1986).

SUPPLEMENTARY INFORMATION:

Background

The Need for a Supplemental Adjusted Capital Measure

In July 1984, the FDIC issued for public comment a proposed capital maintenance regulation designed to raise the minimum capital requirements, expressed in terms of ratios of capital to total assets, for insured state nonmember banks. 49 FR 29399 (1984). Commenters raised concerns about various aspects of the proposal and the FDIC took note of these comments in adopting its current capital regulation (12 CFR Part 325) with its capital-to-total-assets ratios in February 1985. 50 FR 11128 (1985). A number of respondents pointed out that capital standards based on total assets fail to recognize the different risk profiles in individual banks. Others suggested that higher capital requirements would result in banks taking on greater risks and that banks would reduce liquidity by reducing high quality, low risk assets.

The FDIC responded to these concerns by indicating that these comments did not fully consider the overall thrust of the proposed regulation. The regulation specifies minimum capital ratios which are applicable *only* to banks whose overall financial condition is fundamentally sound, which are well-managed, and which have no material or significant financial weaknesses. It also provides that the minimum capital requirements of banks which assume inordinate risks, either on or off their balance sheets, or decrease the level of liquid assets relative to total assets will be set at a higher level consistent with the level of risk in each institution. Hence, the emphasis in the regulation on ratios based on the total amount of assets was not to be interpreted to mean that the FDIC views the regulation as a substitute for effective risk management. Rather, the FDIC would continue to perform independent evaluations of capital adequacy in banks on a case-by-case basis, taking into account all of the many types of risks to which banks are exposed. Moreover, the FDIC stated that it would encourage even fundamentally sound, well-managed banks to maintain capital above the minimums.

Since the adoption of its current capital regulation last year, the FDIC has also pursued other initiatives related to capital and risk-taking by banks.

In May 1985, the FDIC requested comment on two possible methods of enhancing market discipline on banks, one of which would involve a significant increase in the total capital requirement from the present six percent to about nine percent of total assets. 50 FR 19088 (1985). The primary capital requirement would be kept relatively constant, rising from five and one-half to six percent. Subordinated debt could be used to meet a substantial portion of the total capital requirement. The FDIC is continuing to evaluate the merits of such a higher capital requirement in light of the comments received on this approach. In September 1985, the FDIC provided a discussion paper on risk-based deposit insurance to all insured banks (FDIC Bank Letter BL-33-85). Risk-related premiums would provide a significant, though not overwhelming, financial incentive for banks to avoid excessive risk-taking. The system proposed in that paper for evaluating the perceived risk in commercial banks would include a capital adequacy measure, the ratio of primary capital to total assets, along with measures of credit quality and other risks.

While the FDIC's commitment to factoring risk into its assessment of each bank's capital adequacy is clear, the

process by which the FDIC (through its examiners) evaluates risk involves judgment. For purposes of capital planning, bankers must also be evaluating risk continually so that they can assure themselves that they are maintaining capital levels that are appropriate for the changing circumstances within their institutions. Accordingly, the FDIC believes that, in addition to the assessment of minimum acceptable capital levels measured solely on the basis of total assets, there may be significant analytical value to a systematic evaluation of appropriate capital levels based upon consideration of the degree of risk associated with such assets.

Several developments over the last few years suggest the possible need for the FDIC to modify its capital regulation to make it more sensitive to certain risk exposures of individual banks. First, there has been a substantial growth in off-balance-sheet risks, a phenomenon that does not appear to have been significantly tempered by the subjective factoring of these risks into overall assessments of capital adequacy. One indication of this trend has been the growth in standby letters of credit issued by multinational banks, which have increased, on average, from 5.8 percent of the aggregate assets of those banks at the end of 1981 to 11.4 percent of assets at midyear 1985. Among multinational bank holding companies, this one category of off-balance-sheet risk ranges from less than five percent to well over 15 percent of total assets. In absolute terms, the volume of standby letters of credit for the multinational institutions has more than doubled from $49 billion in 1981 to $105 billion at midyear 1985.

Significant growth has also occurred in legally binding loan commitments, including those issued in connection with commercial paper programs and Euromarket note issuance facilities. The advent of other financial innovations, such as interest rate swaps, has also had the result of creating significant off-balance-sheet exposure. Taken together, off-balance-sheet items represent a very substantial exposure that is not now factored *explicitly* into the FDIC's minimum capital ratios.

Second, there is some evidence that the holdings of low-risk, liquid assets in relation to total assets, particularly by the larger banking organizations, have declined over recent years. This suggests that, while capital-to-*total*-assets ratios may have improved over time, capital in relation to risk exposure may not have improved commensurately. For the multinational banks, liquid assets (defined as bank certificates of deposit, Federal funds sold, and securities maturing within one year) have declined as a percent of total assets from 15.6 percent at the end of 1981 to 12.8 percent at June 30, 1985. Beyond this, examiners have generally observed decreases in liquid assets at banks regarded as more aggressive with respect to capital management and growth, and it has been argued that existing capital policies provide incentives to deemphasize low-risk, low-yield business.

While there may be a number of reasons for these balance sheet adjustments, the FDIC is concerned that they may be, in part, a response to the imposition of capital requirements that do not distinguish explicitly among various risk categories of assets and that do not make explicit allowance for the lessened threat to capital inherent in low-risk activities. Thus, some banks appear to be reducing their holdings of low-risk assets and deemphasizing their conduct of low-risk activities, in an effort to meet more stringent capital requirements. Although these adjustments may improve or otherwise maintain capital ratios at what appear to be acceptable levels, they do not, especially in conjunction with the growth in off-balance-sheet risks, strengthen an institution's risk profile. Indeed, such developments could, under certain circumstances, undermine and institution's financial condition.

Third, increased international competition points toward the need for a greater degree of convergence in the policies of various countries for supervising the capital adequacy of multinational banking organizations. In this regard, many European countries have developed risk-based capital measures and a similar supervisory approach is evolving in Japan.

Finally, the growth and change in the nature of risks to which banks have become exposed suggest the need to provide more explicit guidance to bankers and examiners for assessing capital needs in relation to risk.

The Purpose of the Proposed Supplemental Adjusted Capital Measure

The FDIC believes that the introduction of a supplemental adjusted capital measure that is based upon an assessment of distinct but necessarily broad risk categories may provide a valuable additional analytical tool in evaluating the financial strength and stability of individual institutions and the banking system as a whole. Even such a limited risk-adjusted measure of capital adequacy might provide the FDIC with a supplemental means of assessing whether the capital level of individual banks is fully adequate to serve the key functions of capital, namely to provide a buffer to absorb losses in time of poor performance, to promote the safety of depositors' funds, to help maintain public confidence in banking institutions, and to support the reasonable growth of such institutions. To achieve these purposes, it is essential that an institution's capital base should bear a reasonable relationship to the risk of that institution.

In addition to providing another tool for assessing capital adequacy, the proposed supplemental adjusted capital measure has been designed to further certain policy objectives. By including an assessment of off-balance-sheet risk as part of the supplemental adjusted capital ratio, the proposal would permit the FDIC to deal with off-balance-sheet exposures, which, as indicated above, have expanded rapidly over the last several years. The proposed measure would also temper somewhat the disincentives inherent in the FDIC's existing capital regulation to hold low-risk, relatively liquid assets. In addition, consideration of this proposal may begin to move capital adequacy policies in the United States more closely in line with those of other major industrial countries. Finally, the proposal would provide more explicit guidance to bankers and examiners for relating capital to risk profiles.

Description of the Proposal

Introduction and Overview

This proposal involves a risk-sensitive capital measure that would supplement the FDIC's existing capital regulation. The proposal is based upon an additional capital ratio, in this case a ratio of primary capital to total assets adjusted for risk, that the FDIC would consider in tandem with, rather than in place of, the minimum primary and total capital ratios defined in the current regulation. If the FDIC were to propose to adopt such an approach to capital, it could take the form of either an amendment to the current capital maintenance regulation or a separate statement of policy.

Moreover, while the proposal endeavors to relate to a more *systematic* fashion an institution's capital needs to its overall risk profile, the proposed supplemental adjusted capital ratio does not purport to take explicit account of *all* of the many types of risks to which banks are exposed. For example, the proposal does not take explicit account of the risks associated with significant asset concentrations or with exposure to

interest rate changes. In addition, the measure is not intended to substitute for examiner judgment in the assessment of an institution's capital adequacy. Examiners and regulators would still be required to consider the entire range of qualitative and subjective factors, such as the quality of an institution's management, internal systems and controls, and lending standards, as well as other relevant financial factors, such as the quality of assets, the strength, trend, and variability of earnings, and liquidity, in order to fully assess an institution's capital adequacy.

The Supplemental Adjusted Capital Ratio

The proposed supplemental adjusted capital measure would relate primary capital, as defined in the FDIC's current regulation, to total assets weighted for risk considerations. To determine the asset portion of the supplemental adjusted capital ratio, assets and certain off-balance-sheet items are assigned to one of four broad risk categories and weighted according to the relative risk of that category. The determination of asset groupings and the assignment of weights primarily reflect credit risk considerations, with some sensitivity to liquidity concerns. The types of assets and off-balance-sheet items in each category and the rationale for assigning certain items to a particular category are discussed below.

(a) *Category I: Cash and Equivalents.* This category includes assets generally considered to be riskless such as vault cash, balances due from Federal Reserve Banks, balances due from foreign central banks in immediately available funds, and "near cash" assets, such as cash items in the process of collection and transaction accounts due from U.S. depository institutions.[1]

In addition, U.S. Treasury securities held in the investment account with original or remaining maturities of one year or less are included in this category. These items are assigned a zero weight.

(b) *Category II: Money Market Risk.* The assets included in this category generally have little or no risk of default and a high degree of liquidity. This category includes all holdings of long-term (remaining maturity of over one year) U.S. Treasury Securities, all U.S. Government agency securities, and those portions of loans that are fully guaranteed by the U.S. Government, as well as short-term (90 days or less) claims on U.S. depository institutions. Other money market instruments comprise a significant portion of the remaining assets in this category, including acceptances of other U.S. banks, all Federal funds sold, loans to broker/dealers secured by U.S. Treasury or agency securities, and securities purchased under agreement to resell. In addition, this category includes all trading account assets, which are typically marked to market on a regular basis. Finally, all legally binding loan commitments, including note issuance facilities,[2] are inluded in this category. Those items are assigned a 30 percent risk weight.

(c) *Category III: Moderate Risk.* This category is composed of those assets with more credit and liquidity risk than those in Category II, but significantly less risk than the standard bank loan portfolio. Included in this category are all state, county, and municipal ("SCM") securities (excluding industrial development bonds); longer-term claims (over 90 days) on U.S. depository institutions; all claims on governments and banks of industrial countries (as defined herein); holding of acceptances of banks in industrial countries; and local currency claims on governments and banks of non-industrial countries to the extent funded by local currency liabilities.[3] Also included are loans to broker/dealers collateralized by other marketable securities (as defined by the Securities and Exchange Commission), commercial letters of credit, and standby letters of credit which are performance-related, issued on a secured basis to support broker/dealers, or issued in support of SCM securities (excluding those supporting industrial development bonds). This risk category is assigned a 60 percent weight.

(d) *Category IV: Standard Risk.* This category generally comprises those assets found in a typical bank loan portfolio and those not included in the categories above. Thus, this category includes commercial and industrial loans and leases, loans to individuals, loans secured by real estate, farm-related loans, and all other claims on foreign borrowers. This category also includes loans to nondepository financial institutions including insurance companies, mortgage companies, finance companies, and bank holding companies. The category is further comprised of all corporate securities and commercial paper, industrial development bonds, and all other standby letters of credit (including those backing industrial development bonds) that are not included in categories above. This risk group contains the bulk of banking assets, including many of significantly dissimilar risk characteristics. This category is assigned a 100 percent risk weight.

The aggregate dollar value of the assets and off-balance sheet items in each category would be multiplied by the weight assigned to that category. The sum of these weighted values would be the weighted risk asset and off-balance-sheet total against which actual primary capital would be compared. The ratio derived by dividing primary capital by this weighted total would be defined as the supplemental adjusted capital ratio. Table I contains a list of the types of assets and off-balance-sheet items found in each risk category and the weighting of each category. Table II provides an example of how this supplemental adjusted capital ratio would be calculated.

Table I.—Risk Categories and Weights

Cash and Equivalents (Weight 0 percent):
- U.S. currency and coin and balances due from Federal Reserve Banks.
- Cash items in process of collection.
- Transaction accounts due from U.S. depository institutions[1].
- Short-term U.S. Treasury securities (original or remaining maturity of one year or less) in investment account.
- Foreign currency and balances due from foreign central banks in immediately available funds.

Money Market Risk (Weight 30 percent):
- Long-term U.S. Treasury securities held in investment account.
- U.S. Government agency securities held in investment account.
- Those portions of loans that are fully guaranteed by the U.S. Government.
- Short-term claims (90 days or less) on U.S. depository institutions.
- Acceptances of other U.S. banks.
- Federal funds sold.
- Loans to broker/dealers collateralized by U.S. Treasury and agency securities.
- Securities purchased under agreements to resell.
- Assets held in trading account.
- Legally binding loan commitments (including note issuance facilities).

Moderate Risk (Weight 60 percent):
- All state, county, and municipal (SCM) securities in investment account (excluding industrial development bonds).
- All other claims on U.S. depository institutions.
- All claims on governments and banks of industrial countries.

[1] The terms "U.S. banks" and "U.S. depository institutions" for purposes of this proposal refer to depository institutions chartered under the laws of the United States and include the foreign branches of these institutions. While banks chartered in the U.S. that are subsidiaries of foreign banking organizations are also included in the definition, U.S. branches and agencies of foreign banks are *not* considered to be U.S. banks or depository institutions for purposes of the proposed risk asset measure.

[2] A note issuance facility is a medium-term (five to seven years) commitment to help a borrower obtain short-term financing. Participating banks commit to provide funds under a revolving credit or standby arrangement if the client fails to sell within a range of predetermined contractual rates.

[3] "Banks" are defined to include their foreign branches and are categorized by the country under whose laws they are chartered.

Table I.—Risk Categories and Weights—Continued

Acceptances of banks in industrial countries.
Local currency claims on governments and banks of non-industrial countries.[2]
Loans to broker/dealers collateralized by other marketable securities.
Commercial letters of credit.
Standby letters of credit backing SCM securities (excluding those backing industrial development bonds), supporting broker/dealers on secured basis, or performance related.

Standard Risk (Weight 100 percent):
All assets found in a typical bank loan portfolio, including:
All commercial and industrial loans and leases.
Residential real estate loans and loans to individuals.
Loans to nondepository financial institutions.
All other claims on foriegn obligors.
Corporate securities and commercial paper, and industrial development bonds.
Customers' acceptance liabilities.[3]
All assets not included elsewhere.
All other standy letters of credit (net), including those backing industrial development bonds.

[1] "U.S. depository institutions" refers to depository institutions chartered under the laws of the United States and the foreign branches of those institutions and includes U.S. depository institutions that are subsidiaries of foreign banking organizations. U.S. branches and agencies of foreign banks are not U.S. depository institutions.
[2] To the extent funded by local currency liabilities. If not funded by local currency liabilities, such local currency claims are included in the Standard Risk category.
[3] Include customers' liabilities associated with acceptance participations purchased. Participations sold are included in Money Market Risk if the purchaser is a U.S. depository institution, Moderate Risk if the purchaser is a bank in an industrial country, and Standard Risk for all other purchasers.

TABLE II.—ILLUSTRATION OF CALCULATION OF SUPPLEMENTAL ADJUSTED CAPITAL RATIO

[Dollar amounts in thousands]

Risk category	Amounts of items in category		Risk weight		Weighted risk assets and off-balance-sheet items
Cash and equivalents	$5,000	X	0		0
Money market risk	35,000	X	.30		$10,500
Moderate risk	30,000	X	.60		18,000
Standard risk	80,000	X	1.00		80,000
Total (including $100,000 in aggregate assets and $50,000 in off-balance-sheet items)	150,000				108,500
Primary capital	7,000				
Primary capital to total assets ratio (as defined in existing regulation)	7,000				
	100,000	=	7.0%		
Supplemental adjusted capital ratio (as proposed)	7,000				
	108,500	=	6.5%		

NOTE.—This example assumes a bank with total assets (before deducting the allowance for loan losses) of $100,000, off-balance-sheet items of $50,000, and primary capital of $7,000.

The choice of groupings for assets and off-balance-sheet items reflects an effort to delineate reasonable risk categories, while avoiding excess complexity. In addition, close attention was paid to the treatment afforded assets and off-balance-sheet items in similar risk asset systems abroad. Finally, decisions on where to slot certain items and where to set relative risk weights were influenced by a desire to avoid artificial pricing distortions which might lead to awkward or undesirable changes in credit flows or financing practices, and to temper the gradation of implied capital costs between items in the various risk categories.

In developing this proposal, policy decisions were made involving the treatment of country risk and off-balance-sheet items. First, the proposal draws a distinction between claims on governments and banks of industrial countries, i.e., those presently designated as such by the International Monetary Fund ("IMF") and World Bank, versus claims on governments and banks in all other countries.[4] This distinction represents the most acceptable alternative among a variety of possible groupings intended to distinguish, in a broad sense, among differences in transfer risk, that is, the possibility that an asset cannot be serviced in the currency of payment because of a lack of foreign exchange needed for payment in the country of the obligor. The approach embodied in this proposal is viewed as more workable than a country by country evaluation of transfer risk that would require frequent updating and revision.

All claims on banks and governments of industrial countries would be included in the Moderate Risk category. This treatment is designed to minimize the possible distortions in credit flows in the international interbank money market which would result from substantially different capital requirements for claims on domestic and foreign banks competing alongside one another in the market. The list of industrial countries includes just about all countries with significant international banks, while avoiding the countries viewed by the markets as likely to entail a meaningful degree of transfer risk. Claims involving transfer risk on banks and governments of non-industrial countries, and all claims on *private* nonbank borrowers in foreign countries, would be included in the Standard Risk category. Although the proposed group of industrial countries for risk asset purposes currently comprises those nations designated as such by the IMF and World Bank, developments in the future could warrant a modification of this designation. Thus, the designation for risk asset purposes may not at all times coincide with the IMF and World Bank lists.

[4] Industrial countries as currently designated by the IMF and World Bank include Australia, Austria, Belgium, Canada, Denmark, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, United Kingdom, and West Germany.

The treatment of claims on foreign banks incorporated in this proposal differs from the typical approach in supplemental adjusted capital measures used in other industrial countries. Generally speaking, those measures assign a very low (often zero) risk weight to claims on their own government, while assigning claims on all other governments to the equivalent of a Standard Risk category. In terms of interbank claims, however, the typical approach is to combine claims on *all* foreign and domestic banks and place both of these types of assets in the same relatively low risk category. By and large, this latter approach was developed prior to the advent of significant concerns over country or transfer risk. Therefore, it does not recognize how claims on banks in different countries can be affected by transfer risk, including those claims on banks in the less developed countries which have been involved in extensive debt restructurings. Moreover, such an approach has the anomalous effect of placing claims on foreign banks in a lower risk category than claims on the governments that are generally viewed as providing the safety net for these banks. Finally, assigning a lower risk treatment to claims on foreign banks than on their governments could create unintended incentives to substitute claims on banks for claims on other parties that may be involved in debt restructurings. For these reasons, it was deemed necessary to depart from the more or less typical approach to the treatment of interbank claims.

Certain basic decisions were also made involving the treatment of various types of off-balance-sheet items. The proposal divides standby letters of credit into two broad components. The first such component, which is included in the Moderate Risk category, consists of performance bonds, secured letters of credit supporting broker/dealers, and standbys supporting state and local government securities (excluding those supporting industrial development bonds). The second component, which would be assigned to the Standard Risk category, consists of all other standbys, including those backing commercial paper, industrial development bonds, and other loans and financial instruments included in the Standard Risk category. This broad distinction is based on the nature of the underlying credit risk and how that risk would be

treated if it were on the balance sheet. The distinction also is generally consistent with the way in which comparable off-balance-sheet items are treated in risk asset frameworks abroad.

The proposal places two other off-balance-sheet items, legally binding commitments and note issuance facilities, in the Money Market Risk category.

The placement of these items in the Money Market Risk category, rather than a higher risk category, was influenced by the following considerations: (1) These commitments often retain a conditional, as well as a contingent, character as a consequence of "adverse material change" clauses and other covenants which may enable banks to avoid losses by avoiding or curtailing drawdowns; (2) unlike standby letters of credit, when drawings on commitments do occur they carry a greater likelihood that the resulting assets will be of higher quality; (3) supervisors should be evaluating the volume of these commitments in terms of the overall funding capacity of a bank, not just its capital adequacy; and perhaps most importantly given the preceding considerations, (4) it seems appropriate to impose a relatively low capital charge to give banks time to adjust their commitment policies while the merits of adopting supplemental adjusted capital standards are under study by the FDIC.

There are other aspects of off-balance-sheet risk associated with securities and foreign exchange trading activities and managing interest rate risk, including interest rate swaps. In this regard, adoption of a supplemental capital measure that takes account of some types of risk may require the use of more refined supervisory techniques to measure (1) risk involved in securities and foreign exchange trading activities at those banks which are heavily involved in such activities and (2) interest rate exposure resulting from the rate sensitivity and maturity of assets, liabilities, and off-balance-sheet activities. As discussed below, the FDIC is seeking comment on how some of these risks might be assessed within the proposed supplemental adjusted capital framework.

Administration of a Risk-Based Capital Measure

As the FDIC's current capital regulation emphasizes with respect to the primary and total capital ratios, the proposed supplemental adjusted capital ratio would be used as a starting point in the assessment of capital adequacy. It should be noted that the introduction and calculation of a supplemental capital measure adjusted to account for some forms of risk would in no way lessen the need for supervisors and examiners to make judgments on capital adequacy, judgments which reflect a broad mix of qualitative and quantitative considerations. Thus, in assessing an institution's capital adequacy, examiners must consider, among other things, the quality, trend, and variability of earnings; liquidity and the structure of liabilities; vulnerability to interest rate changes; the quality of management, internal systems and controls, and operating procedures; the effectiveness of loan and investment policies; and the quality of loans and investments.

In the assessment of capital adequacy, asset quality considerations are especially critical. These include the risk composition and profile of the loan portfolio, credit and sovereign risk concentrations, and the level and severity of examiner classified and criticized assets. Before an overall assessment of capital adequacy can be made, therefore, examiners must take into account all of these factors, including, in particular, the level and severity of classified assets.

The FDIC would propose to use the supplemental adjusted capital ratio in tandem with the current primary and total capital-to-total-assets ratios as a guide to determining minimum capital requirements. Thus, even if a supplemental adjusted capital approach were adopted by the FDIC, individual banks would still be subject to an overall constraint on total leverage, with the supplemental adjusted capital measure used as an additional guideline designed to encourage banks to make appropriate adjustments in either the risk composition of their portfolios or their overall level of primary capital. The FDIC's current minimum standards for the primary and total capital ratios (five and one half and six percent, respectively) would be retained for all insured state nonmember banks.

As is the case under the FDIC's current capital regulation, this proposal envisions that supplemental adjusted capital ratios would be calculated for all insured state nonmember banks. The risk asset framework would be employed to evaluate the capital of all banks regardless of size since the rationale for relating capital needs to risk profiles applies to both large and small institutions. Nonetheless, it is important to point out that many of the considerations driving the development of this supplemental adjusted capital proposal at this time are primarily operative at larger commercial banks. In particular, these institutions collectively have been the primary participants in those off-balance-sheet activities that the proposed standards seek to address, and these banks in recent years have also decreased their relative holdings of liquid assets.

Given these considerations, the FDIC proposes to differentiate between banks with assets of $1 billion or more and smaller banks in the administration of the supplemental adjusted capital ratio. For larger banks, calculated supplemental adjusted capital ratios would be compared to a specific minimum standard. For banks with assets totaling less than $1 billion, which comprise all but a small number of insured state nonmember banks, supplemental adjusted capital ratios would be computed in the same manner as for larger institutions, but they would not be compared to the minimum standard. Rather, the ratios of smaller banks would be calculated and considered in light of the quality and diversification of their loan portfolios and other local risk considerations. In this regard, it is important to note that the proposed risk-adjusted asset measure is not particularly sensitive to large concentrations of exposure within local communities and lending markets, exposures to which small banks are particularly susceptible. Therefore, small (as well as large) banks with significant asset concentrations would generally be expected to operate above the minimum primary and total capital-to-total-assets ratios, even if they have relatively high supplemental adjusted capital ratios.

The proposal does not specify at this time the actual minimum acceptable supplemental adjusted capital ratio for larger banks. Instead, it woud appear to be more appropriate to receive and evaluate public comments on the supplemental adjusted capital measure and, should the FDIC determine to proceed with this measure, to use the information received in establishing the minimum. The FDIC hopes to encourage commenters to focus their comments on the underlying policy considerations of this proposal rather than on the mechanical features. If the FDIC were to formally propose to adopt a supplemental adjusted capital measure in the future, the publc would have an opportuntiy to comment on the minimum acceptable supplemental ratio that would be specified in such a proposal.

The FDIC does invite comment on the factors that it should consider in setting the minimum standard for larger banks. To that end, the FDIC offers that following comments on how it would propose to set the minimum. Since a

principal goal of the supplemental adjusted capital measure is to relate capital needs to risk profiles, the FDIC would attempt to establish the minimum standard at a level that would affect primarily those institutions with assets in excess of $1 billion that have less than fully adequate capital positions in relation to their risk profiles. Moreover, the FDIC would attempt to establish a minimum standard that would be broadly consistent with prevailing aggregate capital levals in the banking system and with the banking system's ability to generate capital from retained earnings and from the issuance of primary capital securities.

Banks would be able to comply with a supplemental adjusted capital measure in several ways, some of which do not require raising new external captial. For example institution can moderate their growth and/or increase their earnings retention. More importantly, however, within a risk sensitive capital framework, an institution can raise its supplemental adjusted capital ratio by reducing its risk profile over time, even though such on- or off-balance-sheet adjustments may not necessarily result in lower total assets. This could be done by reducing off-balance-sheet risk or by placing proportionately greater emphasis on those balance sheet activities that carry lower risk weights.

For all of these reasons, it is not possible to state with certainty how much, if any, additional capital would have to be raised in response to the advent of a risk asset measure. It can be said, however, that a measure that relates capital needs to risk profiles should temper the unintended incentives associated with sole reliance on capital-to-total-assets ratios and should encourage those banks with high risk profiles either to raise additional primary capital to support their risk-bearing activities or to curtail the scope of these activities. The FDIC believes both of these responses would enhance the financial strength of individual banks and promote the safety and soundness of the banking system.

Issues for Further Consideration

While seeking public comments on all aspects of the proposal, the FDIC requests comment in the specific areas described below.

(a) The FDIC proposes to distinguish between banks on the basis of total assets for purposes of administering the supplement adjusted capital measure. A desirable feature of this administrative approach is that it would require the computation of the same supplemental adjusted capital ratio for all banks regardless of size. At the same time, however, evaluation of the ratios in relation to a specific standard would be limited to larger institutions, which collectively have been the primary participants in those activities and forms of behavior that the new standard seeks to address.

The FDIC is interested in receiving comments about this proposed administrative approach. Hence, for purposes of evaluating the calculated supplemental adjusted capital ratios of banks, should the method used by the FDIC be a function of bank size in total assets, as proposed, or some other criterion, or should a single method apply to all banks? Moreover, since the composition of the four risk categories in part reflects an attempt to address certain recent tendencies of larger banks, should the FDIC calculate supplemental adjusted capital ratios in an identical manner for all banks? If not, what alternative calculation would be preferable and to which banks should such a calculation apply?

(b) Should the Standard Risk category be further refined by adding an additional category that would contain certain specified assets that entail risks higher than those typically associated with the Standard Risk group? In particular, should a separate category be included to take account of the higher risks associated with certain nontraditional banking activities authorized under the laws of certain states and the holding of nontraditional loans or assets? The FDIC, could, for example, assign a weight substantially above 100 percent for all assets held by an institution in connection with certain high risk activities not considered traditional activities for banks. Where such activities are conducted in bank subsidiaries, another option would be to deduct the capital invested in these high risk subsidiaries from the bank's primary capital before calculating the supplemental adjusted capital ratio.

Similarly, the FDIC seeks comments on whether it should attempt to identify certain types of loans that would be moved from the Standard Risk category and placed in a separate category with a risk weight below 100 percent?

By grouping together a wide array of risks in the Standard Risk category, the proposed supplemental adjusted capital measure could still have some unintended incentives for banks to pursue riskier types of lending or high risk nontraditional activities to bolster income, while, possibly, curtailing loans to high quality, low risk borrowers. In light of this concern, certain assets felt to be significantly riskier than others could have been grouped in a separate high risk category with a risk weight above 100 percent. Similarly, several types of assets included in the Standard Risk category, such as loans to high quality, high rated borrowers, arguably could be included in a lower risk category. The principal benefit of such an approach would be that it would relate capital needs more closely to an institution's risk profile. It could also serve to discourage certain high risk activities while avoiding disincentives to direct bank lending to high quality, low risk customers.

The major practical drawback, on the other hand, would be the difficulty of defining the boundary line between the types of financing activities that would be included in high or low risk categories. More importantly, this approach could heighten concern over the potential for the supplemental adjusted capital measure to evolve into a credit allocation device, and could be interpreted by some institutions as an indication that they were free to expand the volume of high risk lending provided they held the "correct" amount of capital to support that lending. This would go far beyond the intent of the proposed supplemental adjusted capital measure and could potentially undercut other sources of supervisory discipline designed to limit excessive risk-taking. For these reasons, the FDIC is not proposing the division of the Standard Risk category into either an additional higher or lower risk category.

(c) Should the supplemental adjusted capital measure attempt to take account of concentrations of assets? A major factor in analyzing the overall risk of banks is the degree of diversification in the loan and investment portfolios. Because undue asset concentrations violate the widely accepted principle of risk diversification, in theory the supplemental adjusted capital ratio could be further refined by including an explicit factor for the level of asset concentrations. Practical difficulties exist, however, in defining appropriate business categories for risk assessment purposes and in assigning a meaningful primary business classification to companies that have diversified into many different types of financial and nonfinancial activities. While the proposal contemplates continuation of the current policy whereby examiners subjectively evaluate asset concentrations, the FDIC seeks comment on whether asset concentrations should be factored *explicitly* into the supplemental adjusted capital ratio and, if so, how this might be done on a practical basis.

(d) The treatment of country risk in the proposal represents a choice among

imperfect alternatives. The segregation of industrial economies from all others was based on the view that, among the various alternatives, such a treatment would minimize possible distortions in credit flows within the interbank market and among countries. The FDIC also seeks comment on the most appropriate way to deal with broad country risk considerations.

(e) While the supplemental adjusted capital measure attempts to deal with the major forms of off-balance-sheet risk, some off-balance-sheet activities that typically involve risk are not included in the framework. For example, interest rate swaps, in which a bank acts as a counterparty in arranging the exchange of interest payment streams between two third-party borrowers, can involve risk if one party defaults and the bank is obligated to assume the role of the defaulting party and replace the stream of cash flows at current market rates. In light of these considerations, the FDIC seeks comment on how best to assess and incorporate the credit risks associated with interest rate swaps into the proposed supplemental adjusted capital framework. Moreover, commenters are also asked to identify other significant types of off-balance-sheet risks not addressed by the proposal and how such risks could best be factored into the proposed measure.

An additional example of risk exposure not captured in the proposed supplemental adjusted capital measure involves unconsolidated joint ventures. Banks can be exposed to considerable risks through unconsolidated joint ventures if these entities issue significant amounts of debt and undertake risk-bearing activities. Despite the fact that such risks may not be fully reflected on the bank's consolidated balance sheet, the bank may, in effect, be obligated to support at least its proportionate share of the risk assets of the joint venture or all of the joint venture's assets if the joint venture encounters problems and the other joint venture partners are unable to provide assistance. The FDIC seeks public comment on whether to deduct investments in unconsolidated joint ventures from primary capital for the purpose of calculating supplemental adjusted capital ratios or whether to employ an alternative technique to capture the exposure of banks to such joint ventures.

(f) It would be desirable to supplement the proposed capital measure with more refined techniques to measure the risk involved in securities and foreign exchange trading activities at those banks which are heavily involved in these activities. This could entail applying to banks some of the guidelines and principles on evaluating trading risks that have been developed by the Federal Reserve Bank of New York for evaluating risk at U.S. Government securities dealers. Thus, the FDIC seeks comment on techniques for evaluating foreign exchange risk, including how the supplemental adjusted capital measure could treat (i) exchange rate and interest rate risk, (ii) counterparty credit risk, and (iii) futures, options, and swaps used in foreign exchange operations.

Similarly, it may be appropriate to develop a more systematic approach to assessing overall interest rate risks (as distinct from credit risks) resulting from the rate sensitivity of assets, liabilities, and off-balance-sheet activities. Such an approach might be used in conjunction with an adjusted capital measure to evaluate vulnerability to changes in interest rates. Therefore, the FDIC seeks comment on how to factor interest rate risk into the assessment of capital adequacy.

(g) The minimum capital-to-total-assets standards in the FDIC's current capital regulation apply to both commercial banks and savings banks. The concept that an institution's capital needs should be related to the risks present in the institution is valid for both classes of banks. Nevertheless, the proposed supplemental adjusted capital framework is in many respects oriented toward recent on- and off-balance-sheet trends at large commercial banks. The FDIC therefore requests specific comment on whether the broad risk categories and weights that were designed for commercial banks are equally applicable to the savings banks insured by the FDIC. If so, should the FDIC's evaluation of the resulting supplemental adjusted capital ratios of savings banks employ the same two-tier approach based on bank size that has been proposed for commercial banks?

(h) The FDIC seeks comment on the long-run administration of the supplemental adjusted capital measure in relation to the existing minimum primary and total capital-to-total-assets ratios. As indicated above, the supplemental adjusted capital ratio is intended to be used in tandem with the FDIC's existing minimum primary and total capital ratios. However, as banks restructure their balance sheets and reduce their risk profiles, the minimum capital-to-total-assets ratios may become binding and prevent further leveraging, even though an individual institution may have a high and strong supplemental adjusted capital ratio. As experience is gained with a supplemental adjusted capital measure, it may be appropriate to place greater emphasis on this measure over time relative to the capital-to-total-assets ratios. In this regard, it may be appropriate in the long run to reconsider the role of the capital-to-total-assets ratios, especially if the supplemental adjusted capital ratio proves to be a reliable measure of capital needs in relation to overall risk.

(i) Final issue on which the FDIC invites comment relates to all institutions insured by the FDIC. In order for insured banks to retain their federal deposit insurance, they are expected to remain in a safe and sound condition. The FDIC's current capital regulation prescribes that any insured bank whose ratio of primary capital to total assets is or falls below three precent is deemed to be operating in an unsafe or unsound condition and, as a consequence, the bank may be subject to a termination-of-insurance action by the FDIC. Alternatively, the bank may enter into and comply with a written agreement to increase its capital to such levels and to take such other actions as the FDIC deems appropriate to ensure the safe and sound operation of the bank.

If the FDIC were to adopt a supplemental adjusted capital measure, should there be a supplemental adjusted capital ratio below which any insured bank would be regarded as being in an unsafe or unsound condition? If so, what factors should enter into the determination of this ratio? Moreover, how would the supervisory response to a bank with such a low supplemental ratio relate to the available responses to a bank with less than three percent primary capital, particularly in the long run if the supplemental adjusted capital ratio were to supersede capital-to-total-assets ratios as the primary tool for evaluating capital adequacy?

List of Subjects in 12 CFR Part 325

Bank deposit insurance, Banks, Banking, Federal Deposit Insurance Corporation, Capital adequacy, State nonmember banks.

By order of the Board of Directors this 15th day of January, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-3652 Filed 2-19-86; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 556

[No. 86-131]

Interstate Branching

Dated: February 12, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Extension of comment period.

SUMMARY: The Federal Home Loan Bank Board ("Board") is extending the comment period on its proposed amendment to its regulation relating to the statement of policy on branching by Federal associations.

DATE: Comments must be received by March 5, 1986.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Stuart Rolfe, Attorney, Office of General Counsel, (202) 377-6755, at the above address.

SUPPLEMENTARY INFORMATION: The Board is extending the comment period on a proposed amendment to its statement of policy on branching by Federal associations, 12 CFR 556.5, which would provide (1) general equility of Federal associations with the state-chartered associations of a Federal association's home state with respect to branching across state lines, and (2) possibly broader branching rights for a Federal association acquiring a failing institution in the form of regional branching rights as well as single target state branching rights. Interstate Branching, Board Res. No. 85-1198, 51 FR 33 (Jan. 2, 1986).

Because it wished to expedite the rulemaking process in order to better serve the business planning of the Board and because there have been several previous cycles of comments on earlier branching rules proposed by the Board, the Board provided for an initial 30-day period for comment on the proposal, requesting that comments be received by February 3, 1986. The Board has determined to extend this comment period for an additional 30 days to March 5, 1986, because the technical complexity of issues raised in comments received has persuaded the Board that a longer period is appropriate to permit thorough evaluation of such issues.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 86-3620 Filed 2-19-86; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250 and 251

Outer Continential Shelf Operations; Disclosure of Data and Information From Areas Unavailable for Leasing

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed rule would amend the regulations to provide for extensions of the terms during which data and information are not releasable to the public without the consent of the lessee or permittee. The terms would be extended for data and information from areas of the Outer Continental Shelf (OCS) that have been designated by the Secretary of the Interior (Secretary) as unavailable for leasing. The rule is necessary to protect the proprietary nature of data and information during periods when an area is unavailable for leasing.

DATE: Comments must be hand-delivered or postmarked no later than March 24, 1986.

ADDRESS: Comments should be mailed or hand-delivered to the Department of the Interior; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646, Room 6A110; Reston, Virginia 22091; Attention: David A. Schuenke.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, telephone: (703) 860-7916, (FTS) 928-7916.

SUPPLEMENTARY INFORMATION: Section 26(c) of the OCS Lands Act requires that—

> The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information.

Current regulations at 30 CFR 350.3 and 251.14 provide 2-year terms during which geological data and analyzed geological information collected from a lease are not available to the public without the consent of the lessee or permittee; 10-year terms for geological data and analyzed geological information collected under a permit; and 10-year terms for geophysical data, processed geophysical information, and interpreted geological and geophysical (G&G) information collected from a lease or a permit. Industry has suggested to the Department of the Interior (DOI) that these time-frames are inadequate at times to protect the collector or the data and information from loss of its commerical value. Lessees and permittees gather data and information in expectation of its use in a lease sale. If sales are held according to the 5-year lease schedule, data collection can be timed to receive the greatest value. However, many sales in the recent past have been delayed or indefinitely postponed as a result of litigation or moratoria.

The most significant delays have arisen from riders on DOI appropriation bills for Fiscal Year's (FY) 1982-85 prohibiting leasing activity off California, Massachusetts, and parts of Florida. Such delays create a double-edged problem. Companies that have already collected data and information will see such data and information release to the public and their competition before it can be used in a lease sale. In addition, companies will be hesitant to gather data and information for fear of losing the exclusive use of them prior to a lease sale. This lack of data and information gathering not only affects the oil and gas industry but also reduces the amount being provided to the Government for use in resource and economic evaluations. For example, during the last 4 years of moratoria off California, 68 permits were issued in anticipation of upcoming sales being held. These permittees stand to lose the commercial value of their data and information if a sale is not held over the next 10 years. Numerous bills are pending in Congress, and negotiations have been held between DOI and the California congressional delegation to extend the moratorium to the year 2000, 5 years after all the data and information already collected will be available to the public. Further, the Minerals Management Service (MMS) has estimated that 225 permits could be issued by the year 2000 if there are yearly sales but only 17 permits if there is a moratorium. This low level of activity would provide little information on which to make resource estimates in the best of circumstances.

To address this problem, MMS is proposing to extend the terms during which data and information are not releasable to the public without the consent of the lessee or permittee. The terms would be extended for a period of time equal to the time that the area

remains unavailable for leasing as determined by the Secretary. For example, if a lessee has submitted geological data and information under § 250.3 with a 2-year term of protection and 1 year later the Secretary designates the area as unavailable for leasing because of litigation, the data and information would have 1 year remaining of its period of protection when the area is once again available for leasing. It is anticipated that the Secretary might designate areas as unavailable for a number of reasons including, but not limited to, congressional moratoria, litigation, use conflicts with other Agencies such as the Department of Defense, or boundary disputes with other countries. It is not intended that areas be designated by the Secretary as unavailable for leasing under this rule as a result of normal fluctuations in sale scheduling or sale size or configuration. The rule would apply to data and information in the possession of MMS at the time of the Secretary's designation for which the term has not expired and to data and information received by MMS during the time the area(s) is unavailable.

The DOI has determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an environmental impact statement is not required.

The DOI has also determined that this document is not a major rule under Executive Order 12291 because the annual economic effect is less than $100 million. The annual estimated effect is $20 million. An estimated 20 permits represent commercial benefits of $1 million per permit each year.

The DOI also certifies that the rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) as the entities that engage in offshore activities are not considered small due to the technical complexity and financial resources necessary to conduct offshore activities.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Author: The document was prepared by Jane A. Roberts, Rules and Orders, Standards Branch, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects

30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas reserves, Penalties, Pipelines, Public lands/mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 251

Continental shelf, Freedom of information, Public lands/mineral resources, Reporting and recordkeeping requirements, Science and technology.

Dated: January 14, 1986.

Wm. D. Bettenberg,

Director, Minerals Management Service.

For the reasons set forth above, 30 CFR Part 250 and 251 are proposed to be amended as follows:

1. The authority citation for Part 250 continues to read as follows:

Authority: Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

2. Section 250.3 is amended by adding paragraph (d) to read as follows:

§ 250.3 Data and information to be made available to the public.

* * * * *

(d) If the Secretary designates area(s) of the OCS to be unavailable for consideration for leasing, the term during which data and information from such area(s) are not to be available for public inspection without the consent of the lessee, as provided for in paragraphs (a) and (b) of this section, shall be extended by the length of time that the area(s) remains designated as unavailable for leasing.

The extension of such terms shall be applicable to data and information in the possession of MMS at the time of the Secretary's designation and for which the term during which such data and information are not to be available for public inspection without the consent of the lessee has not expired and to data and information received by MMS during the time the area(s) is unavailable for leasing.

3. The authority citation for Part 251 continues to read as follows:

Authority: Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

4. Section 251.14–1 is amended by adding paragraph (e) to read as follows:

§ 251.14–1 Disclosure of information and data to the public.

* * * * *

(e) If the Secretary designates area(s) of the OCS to be unavailable for consideration for leasing, the term during which data and information from such area(s) are not to be available for public inspection without the consent of the permittee, as provided for in paragraphs (c) and (d) in this section shall be extended by the length of time that area(s) remains designated as unavailable for leasing. The extension of such terms shall be applicable to data and information in the possession of MMS at the time of the Secretary's designation and for which the term during which such data and information are not to be available for public inspection without the consent of the permittee has not expired and to data and information received by MMS during the time the area(s) is unavailable for leasing.

* * * * *

[FR Doc. 86–3606 Filed 2–19–86; 8:45 am]
BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On March 25, 1985, the Commonwealth of Kentucky submitted to OSM a proposed amendment to its abandoned mine land reclamation (AMLR) plan. The proposed plan amendment provides new procedures for the ranking of eligible reclamation projects which qualify for funding under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87. (Lands are eligible for reclamation funding if they were mined for coal and left abandoned and inadequately reclaimed prior to August 3, 1977, and there is no continuing reclamation responsibility under State or other Federal laws.) In addition, the amendment provides procedures for selecting from the lists of ranked eligible sites those projects which will be included in the State's annual reclamation grant request. OSM is seeking public comment on the proposed changes.

DATES: *Written comments:* OSM will accept written comments on the proposed rule until 5 p.m. eastern time on March 24, 1986.

Public Hearing: Upon request, OSM will hold a public hearing on the

proposed rule in Lexington, Kentucky, at 9:30 a.m. local time on March 17, 1986. OSM reserves the right to cancel the hearing without further notice if insufficient requests are received.

Public Meetings: Scheduled on request only.

ADDRESSES: *Written comments:* Hand deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record, Room 5315 L, 1951 Constitution Avenue, NW., Washington, DC, or mail to the Office of Surface Mining, Administrative Record, Room 5315–L., 1951 Constitution Avenue, NW., Washington, DC 20240.

Public Hearing: Office of Surface Mining, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Public Meetings: OSM offices in Washington, DC, and Lexington, Kentucky.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, telephone (606) 233–7327.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Commenting Procedures

Written Comments

Written comments submitted on the proposed rule should be specific and should be confined to issues pertinent to the proposed rule. Comments are requested on whether the proposed changes are no less effective than the Federal regulations and meet the standards for approval set out in 30 CFR Part 884. Where possible, commenters should submit five copies of their comments (see "Addresses"). Comments received after the close of the comments period (see "Dates") may not necessarily be considered or included in the Administrative Record for the final rule. Copies of the full text of the proposed amendment are available at the following locations: Kentucky Natural Resources and Environmental Protection Cabinet, Division of Abandoned Mine Lands, 618 Teton Trail, Frankfort, Kentucky 40601, and the Office of Surface Mining, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Public Meetings: Representatives of OSM'S Lexington Field Office will be available to meet Monday through Friday, excluding holidays, between 8 a.m. and 4 p.m. at the OSM address indicated above to hear comments from the general public concerning the proposed amendment. Persons wishing to meet with OSM representatives should make their interest known by contacting David D. Beals, AML Program Specialist, Lexington Field Office, telephone (606) 233–7327.

Public Hearing: Any person interested in participating at a hearing in Lexington, Kentucky, should inform W. Hord Tipton (see "For Further Information Contact") either orally or in writing of the intent to testify by 5:00 p.m. eastern time on March 12, 1986. If no one has contacted W. Hord Tipton to express an interest in participating in a hearing by that date, the hearing will not be held. If only a few persons express an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSM requests that persons who testify at a hearing give the transcriber a written copy of their testimony. To assist OSM in preparing appropriate questions, OSM also requests that persons who plan to testify submit to OSM at the address previously specified for the submission of written comments (see "Addresses") advance copies of their testimony.

II. Background

Title IV of the Surface Mining Control and reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, Establishes an abandoned mine land reclamation program for the purpose of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary a State Reclamation Plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Secretary may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884). Of relevance to this rulemaking is § 884.13(c)(2). This section provides that a State must provide as a part of its reclamation plan a description of the policies and procedures to be followed by the designated agency in conducting the reclamation program, including "(2) the specific criteria, consistent with Section 403 of the Act, for ranking and identifying projects to be funded."

The Kentucky AMLR plan was approved on May 18, 1982. On March 25, 1985, Kentucky submitted a proposed amendment to the plan. An approved State AMLR plan can be amended under the provisions of 39 CFR 884.15. Under these provisions, if the amendment of revision changes the objectives, scope, or major policies followed by the States in the conduct of its reclamation program, the Director should follow the procedures set out in 30 CFR 884.14 in approving an amendment or revision of a State reclamation plan. This notice of proposed rulemaking begins the process of review of the proposed amendment.

III. Discussion of Proposed Rule

Project ranking and selection procedures are described in general terms in 30 CFR 874.13. Specifically, reclamation projects should reflect the priorities set out in section 403 of SMCRA and should be accomplished in accordance with OSM's "Final Guidelines for Reclamation Programs and Projects" (45 FR 14810–14819, March 6, 1980).

OSM regulations do not provide any specific methodology for selecting and ranking projects. However, OSM did develop a model AML Plan to assist the States in developing their reclamation plans and as part of this model, a site evaluation matrix was designed together with an objective, quantifiable method for ranking specific priority problems. Most States, including Kentucky, adopted this methodology when developing their plans. See Chapter 4 of Kentucky's AMLR Plan. the site-matrix contains certain environmental, socio-economic, programmatic and technological factors. Each site of a

specific priority, therefore, could be numerically ranked depending on the matrix score. The higher ranking projects within each priority were then selected for funding in a State's annual grant request.

Kentucky's amendment would replace the site-matrix selection process with a more programmatic decisionmaking process.

All eligible sites in Kentucky would be ranked in accordance with the criteria in section 403 of SMCRA. Because priority one and two projects have been and continue to be the thrust of Kentucky's AML program, emphasis would be placed on those problem areas exhibiting an adverse impact, either present or potential, on public health, safety and general welfare. Kentucky's AML staff would evaluate each site and measure the on-site and off-site AML impacts.

All eligible priority one and two projects which have been investigated by Kentucky's AML staff would then be put on a grant development action list. The Division of Abandoned Mine Lands would select projects from this list for inclusion in the State's annual grant request. Factors considered in selecting projects for final application would be:

1. Has the project area been thoroughly investigated and scoped?
2. Has the final eligibility been resolved?
3. Does the project have local public support?
4. Is remining by private enterprise anticipated? If so, in what timeframe?
5. Has the area been investigated by OSM for potential emergency declaration? What is the likelihood of such a declaration?

OSM is requesting specific comments on the adequacy of Kentucky's new ranking and selecting procedures.

IV. Procedural Matters

The Department intends to continue to discuss the State's amendment with representatives of the State throughout the review process. All contacts between Department personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979 (44 FR 54444).

Federal Paperwork Reduction Act

There are no information collection requirements in the proposed rule requiring submittal to the Office of Management and Budget under 44 U.S.C. 3507.

Executive Order 12291

The DOI has examined the proposed rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined, based on available quantitative data, that it is not major and does not require a regulatory impact analysis. The reasons underlying this determination are as follows:

1. Approval would not have any effect on costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; and

2. Approval would not have adverse effects on competition, employment, 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

This proposed Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule would not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval would not have demographic effects, direct costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

National Environmental Policy Act

Further, the Office of Surface Mining has determined that the Kentucky AML Plan amendment does not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, OSM has determined that this rule is categorically excluded from compliance with the National Environmental Policy Act in accordance with 40 CFR 1507.3.

As a result, no environmental assessment (EA) or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS has been prepared by OSM in conjunction with the implementation of Title IV in general. Moreover, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

List of Subjects in 30 CFR Part 917

Coal mining, Noncoal reclamation, Surface mining, Underground mining.

Accordingly, it is proposed that 30 CFR Part 917 be amended as set forth below.

Dated: February 9, 1986.

James E. Cason,

Deputy Assistant Secretary for Land and Minerals Management.

PART 917—KENTUCKY

1. The authority citation for Part 917 continues to read as follows:

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

2. § 917.21 is amended by designating existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 917.21 Amendments to Approved Kentucky Abandon Mine Land Reclamation Plan.

* * * * *

(b) The Kentucky Abandoned Mine Reclamation Amendment, as submitted on March 25, 1985, is approved. Copies of the approved plan are available at the following locations:

Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504

Kentucky Department of Natural Resources and Environmental Protection, Frankfort, Kentucky 40601

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 "L" Street, NW., Washington, DC 20240.

[FR Doc. 86-3411 Filed 2-19-86; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2F2709/P385; FRL-2971-9]

Pesticide Tolerances for Fluridone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This document proposes that tolerances for the combined residues of the herbicide fluridone and its metabolite be established in edible fish and various raw agricultural commodities. This regulation to establish maximum permissible levels for residues of fluridone in these commodities was requested by the Elanco Products Co.

DATES: Written comments must be received on or before March 24, 1986.

ADDRESS: Written comments, identified by the document control number [PP 2F2709/P385], may be submitted to the:

Hearing Clerk (A–110), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Richard F. Mountfort, Product Manager (PM–23), Registration Division (TS–767C), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Office location and telephone number: Room 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of July 28, 1982 (47 FR 32602), which announced that Elanco Products Co., Division of Eli Lilly and Co., 740 South Alabama St., Indianapolis, IN 46285, had filed pesticide petition 2F2709 to EPA. This petition proposed to amend 40 CFR Part 180 by establishing a tolerance for the combined residues of the herbicide fluridone [1-methyl-3-phenyl-5-[3-(trifluoromethyl]phenyl]-4(1*H*)-pyridinone] and its metabolite [1-methyl-3-(4-hydroxyphenyl)-5-[3-(trifluoromethyl]phenyl]-4(1*H*)-pyridinone in the commodity fish at 0.5 part per million (ppm). In the same issue of the **Federal Register** (47 FR 32602), EPA announced receipt of a concurrent proposal from Elanco to amend 21 CFR Part 193 by establishing a food additive regulation permitting residues of fluridone in potable water at 0.15 ppm. In the **Federal Register** of March 30, 1983 (48 FR 13256), EPA announced that Elanco had amended pesticide petition 2F2709 by proposing tolerances for residues of fluridone in or on:

1. Eggs, fat, meat, and meat byproducts (except liver and kidney) of cattle, goats, hogs, horses, poultry, sheep, and milk at 0.05 ppm.

2. Liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm.

The petitioner had further amended the petition by proposing tolerances for the herbicide in or on the commodities citrus, cucurbits, fruiting vegetables, grain crops, leafy vegetables, nuts, pome fruit, root crop vegetables, seed and pod vegetables, small fruit, and stone fruit at 0.05 ppm and forage grasses and legumes at 0.15 ppm.

The petitioner later revised the proposed levels for the above-listed crop groupings, except forage grasses and legumes, to 0.1 ppm and included the specific commodities avocados, cottonseed, and hops at 0.1 ppm. These proposals apply to residues of fluridone transferring to these commodities through irrigation water.

Because of a change in procedures, the Agency is not establishing food additive regulations for pesticides that are directly added to potable water (47 FR 25746; June 15, 1982). The Agency is evaluating the safety of such residues under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and the Safe Drinking Water Act (SDWA) to ensure that an acceptable residue level is not exceeded and that provisions of the SDWA are met.

The data submitted in the petition and other relevant material have been evaluated. The data include a rat acute-oral median lethal dose (LD_{50}) of >10,000 milligrams per kilogram (mg/kg); an Ames test, negative at the level of test compound solubility (2,000 μg/plate); an Unscheduled DNA Synthesis (UDS) assay in rat hepatocytes, negative; a Sister Chromatid Exchange (SCE) assay in Chinese hamster bone marrow, negative; a rabbit teratology study with a teratogenic no-observed-effect level (NOEL) of 750 mg/kg/day and a NOEL for fetotoxicity of 125 mg/kg/day; a 3-generation rat reproduction study with a NOEL for reproductive effects of 650 ppm (35 mg/kg of body weight (bwt)); a 2-year rat chronic feeding/oncogenicity study with a NOEL of 200 ppm (8 mg/kg/day) and no establised dose-related oncogenic response for any level up to and including the highest dose tested (2,000 ppm, 81 mg/kg/day) (this study is discussed further below); a 2-year mouse oncogenicity study with increased incidences of skin fibrosarcomas in females at 330 ppm (49 mg/kg/day, highest dose tested [HDT]) (this study is also further discussed below); and a 1-year dog feeding study with a NOEL of 75 mg/kg/day.

In the 2-year rat study, there were observed increased incidences of skin papillomas and mononuclear cell leukemia (MCL) in some treatment groups of male rats. After careful consideration of complete histopathological findings reported, including historical data for controls of the strain (Fisher 344 rat) and the laboratory conducting the study, the Agency's conclusion is that these results did not indicate an oncogenic response to the test chemical and were within spontaneous levels reported for control animals. The papillomas do not represent a life-threatening lesion and there is no evidence that treatment resulted in malignant transformation or progression to squamous cell carcinomas of the skin. Because of smallness in size, half the skin masses diagnosed grossly were lost before histological examination. Considering only those papillomas which were histopathologically confirmed, the incidences do not support a compound-related effect.

High mortality among males at 2,000 ppm (HDT) confounded initial evaluation of an apparent trend, although not statistically significant, toward a dose response for MCL in surviving male rats. After broadening consideration of the effect to include animals not surviving, as well as those surviving to term, the apparent trend is no longer evident. The incidence of MCL in fluridone-treated rats fell within the range of historical control data for MCL observed in this and other testing laboratories. The Agency, thus, concludes that the occurrence of MCL in male rats was not related to fluridone admininstration.

In the mouse oncogenicity study, the Agency concludes that the increased incidence of skin fibrosarcomas in high-dose females was not biologically significant. Two studies were performed one week apart with discrete populations of animals on test, including separate controls. A statisticially significant increase for the combined incidences of fibromas and fibrosarcomas in the high dose females as compared to control females was reported for only one of the studies. The statistically significant increase in the one study may reflect a lower spontaneous incidence of the lesion in its control animals compared with historical data for the strain and laboratory. There was no corresponding increased incidence of other subcutaneous tumors, such as mammary gland tumors in treated females, and treatment did not appear to shorten time-to-tumor appearance (no effect on longevity).

Moreover, the fibrosarcomas were larger in size in control than in treated groups. The fibrosarcomas of treated mice showed no evidence of greater cellular anaplasia than control mice. The dose levels employed by the petitioner in the chronic mouse study [HDT 330 ppm (49 mg/kg/day)] were based on results from 90-day studies in the same strain of mouse. In these short-term studies, from 10 to 17 percent of the animals at the 330 ppm dose level exhibited centrilobular hypertrophy of the liver and relative liver weights were increased. Centrilobular hypertrophy was not produced in the liver of high dose animals in the chronic study. However, relative liver to body weight ratios were elevated in females in the high dose group at 12 months but not at 24 months. There were also increased serum alkaline phosphatase (AP) levels, and hepatic enzyme induction occurred at the 330 ppm dose level. The Agency

concludes that a maximum tolerated dose (MTD) was not achieved in this study, but that the study is adequate to satisfy the guideline requirement for a second species oncogenicity study. The Agency intends to develop criteria for determining MTD levels in toxicity studies, and applying these criteria as a generic issue.

Although the rabbit teratology study was negative and acceptable, the 1980 rat teratology study showed neither maternal nor fetal toxicity at the highest dose tested (200 mg/kg/day). Therefore, the rat study was classified as supplementary requiring a new teratology study to be performed in a second species. The petitioner is repeating this study using higher dose levels. The high dose tested in the existing study is considered a NOEL for teratogenesis in that study.

Based on the NOEL of 8 mg/kg/day in the chronic rat feeding study and a hundred-fold safety factor, the acceptable daily intake (ADI) is proposed to be set at 0.08 mg/kg/day with a proposed maximum permissible intake (MPI) of 4.8 mg/day for a 60-kg person. There are no previously established tolerances for this herbicide.

The Agency is proposing an acceptable residue level for fluridone in potable water at 0.15 ppm. This concentration reflects the maximum application rate for the herbicide described in the petition and to be permitted on approved labeling under registration(s) issued pursuant to FIFRA. Consumption of water is estimated at 2.0 liters per day for a 60-kg adult. The proposed tolerances for fish, raw agricultural commodities, secondary residues in animal tissues, and acceptable residue level in potable water would result in a theoretical maximum residue contribution of 0.4112 mg/day in a 1.5-kg diet (including 2 liters of water) and use 8.57 percent of the ADI.

The metabolism of the pesticide in irrigated crops and animals is adequately understood for the purposes of this aquatic use only, and an adequate analytical method, highpressure liquid chromatography, is available for enforcement purposes. There are no regulatory actions pending against the pesticide, and it is considered useful for the purpose for which the tolerances are sought.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number [PP 2F2709/P385]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Richard Mountfort from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

In addition to the proposed rule, and within the time period specified for comment, the Agency is also inviting comment on the proposed registration of fluridone pesticides. Applications for registration of two products containing fluridone have been submitted by Elanco Products Company. The products are Sonar A.S., a 4-pound per gallon liquid formulation, EPA file symbol 1471–RET, and Sonar 5P, a 5 percent pellet formulation, EPA file symbol 1471–REA. The Agency has evaluated the data submitted by the manufacturer and is proposing to issue registrations under the authority of section 3(c)(5) of FIFRA for use of fluridone for aquactic vegetation control in freshwater ponds, lakes, reservoirs, drainage canals, irrigation canals, and rivers.

Fluridone is the accepted American National Standards Institution name for the chemical, 1-methyl-3-phenyl-5-[3-(trifluoromethyl)phenly]-4 (1*H*)-pyridinone. The trade name for fluridone is Sonar®. Technical fluridone is a white (to off-white), odorless, crystalline solid. The chemical has a molecular weight of 329.3. Fluridone has a melting point of 154° to 155°C and a vapor pressure of $<10^{-7}$ Torr at 25 °C. Fluridone has the empirical formula $C_{19}H_{14}F_3NO$.

Environmental fate data indicate that fluridone is stable to hydrolysis. It will photograde (half-life of 34 hours in natural pond water). Under anaerobic aquatic conditions, fluridone has a half-life of 9 months. Half-life for fluridone in water is estimated to be 20 days; for hydrosoil, 90 days. Fluridone has a low potential for bioaccumulation in fish.

Environmental effects data submitted and used to evaluate fluridone include:

Avian species—an acute oral study (bobwhite quail) >2,000 mg/kg (slightly toxic); dietary studies (bobwhite quail and mallard duck) >5,000 ppm; reproduction studies with no effects for the above species up to 1,000 ppm dietary exposure.

Aquatic species—Daphnia magna 48-hour acute is 6.3 mg/L (moderately toxic); a bluegill sunfish 96-hour acute is 12 mg/L (moderately toxic); a rainbow trout 96-hour acute is 11.7 mg/L (moderately toxic); a sheepshead minnow 96-hour acute is 10.91 mg/L (moderately toxic); oyster embryo-larvae 48-hour acute is 16.51 mg/L (moderately toxic). The maximum acceptable theoretical concentration (MATC) value for fathead minnow (second generation fry) was calculated to be >0.48 <0.96 mg/L. No treatment-related effects were observed at or below 0.48 mg/L. Total length of 3-day-old fry was reduced at 2 mg/L fluridone.

The acute and MATC values indicate a potential hazard for aquatic organisms in shallow areas at the higher treatment rates. The Agency has determined that the labeling must specify that users consult their State Fish and Game Agency or the U.S. Fish and Wildlife Service before making applications in order to avoid impact on threatened or endangered aquatic plant or animal species. It is intended that private applicators be limited to use of fluridone only in small bodies of water with little or no outflow and totally under the control of the user. For other aquatic sites, application would be through programs of Federal, State or local public agencies or contractors or licensees under their direct control.

Comments may be submitted on all aspects of the Agency's proposed decision to register fluridone.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticide and pests.

Dated: February 14, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation of Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.420 is added to read as follows:

§ 180.420 Fluridone; tolerances for residues.

(a) A tolerance is established for the combined residues of the herbicide fluridone (1-methyl-3-phenyl-5-[3-trifluoromethyl)phenyl]-4[1*H*)-pyridinone) and its metabolite (1-

methyl-3-(4-hydroxyphenyl)-5-[3-(trifluoromethyl)phenyl]-4(1*H*)-pyridinone) in fish at 0.5 ppm.

(b) Tolerances are established for residues of the herbicide fluridone in the following raw agricultural commodities.

Commodities	Parts per million
Cattle, fat	0.05
Cattle, kidney	0.1
Cattle, liver	0.1
Cattle, meat (except liver and kidney)	0.05
Cattle mbyp	0.05
Eggs	0.05
Goats, fat	0.05
Goats, kidney	0.1
Goats, liver	0.1
Goats, meat (except liver and kidney)	0.05
Goats, mbyp	0.05
Hogs, fat	0.05
Hogs, kidney	0.1
Hogs, liver	0.1
Hogs, meat (except liver and kidney)	0.05
Hogs, mbyp	0.05
Horses, fat	0.05
Horses, kidney	0.1
Horses, liver	0.1
Horses, meat (except liver and kidney)	0.05
Horses, mbyp	0.05
Milk	0.05
Poultry, fat	0.05
Poultry, kidney	0.1
Poultry, liver	0.1
Poultry, meat (except liver and kidney)	0.05
Poultry, mbyp	0.05
Sheep, fat	0.05
Sheep, kidney	0.1
Sheep, liver	0.1
Sheep, meat (except liver and kidney)	0.05
Sheep, mbyp	0.05

(c) Tolerances are established in the following irrigated crops and crop groupings for residues of the herbicide fluridone resulting from use of irrigation water containing residues of 0.15 ppm following applications on or around aquatic sites. Where tolerances are established at higher levels from other uses of fluridone on the following crops, the higher tolerance also applies to residues in the irrigated commodity. The tolerances follow:

Commodities	Parts per million
Avocados	0.1
Citrus	0.1
Cottonseed	0.1
Cucurbits	0.1
Forage grasses	0.15
Forage legumes	0.15
Fruiting vegetables	0.1
Grain crop	0.1
Hops	0.1
Leafy vegetables	0.1
Nuts	0.1
Pome fruit	0.1
Root crops, vegetables	0.1
Seed and pod vegetables	0.1
Small fruit	0.1
Stone fruit	0.1

[FR Doc. 86-3709 Filed 2-19-86; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-325-P]

Medicare Program; Changes to the Return on Equity Capital Provisions and the Exception From the Cost Limits for Newly-Established Home Health Agencies

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

ACTION: Proposed rule

SUMMARY: We are proposing to amend the regulations used for computing Medicare reimbursement for certain providers of covered health care services, as follows:

- The allowance for a return on equity capital, which currently applies to all proprietary health care providers, would apply only to proprietary hospitals and skilled nursing facilities. In addition, the allowance for outpatient hospital services and skilled nursing facility services would be reduced.
- The exception to the home health agency cost limits for new agencies would be eliminated.

DATE: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. March 24, 1986.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-325-P, P.O. Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC,

or

Room 132 East High Rise Bldg., 6325 Security Blvd., Baltimore, Maryland.

In commenting, please refer to BERC-325-P.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m., phone (202) 245-7890.

FOR FURTHER INFORMATION CONTACT: Return on Equity Capital: Anthony Coates, (301) 597-2886; Elimination of New HHA Exception: Steve Kirsch, (301) 594-9465.

SUPPLEMENTARY INFORMATION:

I. Modifications to Return on Equity Capital

Section 1861(v) of the Social Security Act (the Act) defines "reasonable cost" and provides that the necessary costs incurred by a provider (both direct and indirect) in the delivery of covered health care services are included in this definition. A return on equity capital is paid as an allowance in addition to the reasonable cost of covered services furnished to beneficiaries by proprietary providers.

Section 7 of Pub. L. 89-713, enacted November 2, 1966, added what is now section 1861(v)(1)(B) to require the Secretary to prescribe regulations that provide for the recognition of a reasonable return on equity capital for extended care services furnished to Medicare beneficiaries by proprietary facilities (skilled nursing facilities (SNFs)). The legislative history expressed congressional concern that a return on equity capital was necessary for the following reasons:

- As a means of saving Medicare Part A trust funds, Congress wanted to encourage the transfer of hospital patients to SNFs when further hospitalization was no longer necessary.
- It was doubtful whether nonprofit organizations would be able to provide a sufficient number of beds to meet the needs of the aged.
- Private investors in SNF facilities should be guaranteed a fair return on the money that they put into the operation.

112 Cong. Rec. 28.220 (1966) (Statement of Rep. Byrnes).

In addition, the conference committee report (H.R. Rep. No. 2317, 89th Cong., 2nd Sess. 3 (1966)) suggested that proprietary hospitals should be treated comparably to proprietary SNFs with respect to the return on equity capital provisions.

In response to these congressional concerns, we issued what is now 42 CFR 405.429 on November 22, 1966 (31 FR 14816). Under section 1861(v)(1)(B) of the Act, the Secretary determined that SNFs, the primary provider of extended care services, should receive an allowance for the net equity of the capital invested by private owners. Section 405.429 provides that the return on equity capital provisions apply not only to proprietary SNFs but also to all other proprietary providers (which, at that time, encompassed hospitals and home health agencies (HHAs)).

Subsequent to that time, the Medicare program has recognized other proprietary health care providers and entities (comprehensive outpatient rehabilitation facilities (CORFs), providers of outpatient physical therapy and speech pathology services (OPTs), independent organ procurement agencies (OPAs), histocompatability laboratories (Histo-Labs), and rural health clinics (RHCs)) to which the provisions in § 405.429 apply. For purposes of discussion below, when we use the term "providers", that term encompasses both "providers" and "entities" that furnish health care services to beneficiaries under the Medicare program.

The annual rate of return, paid on this investment relative to all provider services furnished to Medicare beneficiaries, is calculated by applying a percentage equal to one and one-half times the average of the rates of interest on special issues of public debt obligations issued for purchase by the Medicare Part A Trust Fund. This rate, as prescribed in § 405.429, is the *maximum* amount allowed for return on equity to SNFs under section 1861(v)(1)(B) of the Act.

Section 601(e) of Pub. L. 98–21 amended section 1886 of the Act by adding section 1886(g)(2), which provides that, effective with cost reporting periods beginning on or after April 20, 1983, the Secretary's return on equity capital provisions apply to inpatient hospital services but that the allowable return for those services is reduced from a percentage equal to one and one-half times to one times the average of the rates of interest on special issues of public debt obligations issued for purchase by the Medicare Part A Trust Fund. It is noteworthy that this is the only amendment to the Medicare provisions of the Social Security Act that has ever explicitly addressed the payment of a return on equity capital for proprietary hospitals.

A. Elimination of the Return on Equity Capital for Proprietary Providers Other than Hospitals and SNFs

Congress has provided allowances for a return on equity capital to specified proprietary providers (SNFs and hospitals). In addition, under section 1881(b)(2)(C) of the Act, the Secretary has the authority to provide an allowance for a return on equity capital to end-stage renal disease (ESRD) facilities. However, in establishing a prospective payment system for ESRD facilities (48 FR 21254 (1983)), we excluded an allowance for equity capital from the composite rates used in determining the ESRD prospective payment rates. We did so because the inclusion of a return in the rate base for ESRD facilities would weaken the incentives established through the prospective payment rates (48 FR 21261 (1983)). These facilities are expected to earn a return on investment by reducing per treatment costs below their payment rates through management efficiencies.

There has been no congressional interest expressed as to whether or not a return on equity capital should be paid to classes of providers as they come to be recognized under the Medicare program (other than to SNFs, hospitals, and ESRD facilities). However, the interpretation of the current regulatory provisions at § 405.429 has permitted application of the return on equity capital provisions to other classes of proprietary providers in addition to SNFs and hospitals. We reasoned that as new classes of providers entered the Medicare program, it was necessary to provide sufficient incentives so that private owners would be willing to invest in them to ensure that an adequate number of items and services would be made available to Medicare beneficiaries.

As noted above, it was the stated intent of Congress that proprietary SNFs and hospitals be allowed a return on equity capital. For these providers, the purpose was to ensure that an adequate number of beds were available by providing the necessary monetary incentives for investment. With respect to other providers for which Congress has not expressed similar concern or an intent that a return on equity capital be allowed, we believe it is no longer appropriate to allow such a return. We believe that the reimbursement rates paid are adequate to maintain the availability of such services to beneficiaries.

In addition, the Department's Office of the Inspector General (OIG) issued a report recommending that we discontinue providing an allowance for a return on equity capital to providers other than hospitals and SNFs (Audit Control No. 09–32607, October 12, 1983).

B. Reduction to the Rate of Return on Equity Capital for SNFs and Outpatient Hospital Services

Section 1861(v)(1)(B) of the Act requires that the level of the rate of return on equity capital for SNFs does *not exceed* one and one-half times (150 percent) the average of the rates of interest on obligations issued for purchase by the Medicare Part A Trust Fund. The 150 percent level, which is the maximum level, applies to both SNFs and outpatient hospital services as provided in § 405.429, whereas inpatient hospital services are reimbursed at a 100 percent level. The lower level for inpatient hospital services was mandated by Congress under section 1886(g)(2) of the Act, effective with cost reporting periods beginning on or after April 20, 1983. We do not have the discretion to raise or lower this level.

We believe, however, that the disparity in reimbursement levels between that for inpatient hospital services on the one hand and that for SNFs and outpatient hospital services on the other, can no longer be justified for the following reasons:

- For inpatient and outpatient hospital services and hospital-based SNF services, the same capital plant and equipment (for example, laboratory or radiology equipment) may be used without regard to the incentives of the investors or benefits obtained from the capital investment.
- There seems to be no good reason why investors in SNFs and outpatient hospital services should receive a higher level of return based upon the setting or the type of services furnished as distinguished from the type and setting involved with inpatient hospital services.
- As noted above, section 1861(v)(1)(B) of the Act sets the 150 percent level as a ceiling. The statute does not mandate that the level be set at 150 percent. In fact, in *Humana, Inc.* vs. *Schweiker,* Civil Action No. 81–1311 (D.D.C. Aug. 19, 1982), the court noted that the legislative history of section 1861(v)(1)(B) of the Act did not impose a 150 percent level on the rate of return.
- The OIG report referred to above also recommends that the reduction to the 100 percent level, required for inpatient hospital services, be applied to the allowance for outpatient hospital services and SNFs.

II. Elimination of the Exception for Newly-Established HHAs From the Cost Limits

Section 1861(v)(1) of the Act authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare. The limits may be applied to the direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider. Regulations implementing this authority are set forth at § 405.460. In addition to establishing limits on provider costs, § 405.460(f) specifies exceptions under which providers may request relief from the cost limits. The exception for a "newly-established HHA" (§ 405.460(f)(7)) defines one of the bases for which an HHA's limits may be adjusted.

Section 405.460(f)(7), as amended July 2, 1984 (49 FR 27286), enables a newly-established HHA to file for an exception to the cost limits if it can demonstrate that—

- It has provided, under present and previous ownership for a period of less than three full years, home health care services equivalent to those that would have been covered if the agency had a Medicare provider agreement in effect;
- Its variable operating costs were reasonable in relation to its utilization during the fiscal cost reporting period for which the exception is requested; and
- Its fixed operating costs are reasonable in relation to a realistic projection of utilization to be achieved at the end of the provider's second full year of operation in the program; that is, the reporting year containing the 24th month after the start of the provider's first cost reporting period.

When the newly-established HHA exception was initially adopted in 1979, there were approximately 2,500 HHAs participating in the Medicare program. The original intent of the exception was to encourage home care by neutralizing the effects of reimbursement limits upon new health care agencies. Representatives of HHAs contended that new agencies were financially at risk because they were unable to enter the market with a sufficient patient population to generate the volume of visits required to offset their fixed costs. They maintained that initial years of growth are dependent upon establishing sound referral arrangements.

Since HHAs, unlike inpatient facilities, can enter the market with little invested capital, a new provider exemption such as that granted to new hospitals and SNFs was determined to be inappropriate. At that time, we concluded that a blanket exemption would have resulted in an unwarranted competitive advantage for new market entrants.

However, in order to encourage growth of HHAs in underserved areas, a "new-HHA" exception was established to grant relief to those new agencies whose higher initial costs of operation can be traced to low utilization associated with entering the health care market without an established referral system. HHAs that have merely changed ownership or have been operating in the health care field providing substantially the same type of services as a participating HHA to private pay patients have not qualified under this section.

Subsequent to the creation of this exception in 1979, the number of participating HHAs has dramatically increased to over 5,000 in 1984. This significant increase is partially the outgrowth of a legislative change to section 1861(o) of the Act that relaxed the licensure requirements for proprietary HHAs (section 930(n)(2) of the Omnibus Budget Reconciliation Act of 1980 (Pub. L. 96–499)). From July 1, 1981, when the proprietary licensure requirement was deleted, to July 1, 1984, approximately 1700 new agencies were approved for participation in Medicare. While the new-HHA exception was intended to be the catalyst in promoting the expansion of new health care agencies, this unanticipated statutory amendment has vastly accelerated market growth since 1981. The average annual rate of growth of participating HHAs between 1981 and 1984 (14 percent) was twice that experienced between 1979 and 1981 (seven percent).

We believe it desirable for all new agencies to nonitor their costs and growth in each discipline, to institute sound management planning and to make prudent management decisions to minimize the disallowance of costs due to cost limitations. Therefore, elimination of the "new HHA" exception is intended to prevent the sheltering of inefficient providers and to reduce inappropriate payment from the Medicare Trust Fund to these agencies. Continuing to recognize higher costs simply because an HHA is "new" may merely support the ongoing operation of certain HHAs that otherwise are not viable enterprises. Payments for higher costs based on exceptions granted to new agencies result in increased expenditures, exacerbating the fiscal problems of the Medicare Trust Fund. Therefore, considering the recent increase in the number of HHAs nationwide, and the need to protect the Trust Fund from unnecessary expenditures, we believe continuation of this specific exception would be an imprudent decision.

In addition, as a result of the influx of new agencies, many established providers located in areas where the beneficiary population does not support additional agencies have become more vocal in expressing their belief that they are disadvantaged by the new-HHA exception, which they believe subsidizes a newly-established agency. They argue that this provision absolves health care providers expanding into the home care market from assuming the normal risk of opening a new business enterprise and diminishes the need for sound management planning. Since many of the costs directly related to initial development are start-up and organizational costs reimbursable under the Medicare program, established agencies contend that the new-HHA exception provides a program subsidy where none is warranted. They believe that other costs that are directly related to patient care are controllable through careful management planning.

For these reasons, we believe that our original justification for establishing a distinct exception for new HHAs is no longer valid. Therefore, we are proposing to eliminate this exception. We note that § 405.460(f) contains other exception provisions that would continue to apply to all HHAs.

III. Summary of Proposed Regulations

A. Return on Equity Capital Modification

We are proposing to amend § 405.429(a) to provide that, applicable with cost reporting periods beginning on or after the effective date of the final rule, the allowance for a return on equity capital applies only to proprietary hospitals and SNFs. These provisions would no longer apply to proprietary HHAs, CORFs, OPTDs, OPAs, Histo-Labs, and RHCs.

In addition, we are revising § 405.429(a) to reduce the rate of return on equity capital for SNFs and outpatient hospital services to the same rate as that which applies to inpatient hospital services.

We are also proposing to make a clarifying change in § 405.402(f) to conform the language in this section with that in the proposed § 405.429(b).

B. Elimination of Exception to the Cost Limits for Newly-Established HHAs

We are proposing to remove § 405.460(f)(7), applicable with cost reporting periods beginning on or after the effective date of the final rule, because we believe that an exception to the cost limits for newly-established HHAs is no longer appropriate.

IV. Regulatory Impact Statement

A. Introduction

Exeuctive Order 12291 requires us to prepare and publish a regulatory impact analysis for regulations that are likely to have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumer, individual industries, Federal, state or local government agencies, or geographic regions; or result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-

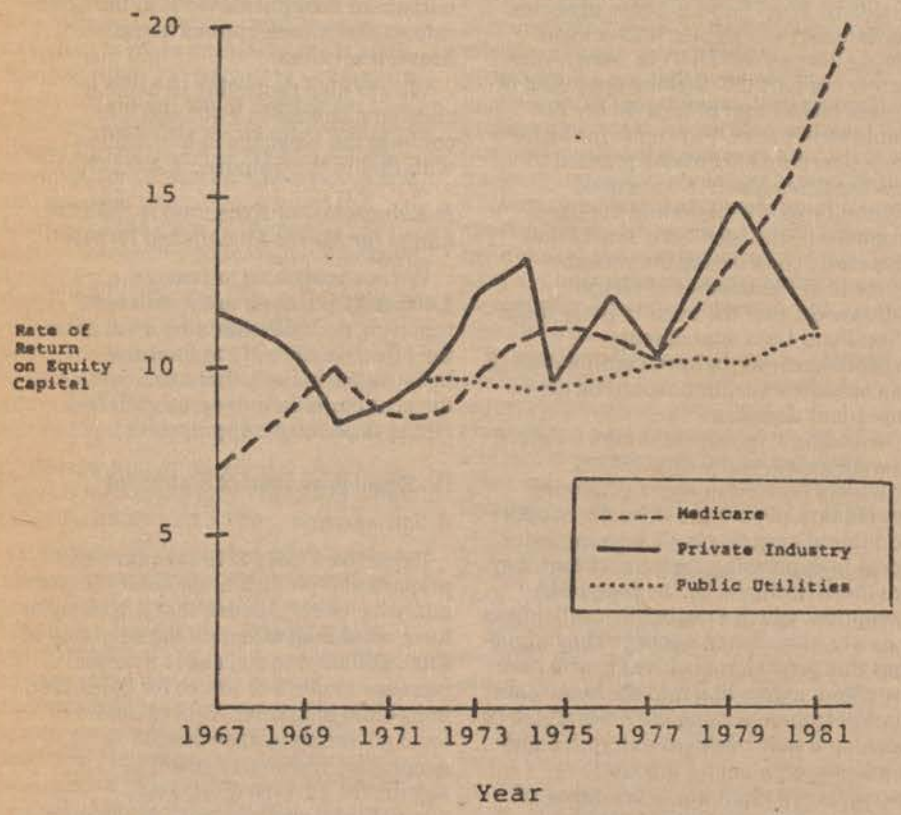
based enterprises in domestic or export markets. In addition, the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 605(b)), requires us to prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities.

We have determined that a regulatory impact analysis is not required for this proposed rule. However, in the following discussions regarding the return on equity capital and the exception for newly-established HHAs provisions, we are providing a voluntary regulatory flexibility anlaysis because both proposals are marked changes from our current policies and because we expect numerous comments from the affected portions of these industries regarding the expected impacts of these proposed changes.

B. Modifications To Return on Equity

As is noted in the OIG report, "Medicare has paid the return on equity capital at the highest rate allowed by law . . . The rate of increase in Medicare return on equity capital payments in recent years seems excessive when compared to the historical profit patterns (that is, increased) of both private industry generally and the public utilities segment of it." The OIG report compared the Medicare return on equity rates with the after-tax profits earned by 950 private industries as reported by The Value Line Investment Survey from 1967 through 1981, and with those earned (since 1972) by the public utilities included in the overall industry figures. The rates of return are presented below and support the OIG finding and the need for a change in policy, accordingly.

COMPARISON OF MEDICARE, PRIVATE INDUSTRY AND PUBLIC UTILITY RATES OF RETURN



1. Impact on Providers

We expect this proposed change to result in both budget savings to the Federal government and in economic effects on proprietary providers. We believe that any adverse economic consequences would be mitigated, in great part, by several viable options available to proprietary providers to create necessary amounts of equity capital for improvements or expansion of existing facilities and equipment.

If this rule had an effective date of October 1, 1985, we estimate that fiscal year (FY) 1986 savings would have been:

Proprietary Provider	Dollars medicare savings (millions)
Hospital outpatient	[1] 10.4
SNFs	[1] 13.0
HHAs	[2] 7.5
CORFs	[3]
OPTs	[3]
RHCs	[3]
OPAs	[4]
Histo-Labs	[3]

[1] Assumes a reduction from 150 percent to 100 percent of the average of the rates of interest on special issues of public debt obligations issued for purchase by the Medicare Part A Trust Fund. Also, assumes increasing savings in future years.

[2] Assumes elimination of the return on equity allowance. Also, assumes increasing savings in furture years.

[3] Due to absence of cost report data, impact is inestimatable.

[4] Assumes elimination of the return on equity allowance. Savings estimated to be no more than $100,000.

These estimated savings would result from either the elimination of or reduction of reimbursement for affected providers' return on equity allowances. Our data and those of the American Hospital Association (*Hospital Statistics*, 1984), indicate that affected proprietary hospitals represent about 11 percent of participating hospitals; affected proprietary SNFs represent about 66 percent of those approved for participation; affected proprietary HHAs represent about 28 percent of participating home health agencies; and, that most OPTs and a few RHCs would be affected. CORFs, OPAs, and Histo-Labs are primarily non-profit organizations and would not be significantly affected by this proposal.

Since it is clear that a substantial number of some proprietary providers are affected, we examined available information to determine whether the impacts would be significant for any of these groups of providers. ("Significance" can be measured, for example, in terms of a relative impact on provider's income, whether one's competitive status is affected adversely; or, whether a provider's ability to invest in its future growth is hindered).

Hospitals. We believe that proprietary hospitals would be affected directly by the reduction in their apportioned allowance for outpatient hospital services. However, under our proposed policy, proprietary hospitals would still be reimbursed adequately (one-hundred percent instead of one-hundred fifty percent of the average of the rates of

interest on obligations issued for purchase by the Medicare Part A Trust Fund) for a reasonable return on equity.

Furthermore, the economic impact of this reduction could be mitigated by proprietary hospitals' use of alternative forms of financing to help create necessary amounts of new equity. For example, many financial analysts are predicting that during the next several years, investor-owned hospital management companies will continue to generate strong earnings from their stocks. These earnings should compensate for some of the financial impact incurred by these hospitals from our reducing their equity allowance and should contribute toward the financing of capital replacement or improvement projects.

Another potential effect on some hospitals, and on our projected budget savings, could result from certain hospitals incurring the expense related to debt financing of capital replacement and improvement projects. Hospitals, and other providers, might find this alternative attractive because interest on capital indebtedness is considered an allowable cost under our cost reimbursement principles. This example of a possible shift of financing mechanisms to one that is reimbursed by Medicare, could increase the financial debt of some hospitals as well as reduce some of the estimated savings generated by this proposal. However, we cannot estimate either the number of providers that would elect this financing alternative or the amount of estimated savings that would be offset by the shift to debt financing.

SNFs. Proprietary SNFs also face a reduction in their apportioned allowance for return on equity, which would reduce Medicare income to affected proprietary SNFs. The significance of this impact for any particular SNF would depend, in great part, on two factors: whether a SNF is hospital-based or freestanding; and, the amount of Medicare business that a SNF is engaged in. Hospital-based SNFs have access to more alternative sources of capital funding to offset this payment reduction than do freestanding SNFs. On the other hand, urban hospital-based facilities have the highest SNF Medicare use rate (34 percent (Urban Institute Medicare *SNF Cost Study, 1985*)), and would experience, correspondingly, a greater reduction in revenue than SNFs with lower Medicare utilization. Thus, while being small in number relative to the number of participating freestanding SNFs, these facilities are an important source of care for Medicare patients.

While recongnizing that proprietary SNFs would be affected, we conclude that the economic effect would not be significant for the following reasons. First, we would continue to reimburse each SNF an apportioned amount of equity sufficient to recover their reasonable costs incurred in furnishing services to Medicare beneficiaries. Second, proprietary SNFs that are chain affiliates generally have access to alternative forms of financing, like issuing stocks on the open market. Finally, we believe that incentives for timely discharge from hospital care, coupled with the continued growth of the portion of the population likely to use SNF services, will tend to increase the market demand for SNF services. This trend in turn will provide sufficient incentive for interested parties to invest in the creation of new SNFs and the expansion of existing facilities.

HHAs and OPTs. The return on equity allowance would be eliminated for proprietary HHAs. If the effective date of this rule were October 1, 1985, we estimate the financial impact would have been a reduction of $7.5 million in Medicare revenue to certified proprietary HHAs in FY 1986. (We cannot quantify an estimate for OPTs). As with SNFs, the significance of this reduction, in individual cases, is relative to whether an HHA is hospital-based or freestanding and to its percentage of Medicare utilization.

We do not believe that the estimated $7.5 million reduction in Medicare reimbursement is significant relative to the Medicare revenue of HHAs. Furthermore, most HHAs are not capital-intensive in their operation and, in fact, many HHAs lease their facilities and thus are not dependent on a return on equity payment to operate and remain competitive.

Many OPTs are organized as proprietary entities and would be impacted by this proposal. However, due to the absence of adequate cost report data form certified OPTs, we cannot quantify possible effects resulting from this proposal. We do believe that affected OPTs would face a reduction in Medicare revenues, but this impact could be offset by several alternatives including expanded affiliation with HHAs or pursuing the use of alternative forms of financing, such as debt financing. Thus, in the absence of adequate information, we cannot estimate for certain the potential effects of the elimination of the return on equity allowance, but we believe that there are viable options available for OPTs to mitigate potential negative impacts.

CORFs, OPAs, Histo-Labs, and RHCs. Most CORFs, OPAs, Histo-Labs, and RHCs are not-for-profit entities and, as such, are not affected by this proposal. While the few proprietary CORFs would not receive return on equity reimbursement, along with the affected RHCs, we believe that for the following reasons the need to eliminate this payment outweights reasons for retaining it. First, as noted in section I.A. of the preamble, there are generally a sufficient number of providers and practitioners to provide access to needed services for Medicare beneficiaries. Second, we believe that a growing beneficiary population coupled with the need to provide cost effective, outpatient care to Medicare beneficiaries would provide sufficient incentive for these providers to remain competitive through additions to, or expansion of, their business activities. Therefore, we believe that CORFs, OPAs, Histo-Labs, and RHCs would not be significantly impacted.

C. Elimination of the Exception for Newly Established HHAs From the Cost Limits

As stated previously in this preamble, the initial reason for providing the exception to the cost limits for new HHAs was to minimize financial barriers to HHAs wanting to enter Medicare markets for the first time, especially in underserved areas. However, because of the rapid increase in the number of new HHAs that have entered the market following the adoption of more lenient licensure requirements for proprietary HHAs, this rationale no longer appears to be valid. Such recent increases raise questions about the actual existence of financial barriers to market entry.

Additional evidence, suggesting that financing may no longer be a significant obstacle to entering the market place, is the changing composition of new HHAs. In FY 1980 (the first year of the "new HHA" exception), slightly more than one-half (57.7 percent) of all the new HHAs certified under Medicare were either hospital-based or proprietary agencies, which then represented less than 25 percent of the total Medicare participating HHAs. In FY 1981, the percentage of new hospital-based and proprietary agencies entering the market increased to 61.7 percent. By the end of FY 1985, slightly more than 80 percent (81.1 percent) of all new agencies being certified for participation in the Medicare program were either hosptial-based or proprietary. We expect this trend to continue for the foreseeable future.

As explained above in our discussion of the effects of lowering the return on equity allowance for SNFs, we believe

that eight out of ten new agencies (hospital-based or proprietary agencies) have access to alternative sources of financing that are not available to nonprofit agencies, which dominated the home health industry prior to 1981. Moreover, hospital-based HHAs (which comprise nearly 40 percent of the new market entrants) enter with an established market, thereby further minimizing the need for the financial relief intended by the "new HHA" exception. Also, hospital-based programs can significantly reduce their start-up costs for service delivery by utilizing existing staff and facilities to perform patient care services.

While hospital-based and proprietary agencies may have access to financial resources and patient populations that nonprofit and free-standing agencies may not have, we believe that the service delivery mode and the relatively small capital investment required to start an agency make it quite easy for new free-standing and nonprofit agencies to come into the Medicare market without the aid of a "new HHA" exception. On average, capital-related costs for an HHA represent less than three percent of its total operating costs. By comparison, capital-related costs for the average SNF will be three times as much as for an HHA. Also, the nature of home health services enables HHAs to adopt extremely flexible staffing patterns and to maintain minimal fixed assets, thereby giving them a degree of control over their costs during the initial years of service that hospitals and SNF do not have.

We are presently unable to quantify the savings that may result from the proposed elimination of the "new HHA" exception. Historically, exception amounts requested by new providers have ranged from less than $1,000 to over $100,000, with an average request of $20,000. The amount approved, however, frequently is lower than the amount requested, sometimes by as much as 50 percent. Yet, because most exceptions that we approve are interim approvals, pending audit, we do not know what the final exception amounts will be. Thus far, we have very few "final" exceptions. In addition, the rapid growth of the home health agency industry makes prediction of number of future "new HHA" exceptions very uncertain. Also, the total number of HHAs affected by elimination of the "new HHA" exception is likely to be small, since all agencies would continue to be eligible to apply for other exceptions under § 405.460(f).

Based on program experience, we expect the amount of monies involved in the elimination of this exception to be insignificant in relation to overall average Medicare revenues to HHAs.

D. Summary

As stated above, we find no indications that any of the three provisions would meet the threshold criteria noted in the Executive Order or in the Regulatory Flexibility Act. Therefore, we conclude, and the Secretary certifies under 5 U.S.C. 605(b), that these proposed rules would not result in a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

These proposed changes would not impose information collection requirements; consequently, they need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

V. Other Required Information

A. Public comments

Because of the large number of pieces of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments that we receive by the date specified in the "Dates" section of this preamble, and, if we decide to proceed with a final rule, we will respond to the comments in the preamble of that final rule.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

We are proposing to amend 42 CFR Part 405 as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Subpart D is amended to read as follows:

Subpart D—Principles of Reimbursement for Providers, Outpatient Maintenance Dialysis, and Services by Hospital-Based Physicians

1. The authority citation for Subpart D continues to read as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1935x(v), 1395hh, 1995rr, 1995ww, and 1395xx).

2. Section 405.402 is amended by revising paragraph (f) to read as follows:

§ 405.402 Cost reimbursement; general.

* * * * *

(f) A return on the equity capital of propietary facilities, as described in § 405.429, is an allowance in addition to the reasonable cost of covered services furnished to beneficiaries by profit-making organizations.

* * * * *

3. Section 405.429 is amended by revising paragraph (a); redesignating the current paragraph (b) as paragraph (c); adding a new paragraph (b); and revising the redesignated paragraph (c)(1) to read as follows:

§ 405.429 Return on equity capital of proprietary providers.

(a) *Definition.*

Proprietary providers. For the purposes of this section the term "proprietary provider" means a provider that is organized and operated with the expectation of earning a profit for its owners (as distinguished from a provider that is organized and operated on a nonprofit basis). Proprietary providers may be sole proprietorships, partnerships, or corporations. Effective for cost reporting periods beginning on or after [the effective date of the final rule], proprietary providers, for the purposes of this section, includes only proprietary hospitals and SNFs.

(b) *General rule.* A reasonable return on equity capital invested and used in the provision of patient care is paid as an allowance in addition to the reasonable cost of covered services furnished to beneficiaries by proprietary providers.

(1) *Rate of return applicable to all proprietary providers for cost reporting periods beginning before [the effective date of the final rule].* Except as provided in paragraph (b)(2) of this section for inpatient hospital services, the amount allowable on an annual basis, for cost reporting periods beginning before [the effective date of the final rule], is determined by multiplying the provider's equity capital by a percentage equal to one and one-half times the average of the rates of interest on special issues of public debt obligations issued for purchase by the Medicare Part A Trust Fund for each of the months during the provider's reporting period or portion thereof covered under the program.

(2) *Rate of return related to inpatient hospital services furnished by proprietary hospitals for cost reporting*

periods beginning on or after April 20, 1983. For cost reporting periods beginning on or after April 20, 1983, the amount allowable in determining the return related to inpatient hospital services is determined using a percentage equal to the average of the rates of interest as described in paragraph (b)(1) of this section.

(3) *Rate of return related to proprietary SNFs and outpatient hospital services furnished by proprietary hospitals for cost reporting periods beginning on or after [the effective date of the final rule].* For cost reporting periods beginning on or after [the effective date of the final rule], the amount allowable in determining the return related to SNFs and outpatient hospital services is determined using a percentage equal to the average of the rates of interest as described in paragraph (b)(1) of this section.

(c) *Application*—(1) *Computation of equity capital.* For purposes of computing the allowable return, the provider's equity capital means—

(i) The provider's investment in plant, property, and equipment related to patient care (net of depreciation) and funds deposited by a provider who leases plant, property, or equipment related to patient care and is required by the terms of the lease to deposit such funds (net of noncurrent debt related to such investment or deposited funds); and

(ii) Net working capital maintained for necessary and proper operation of patient care activities. However, debt representing loans from partners, stockholders, or related organizations on which interest payments would be allowable as costs but for the provisions of § 405.419(b)(3)(ii), is not subtracted in computing the amount of equity capital in order that the proceeds from such loans be treated as a part of the provider's equity capital. In computing the amount of equity capital upon which a return is allowable, investment in facilities is recognized on the basis of the historical cost, or other basis, used for depreciation and other purposes under Part A of Medicare.

* * * * *

4. Section 405.460 is amended by removing and reserving paragraph (f)(7) as follows:

§ 405.460 Limitation on reimbursable costs.

* * * * *

(f) *Exceptions.*

* * * * *

(7) [Reserved]

* * * * *

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance; and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: October 30, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

Approved: January 23, 1986.

Otis R. Bowen, M.D.,

Secretary.

[FR Doc. 86-3551 Filed 2-19-86; 8:45 am]

BILLING CODE 4120-01-M

LEGAL SERVICES CORPORATION

45 CFR Parts 1600 and 1631

Expenditure of Grant Funds

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: The proposed regulation provides that carryover funds of grant recipients, except those permitted to be used for representation of ineligible aliens pursuant to 45 CFR 1626.6(a)(3), will be expended with 1986 funds on a first-in, first-out basis. Section 112 of Pub. L. 99-190 provides that prior year funds carried over into fiscal year 1986 by the Corporation and by any recipient will be expended in accordance with Pub. L. 99-180 which appropriates 1986 funds for the Corporation. The regulation will assure that in monitoring and auditing recipients, the Corporation will be able to track carryover funds from prior years to determine that they are not being used for purposes not authorized by Congress.

DATE: Comments must be received on or before March 24, 1986.

ADDRESS: Comments may be submitted to the Office of the General Counsel, Legal Services Corporation, 400 Virginia Avenue SW., Washington, DC 20024-2751.

FOR FURTHER INFORMATION CONTACT: Michael J. Coster, Comptroller, (202) 863-1820.

SUPPLEMENTARY INFORMATION: This regulation responds to concerns that certain activities, such as grassroots lobbying, which Congress restricted in 1982, 1983, 1984, and 1985 appropriations measures would be continued into 1986 and beyond with pre-1982 carry-over funds. The Audit and Accounting Guide for Recipients and Auditors contains a short provision establishing a first-in, first-out requirement (50 FR 49276, 49283, Nov. 29, 1985). Proposed Part 1631 sets forth this requirement in greater detail and provides standards for enforcement and penalties for violations. Section 112 of Pub. L. 99-190 (99 Stat. 1185) requires LSC and its grantees to comply with current restrictions on the use of prior funds.

The proposed regulations amend Part 1600 to add three new definitions, including "control" as used in Section 7 of Chapter 1 of the Audit Guide referred to above. They permit the completion of cases on behalf of aliens commenced prior to January 1, 1983, and require recipients and subrecipients to submit an annual report documenting the expenditure of all carryover funds on a first-in, first-out basis. The report must include a statement of what efforts have been made to avoid the need for the use of LSC funds to represent ineligible aliens. A conforming amendment will be made to Part 1626 in the final regulation to require recipients to make good faith efforts to avoid the use of LSC funds to represent ineligible aliens—including a requirement for good faith efforts to ascertain whether all clients are, in fact, either citizens, or aliens lawfully within the United States.

Paragraph (a) of § 1631.5 provides for repayment to the Corporation of funds spent in violation of Part 1631, either in a lump sum or by pro rata deductions. The Office of Monitoring, Audit, and Compliance will determine which of the specified methods of repayment is reasonable and appropriate in each case after consultation with the recipient.

Section 4 clarifies the separation a recipient or subrecipient must maintain between restricted and unrestricted funds if it wants to use unrestricted funds for purposes not allowed for restricted funds.

List of Subjects

45 CFR Part 1600

Legal services.

45 CFR Part 1631

Aliens, Grant programs—Legal services.

For the reasons stated in the preamble, 45 CFR Part 1600 is proposed to be amended and new Part 1631 is proposed to be added as follows:

PART 1600—DEFINITIONS

1. Section 1600.1 is proposed to be amended by inserting these new definitions alphabetically as follows:

§ 1600.1 Definitions.

* * * * *

"Carryover funds" means any funds or support not expended at the end of a fiscal year and remaining as a program asset on the first day of the succeeding fiscal year.

"Control" means the direct or indirect ability to determine the direction of

management and policies or to influence the management or operating policies of another organization to the extent that an arm's length transaction may not be achieved.

* * * * *

"First-in, first-out basis" means a method of operation under which a recipient expends all funds carried over from a fiscal year before it expends any funds that have been made available to it for a subsequent fiscal year.

* * * * *

2. New Part 1631 is proposed as follows:

PART 1631—EXPENDITURE OF GRANT FUNDS

Sec.

Authority: Sec. 1006(b)(1)(A), 1007(a)(3) Legal Services Corporation Act, as amended (42 U.S.C. 2996e(b)(1)(A), 2996f(a)(3)); Pub. L. 99-190, 99 Stat. 1185; Pub. L. 99-180, 99 Stat. 1136

§ 1631.1 Purpose.

This part is designed to ensure the timely allocation of Legal Services Corporation (LSC) funds for the effective and economical provision of high quality legal assistance to eligible clients and to provide notice and direction to recipients of LSC funding regarding the use of carryover funds. To that end, recipients are required to expend all funds on a first in, first out basis.

§ 1631.2 Policy.

Except as specified in § 1631.3, all LSC funds and all revenue derived from the use or investment of LSC funds, including those held by separate entities that are under the control of the recipient or subrecipient or its agents or employees are required to be expended on a first-in, first-out basis.

§ 1631.3 Representation of certain aliens.

LSC carryover funds may be reserved and expended, pursuant to the provisions of § 1626.6(a)(3) (Disposition of cases involving representation of ineligible aliens) for completion of cases on behalf of aliens commenced prior to January 1, 1983.

§ 1631.4 Annual reports

Recipients and subrecipients shall provide an annual report to the Office of Monitoring, Audit, and Compliance documenting that they have complied with the provisions of § 1631.2. The report shall state whether the recipient or subrecipient represents any group or class which may include any ineligible alien and its efforts to ensure that no LSC funds are or have been used to represent ineligible aliens through such group or class representation. If the recipient or subrecipient expended funds pursuant to § 1626.6(a)(3) in the preceeding year or has reserved carryover funds pursuant to § 1631.3, it shall provide for each case:

(a) Date of case acceptance;

(b) A certified copy from each court or administrative agency in which an action has been filed or, if no such docket is available, a detailed statement of what actions have been taken with respect to any such matter, relevant dates, and the name of the forum;

(c) A list of the individual attorneys who have appeared for or otherwise represented the client, the time period during which each represented the client, the extent of direct contact each had with the client, and whether each is still an employee of the program;

(d) A statement of what efforts have been made to terminate its representation of the client(s) (consistent with relevant ethical obligations) and to find alternative funding to cover these expenditures;

(e) Estimated cost of completion, including, in separate categories, attorney costs and other costs; and

(f) Estimated date of completion.

§ 1631.5 Refunds to the Corporation.

(a) Any funds spent in violation of the provisions of §§ 1631.2 and 3 of this part shall be repaid to the Corporation in a lump sum or by one or more deductions from the recipient's grant checks for a specific number of months. The Office of Monitoring, Audit, and Compliance shall determine the amount of such repayment and which of the specified methods or repayment is reasonable and appropriate in each case after consultation with the recipient.

(b) No less than 30 days prior to the effective date for repayment either to occur or commence in accordance with paragraph (a) of this section, the Corporation shall provide written notice to the recipient of the amount of funds not expended in accordance with the provisions of §§ 1631.2 and 1631.3 of this part as well as of the method of repayment.

(c) Within ten days after receipt of the notice specified in paragraph (b), the recipient may request the President to review the determination. The President's decision shall be final.

(d) In no way shall any such reduction in LSC support be construed to affect permanently the annualized funding level of the recipient, nor shall any such reduction in LSC support to considered to be a termination or denial of refunding under 45 CFR Parts 1606 and 1625 respectively.

§ 1631.6 Separation of funds.

(a) If a recipient or subrecipient has placed funds subject to restrictions contained in a federal statute, a Corporation rule, regulation, instruction or guideline, or a grant or contract condition in the same account with funds not subject to such restrictions, all the funds in such account shall be deemed subject to the restriction.

(b) If funds in separate accounts are controlled by the same person or are under common control, and clear, objective, prior standards are not consistently followed as to what expenses will be paid from which account, all funds in all such accounts shall be subject to all the restrictions.

(c) If funds in separate accounts are controlled by the same person or are under common control, the recipient shall submit an annual report specifying the institution(s) in which the funds are held, each account number, the balance of each account, and for each account, the formal style or designation of all cases for which any expenses have been paid from the account. Such annual report must be approved by the recipient's governing body.

§ 1631.7 Dates.

The annual reports specified in §§ 1631.4 and 1631.6 shall be received by the Corporation no later than 30 days after the end of each calendar year. Initial reports shall be due no later than 30 days after the effective date of this regulation.

Dated: February 12, 1986.

John H. Bayly,

General Counsel.

[FR Doc. 86-3404 Filed 2-19-86; 8:45 am]

BILLING CODE 6820-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-50 RM-5140]

Radio Stations; FM Broadcast Station in McCook, NE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 230A to McCook, Nebraska, at the request of Donna Goad, to provide the community with its third local FM service.

DATES: Comments must be filed on or before April 7, 1986, and reply comments on or before April 22, 1986.

ADDRESS: Federal Communications, Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rulemaking

In the matter of Amendment of § 73.202(b), Table of Allotments FM Broadcast Stations, (McCook, Nebraska); MM Docket No. 86–50 and RM–5140.

Adopted: January 31, 1986.
Released: February 13, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making submitted by Donna Goad ("petitioner") requesting the allocation of Channel 230A to McCook, Nebraska, as the community's third local FM service. Petitioner states that she will apply for the channel, if allocated. Channel 230A can be allocated in compliance with the Commission's minimum distance separation and other technical requirements.

2. We believe the public interest would be served by soliciting comments on the proposal as it could provide McCook with an additional local FM service. Accordingly, the Commission proposes to amend § 73.202(b) of the Rules, the FM Table of Allotments, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
McCook, NE	241,287	230A, 241, and 287.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before April 7, 1986, and reply comments on or before April 22, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Donna Goad, 402 East 4th McCook, Nebraska 69001 (petitioner).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. If should also restate its present intention to apply for the channel if it is alloted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisons of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, DC.

[FR Doc. 86-3626 Filed 2-19-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-51; RM-5123]

Radio Stations; FM Broadcast Station in Altus, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 300A to Altus, Oklahoma, as that community's second local FM service, at the request of Robert M. Kerr.

DATES: Comments must be filed on or before April 7, 1986, and reply comments on or before April 22, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Altus, Oklahoma); MM Docket No. 86-51 and RM-5123.

Adopted: January 24, 1986.

Released: February 13, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Robert M. Kerr ("petitioner") seeking the allocation of Channel 300A to Altus, Oklahoma, as the community's second FM service. Channel 300A can be allocated in compliance with the Commission's minimum distance separation and other technical requirements. Petitioner has stated that he will apply for the frequency, if allocated.

2. We believe the public interest would be served by seeking comments on the requested allotment. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Altus, OK	228A	228A, 300A.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before April 7, 1986, and reply comments on or before April 22, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Robert Clifton Burns, Esq., Cohn and Marks, 1333 New Hampshire Avenue, NW., Suite 600, Washington, D.C. 20036 (his counsel).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the preceeding.

Federal Communications Commission

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceedings.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the preceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86-3624 Filed 2-19-86; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 86-37; FCC 86-64]

Radio Services; Amendment of the Rules To Restrict the Use of Radio Transmitters With External Frequency Controls

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: The Commission has adopted a *Notice of Proposed Rule Making* which proposes to amend Part 90, Subpart 1 of its rules (which apply to Private Land Mobile Radio Services) to restrict the use of radio transmitters with external frequency controls that would allow the selection of unauthorized frequencies. The proposal is prompted by increasing use of radio transmitters with external frequency selection capabilities. The proliferation of such radio equipment dramatically increases the potential for interference in the Private Land Mobile Radio services. Restricting the use of such equipment reduces the likelihood of abuse in frequency selection.

DATES: Comments are due March 21, 1986, and reply comments on or before April 7, 1986.

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

FOR FURTHER INFORMATION CONTACT: Thomas L. Johnson, Operations Review Branch, Land Mobile & Microwave Division, Private Radio Bureau, Washington, DC 20554, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Notice of Proposed Rulemaking

In the matter of amendment of Part 90 of the Commission's Rules to Restrict the use of Radio Transmitters with External Frequency Controls; PR Docket No. 86-37.

Adopted: January 30, 1986.
Released: February 12, 1986.

By the Commission.

Summary

1. We have become increasingly concerned by the growth in the use of externally controlled synthesized radio transmitters. Because of the grave potential for interference this equipment presents for accidental or intentional off-frequency operation, we are initiating this proceeding on our own motion proposing to restrict the operation of radio equipment with external frequency selection capability on frequencies (above 25 MHz) allocated to the Private Land Mobile Radio Services (47 CFR 90.1 et. seq.).

Background

2. In Gen. Docket No. 83-322, we, *inter alia*, amended Part 90 of the Rules to no longer require transmitters to be installed, maintained, and serviced by persons holding a commercial radio operator license.[1] With this change a variety of technical rules were eliminated, including § 90.433(c). This Section had specified, in effect, that transmitters designed with readily accessible external controls, which during normal rendition of service could result in improper operation, off-frequency operation or unauthorized radiation, had to be operated by a person holding a first or second class commercial radio operator license, either radiotelephone or radiotelegraph, as might be appropriate for the type of emission being used. With the removal of this requirement and the increasing attractiveness of synthesized transmitters, some manufacturers have begun to make available to the public transmitters with external frequency controls that would permit the selection of unauthorized frequencies.

Proposal

3. We are concerned that the proliferation of such radio equipment markedly increases the potential for interference and could significantly degrade operations in the private land mobile radio services. We have received and dealt with many interference complaints over the years involving land mobile systems operating off-frequency. The incidence of these problems, however, has been moderated by the necessity of having to go inside the transmitter housing to install crystals and retune the transmitter to operate on unauthorized frequencies. Today, with the advent of inexpensive, synthesized radio units with external tuning controls, this deterrent no longer exists. Using these types of transmitters, it is fairly simple to tune, at will, to any frequency within the design range of the equipment, including channels allocated to such safety services as Marine, Aviation, Public Safety and federal government operations.

4. The radio units which are now being manufactured enable telecommunications dealers or users to select frequencies at will. There is no impediment in the equipment which confines operation to authorized channels. We are concerned that as more and more of these units are sold, the probability of interference increases dramatically from inadvertent or deliberate improper frequency selection. The potential harmful interference problems created by such operations could have a severe adverse impact on all the land mobile radio services.

5. The land mobile services are already experiencing severe frequency congestion in nearly all major metropolitan areas of the country. To mitigate this problem to the extent possible the radio spectrum has been channelized in such a way that enable radio systems to be spaced relatively close to each other. Additionally, most licensees must cooperatively share their assigned frequency with co-channel users in any given geographical area of operation. Consequently, a single radio transmitter operating off-frequency can cause harmful interference to a substantial number of co-channel and/

[1] *In the Matter of Requirements for Licensed Operators in Various Radio Services.* Report and Order, Gen. Doc. 83-322, (FCC 84-56), released May 3, 1984.

or adjacent channel operations. This problem will be magnified by off-frequency interference created, accidentally or intentionally, by transmitters with external frequency selection capabilities. The proliferation of interference complaints and other improper operations of the equipment have the potential for generating a very substantial enforcement workload for the Commission, as well as causing serious disruption to a large number of our licensees. We, therefore, deem it prudent and in the public interest to curtail the use of equipment that would permit the selection of unauthorized frequencies.

6. In order to achieve our objectives of reducing potential interference problems and making more effective use of the spectrum, we propose to amend § 90.203 of our rules to proscribe external frequency controls on transmitters designed to operate above 25 MHz. Specifically, we propose to prohibit the manufacture and sale of such equipment for use in the Private Land Mobile Radio Services upon adoption of the Report and Order in this proceeding.[2] Although we anticipate that the major direct impact of the proposal will be on manufacturers and retailers of equipment designed to operate in the spectrum above 25 MHz, we are unable to predict the magnitude of the impact at this time.

7. We propose these restrictions because we believe they will benefit users in the shared private radio bands. Inaction by the Commission would likely lead to higher interference levels and a significant deterioration in communications quality for these users. Further, we do not expect these restrictions to result in significantly increased equipment costs for users. However, we encourage interested parties to provide us with their assessments of the benefits and costs of the proposed regulations and to suggest alternatives which may more cost-effectively meet our goal of controlling interference. In addition, comments are requested regarding the impact of the effective date of the proposed prohibition, including any impact on the value of manufacturers' and retailers' inventories.

Initial Regulatory Flexibility Analysis

Objectives

8. This action is being taken to incorporate into the Commission's Rules a prohibition against the use of radio transmitters with external frequency selection capabilities that would permit the selection of unauthorized frequencies. The use of such units by those who would willfully or inadvertently select unauthorized frequencies has the likely potential of degrading the land mobile radio spectrum to the detriment of the public as a whole.

Description, Potential Impact and Number of Small Entities Affected

9. The major impact of the proposed rules will be on equipment manufacturers. This action will require manufacturers to modify the design specifications for radio units with external controls and construct these features on the units in such a manner that they will not allow the selection of unauthorized frequencies. Since we are unable to determine the impact, we specifically request affected manufacturers to participate in this proceeding.

Any Significant Alternatives Minimizing Impact on Small Entities and Existing Licensees and Consistent with the Stated Objective

10. None. Enhanced enforcement programs are not possible under current budget constraints.

Paperwork Reduction Act Statement

11. The decision contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling disclosure or record retention requirements, and will not increase or decrease burden hours imposed on the public.

Procedural Matters

12. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex-parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex-parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex-parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex-parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation. On the day of that oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex-parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231. A summary of the Commission procedures governing *ex-parte* presentations in formal rule making is available from the Commission's Consumer Assistance office, FCC Washington, DC 20554.

13. This action is taken pursuant to sections 4(i), 303(c), 303(f), 303(g), 303(r), and 331 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(c), 303(f), 303(g), 303(r) and 332. Interested persons may file comments on or before March 21, 1986, and replay comments on or before April 7, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public files, and provided that the Commission's reliance on such information is noted in its final decision.

14. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy of their comments without regard to form (as long as the docket number is clearly stated in the heading). All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, Room 239, 1919 M Street NW., Washington, DC.

15. For further information on this proceeding, contact Thomas L. Johnson

[2] We also invite comments as to whether equipment used in the General Mobile Radio Service authorized under Part 95 should be included in this proceeding.

at (202) 632-6497, Private Radio Bureau, Federal Communications Commission, Washington, DC.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

The authority citation for Part 90 continues to read as follows:

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

Section 90.203 is amended by adding paragraphs (e) and (f) to read as follows:

§ 90.203 Type acceptance required.

* * * * *

(e) Transmitters designed to operate above 25 MHz with external frequency selection capability that would permit the selection of unauthorized frequencies shall not be type accepted for use under this part.

(f) Transmitters designed to operate above 25 MHz with external frequency selection capability that would permit the selection of unauthorized frequencies that have been type accepted prior to [insert effective date of R & O] shall not be manufactured or marketed on or after [insert effective date of R & O] for use under this part.

[FR Doc. 86-3623 Filed 2-19-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 677

Bering Sea King Crab Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearing.

SUMMARY: In accordance with the provisions of the Joint Statement of Principles for king crab management between the North Pacific Fishery Management Council and the Alaska Board of Fisheries, the Council and Board will hold their annual public hearing to take testimony on regulatory proposals for the 1986 Bering Sea and Aleutian Islands king crab fishery. The hearing may be cancelled if it appears that there are no issues of a controversial nature.

DATE: The hearing is scheduled to be held on March 7, 1986, and will begin at 9:30 a.m.

ADDRESSES: The hearing will be held at the Northwest and Alaska Fisheries Center, 7600 Sand Point Way NE., Seattle, Washington. Copies of the proposals may be obtained from the Alaska Board of Fisheries, P.O. Box 3-2000, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Jim Glock, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage 99510, 907-274-4563.

Dated: February 13, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-3651 Filed 2-19-86; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 34
Thursday, February 20, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement; Department of the Interior, Assistant Secretary for Territorial and International Affairs

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement (PMOA) under 36 CFR 800.8 of its regulations (36 CFR Part 800) with the Assistant Secretary of the Interior, Territorial and International Affairs. The PMOA will provide for the consideration of effects on historic properties, as required by section 106 of the National Historic Preservation Act, when the Assistant Secretary provides financial or technical assistance to the Governments of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau. The PMOA as now drafted envisions that the Assistant Secretary's responsibilities under Section 106 will be carried out largely through the Governments of the various insular jurisdications, with oversight and review by the Assistant Secretary.

Comments Due: March 24, 1986.

ADDRESS: Advisory Council on Historic Preservation, 1100 Pennsylvania Ave. NW, Suite 809, Washington DC 20004, Attn: Dr. Thomas F. King.

Dated: February 13, 1986

Robert R. Garvey,

Executive Director.

[FR Doc. 86-3692 Filed 2-19-86; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 14, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection: (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250 (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Agricultural Cooperative Service
  Compliance Review (Farmers Cooperatives)
  ACS-40
  On occasion
  Businesses or other for-profit; 30 responses; 15 hours; not applicable under 3504(h)
  Donald W. Street (202) 447-8148
- Food and Nutrition Service
  Civil Rights Title VI Collection Reports
  FNS-101 and FNS 191
  Annually
  State or local governments; 4,600 responses; 8,802 hours; not applicable under 3504(h)
  Peggy Hickman (703) 756-3710

New

- Food Safety and Inspection Service
  Survey on Rapid Test Methods for Detection of Tuberculosis, Cysticuscoisis, and Eosinophilic Myositis
  One-time survey
  Non-profit institutions; Small businesses or organizations; 45 responses; 135 hours; not applicable under 3504(h)
  Roy Purdie, Jr. (202) 447-5372

Reinstatement

- Food and Nutrition Service
  7 CFR Part 235—State Administrative Expense Funds
  Recordkeeping
  State or local governments; 27,647 hours; not applicable under 3504(h)
  Marian Stroud (703) 756-3600

Revision

- Agricultural Marketing Service
  Apricots Grown in Designated Counties in Washington—Marketing Order No. 922
  Committee forms used, not agency report forms
  On occasion; Annually
  Farms; Businesses or other for-profit; Small businesses or organizations; 113 responses; 27 hours; not applicable under 3504(h)
  Gary D. Rasmussen (202) 447-4552

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 86-3693 Filed 2-19-86; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Brookhaven National Laboratory; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651,

80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86–034. Applicant: Brookhaven National Laboratory, Upton, NY 11973. Instrument: Circular Dichroism Spectrophotometer, Model J–500C and Accessories. Manufacturer: Jasco, Japan. Intended use: See notice at 50 FR 51445.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides measurement of circular dichroism spectra and high frequency switching (50,000 times per second) between left- and right-circularly polarized light. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–3666 Filed 2–19–86; 8:45 am]

BILLING CODE 3510-DS-M

Department of the Interior; Decision of Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86–015. Applicant: Department of the Interior, NSTL, MS 39529. Instrument: Ring Shear Type Debris Flow Apparatus. Manufacturer: Marui and Company Limited, Japan. Intended use: See notice at 50 FR 46806.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument measures the rheological properties of debris (soil, sediment/water mixtures) using a unique, dynamic torsional shear apparatus. The National Bureau of Standards advises in its memorandum dated January 15, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–3667 Filed 2–19–86; 8:45 am]

BILLING CODE 3510-DS-M

Memorial Hospital for Cancer and Allied Disease et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 85–143R. Applicant Memorial Hospital for Cancer & Allied Diseases, New York, NY 10021. Instrument: Electron Microscope, Model EM 410LS. Manufacturer: Philips Gloeilampenfabrieken, The Netherlands. Original notice of this resubmitted application was published in the **Federal Register** of May 3, 1985. Instrument ordered: February 22, 1985.

Docket No.: 85–144R. Applicant: New Jersey Department of Health, Trenton, NJ 08625. Instrument: Electron Microscope, Model EM420T with Accessories. Manufacturer: Philips Gloeilampenfabrieken, The Netherlands. Original notice of this resubmitted application was published in the **Federal Register** of May 3, 1985. Instrument ordered: February 27, 1985.

Docket No.: 86–013. Applicant: Children's Hospital and Health Center, San Diego, CA 92123. Instrument: Electron Microscope, Model EM 410LS with Accessories; Manufacturer: Philips, The Netherlands. Intended use: See notice at 50 FR 46807. Instrument ordered: August 5, 1985.

Docket No.: 86–019. Applicant: University of California, Los Angeles, CA 90024. Instrument: Electron Microscope, Model JEM–1200EX with Accessories. Manufacturer: JEOL, Japan. Intended use: See notice at 50 FR 46150. Instrument ordered: February 21, 1985.

Docket No.: 86–020. Applicant: Clarkson University, Potsdam, NY 13676. Instrument: Electron Microscope, Model JEM–1200EX with Accessories. Manufacturer: JEOL Limited, Japan. Intended use: See notice at 50 FR 46149. Instrument ordered: See notice at 50 FR 46148. Instrument ordered: August 5, 1985.

Docket No.: 86–022. Applicant: University of New Hampshire, Durham, NH 03824. Instrument: Electron Microscope with Scanning Attachment, Model H–600 and Accessories. Manufacturer: Hitachi Limited, Japan. Intended use: See notice at 50 FR 46806. Instrument ordered: July 18, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–3668 Filed 2–19–86; 8:45 am]

BILLING CODE 3510-DS-M

New York Medical College; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 85–087R. Applicant: New York Medical College, Valhalla, NY 10595. Instrument: Automatic Recording Spectropolarimeter, Model J–500. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Original notice of this

resubmitted application was published in the **Federal Register** of February 27, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides measurement of circular dichroism spectra and high frequency switching (50,000 times per second) between left- and right-circularly polarized light. The National Institutes of Health advises in its memorandum dated Jnauary 2, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-3669 Filed 2-19-86; 8:45 am]

BILLING CODE 3510-DS-M

The Pennsylvania State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 85-048R. Applicant: The Pennsylvania State University, University Park, PA 16802. Instrument: Electro Optical Extensometer, Model 200X. Original notice of this resubmitted application was published in the **Federal Register** of January 8, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a scan range of 2×10^{-3}m with a resolution of 0.008% (1.6×10^{-7}m) of the range and a zero drift of <5mV per 24 hours. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-3670 Filed 2-19-86; 8:45 am]

BILLING CODE 3510-DS-M

Rutgers—The State University of New Jersey; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 85-131R. Applicant: Rutgers—The State University of New Jersey, Piscataway, NJ 08854. Instrument: Refrigerated Microcentrifuge with Accessories. Original notice of this resubmitted application was published in the **Federal Register** of April 19, 1985.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument is capable of centrifuging up to 24 microcentrifuge tubes to 10,000 rpm and decelerating to zero within three minutes while maintaining temperature control. The National Institutes of Health advises in its memorandum dated January 2, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-3671 Filed 2-19-86; 8:45 am]

BILLING CODE 3510-DS-M

Rutgers University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Docket No.: 85-298. Applicant: Rutgers University, Piscataway, NJ 08854. Instrument: Piezo-electric Fabry-Perot Interferometer and Controller. Manufacturer: Queensgate Instruments Limited, United Kingdom. Intended use: See notice at 50 FR 41379.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) direct optical coupling to a telecope, (2) a clear aperture of 50 millimeters and, (3) a bandwidth from 360 to 720 nanometers (nm) with a resolution to .05 nm.

This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials).

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-3672 Filed 2-19-86; 8:45 am]

BILLING CODE 3510-DS-M

University of California et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFT Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with §§301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be

examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 86–091. Applicant: University of California, San Francisco, Department of Anatomy, School of Medicine, 513 Parnassus, San Francisco, CA 94143. Instrument: Electron Microscope, Model JEM–100CXII. Manufacturer: JEOL, Ltd., Japan. Intended use: The instrument is intended to be used to study the fine structure of nerve cells from particular regions of the brain and spinal cord which are concerned with the processing of neural information related to pain. In addition, the instrument will be used for the training of advanced graduate students and post-doctoral fellows in sophisticated, advanced research methods in neurobiology. Application received by Commissioner of Customs: January 17, 1986.

Docket No.: 86–099. Applicant: Johns Hopkins University, Charles & 34th Streets, Baltimore, MD 21218. Instrument: Positron Emission Detection (Two-Probe System), Model APS–2. Manufacturer: Qnix Co., Ltd., Korea. Intended use: Monitor the uptake, in the living human brain, of positron-emitting neuroreceptor binding radiopharmaceuticals to deduce information about living human neuroreceptors. In addition other positron-emitting radiopharmaceuticals including F–18 labeled fluorodeoxyglucose and the C–11 labeled amino acid methinonine will be monitored. Application received by Commissioner of Customs: January 23, 1986.

Docket No.: 86–101. Applicant: The Research Foundation of State University of New York, Office of Contract and Grant Administration, P.O. Box 9, Albany, NY 12201. Instrument: Fluorescence Lifetime Instrumentation. Manufacturer: PRA International, Inc., Canada. Intended use: Investigation of transition metal and organometallic compounds to characterize the rapid relaxation processes in molecules following light absorption. The instrument will be used for independent study and advanced independent study chemistry courses to enable students to acquire the laboratory and interpretative skills necessary to carry out advanced research. Application Received by Commissioner of Customs: January 27, 1986.

Docket No.: 86–102. Applicant: Washington University Medical School, 660 South Euclid Avenue, St. Louis, MO 63110. Instrument: Mass Spectrometer, Model ZAB–SE and 11/250 Data System. Manufacturer: VG Analytical, Ltd., United Kingdom. Intended use: Studies of biologically related molecules such as peptides, proteins, sugars, prophyrins and lipids. Experiments will be conducted to assist in the structural identification of novel compounds of biochemical or biomedical significance or to assist in the quantitation of material whose concentration is of functional significance. In addition, studies of the fundamental physics underlying the mass spectrometry of these classes of compounds will be conducted with the aim of improving the sensitivity with which these compounds may be examined. The instrument will also be used to train students in the operation and application of mass spectrometers. Application Received by Commission of Customs: January 27, 1986.

Docket No.: 86–103. Applicant: University of California, Los Alamos National Laboratory, SM–30, Bikini Road, P.O. 990, Los Alamos, NM 87545. Instrument: Streak Camera. Manufacturer: Delli Delti Ltd., United Kingdom. Intended use: Study of high speed phenomena related to testing of thermonuclear devices and related proceses for a better understanding of weapons related physics. Application Received by Commissioner of Customs: January 27, 1986.

Docket No.: 86–104. Applicant: University of California, Los Alamos National Laboratory, P.O. Box 990, Bikini Street, Los Alamos, NM 87545. Instrument: Streak Camera System, Model IMACON 501. Manufacturer: Marco Scientific Inc., United Kingdom. Intended use: The instrument is intended to be used for the study of high speed phenomena related to testing of thermonuclear devices and related processes. The properties of the materials investigated include equation-of-state, opacity, x-ray spectra and temperature measurements. Application Received by Commissioner of Customs: January 27, 1986.

Docket No.: 86–105. Applicant: The Methodist Hospital, 6565 Fannin Street, Houston, TX 77030. Instrument: Kidney Lithotripter. Manufacturer: Dornier Medizintechnik GmbH, West Germany. Intended use: The instrument is intended to be used for training residents and active staff members in the Urology Service. Application Received by Commissioner of Customs: January 30, 1986.

Docket No.: 86–106. Applicant: University of Chicago, Northwestern Memorial Group, 750 N. Lake Shore Drive, Chicago, IL 60611. Instrument: Extracorporeal Shock Wave Lithotripter. Manufacturer: Dornier, West Germany. Intended use: The instrument is intended to be used to conduct various experiments involving extracorporeal shock wave lithotripsy (ESWL) with the following objectives:

(1) To find if ESWL causes infections by distintegrating bacteria contained within kidney stones.

(2) To obtain follow-up data on significant numbers of patients for a long enough period of time to see if these fragments will eventually lead to: new stones, infections, kidney damage or painful symptoms.

(3) To test the appropriateness of elective removal of kidney stones which are producing no symptoms, both from a health and cost perspective.

(4) To determine by electrocordiogram observations the effects of ESWL on the heartbeat rhythm of patients with heart disease.

(5) To determine what degree of permanent damage kidneys may suffer from ESWL.

(6) To determine whether the shock waves can reach kidney stones overshadowed by ribs and pelvic bones if bone must be traversed, and if the bone will be damaged.

(7) To further man's understanding of the painful, frequent, and disabling disease of kidney stones.

In addition, the instrument will be used for the training of urology specialists, residents and third and fourth year medical students assigned to the urology service. Application Received by Commissioner of Customs: January 29, 1986.

Docket No.: 86–107. Applicant: UCLA, 405 Hilgard Avenue, Los Angeles, CA 90024. Instrument: ph Electrodes, Model Lot 440–M4/20/3m–15.30. Manufacturer: InGold AG Industrie Nord, Switzerland. Intended use: The instrument will be used to identify and validate the profile of gastric acid secretion in man in the outpatient setting. Application Received by Commissioner of Customs: January 30, 1986.

Docket No.: 86–109. Applicant: North Carolina State University, School of Textiles, P.O. Box 8301, Raleigh, NC 27695–8301. Instrument: Sized Yarn Testing Instrument. Manufacturer: Sulzer-Ruti, Switzerland. Intended use: The instrument will be used to simulate the forces to which the warp yarns are subjected during weaving in research to generate correlation between the test result and actual warp performance during weaving. In addition, the instrument will be used to study the new sizing technologies and to compare the effectiveness of different size materials. Application Received by Commissioner of Customs: January 30, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-3674 Filed 2-19-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Illinois, Urbana-Champaign Campus; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-036. Applicant: University of Illinois, Urbana-Champaign Campus, Urbana, IL 61801. Instrument: Excimer Laser-Dye Laser System with Power Supply, Model EMG 203MSC. Manufacturer: Lambda Physik, West Germany. Intended use: See notice at 50 FR 48451.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides an average power of 150 watts and 250 Hz repetition rate. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-3675 Filed 2-19-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Notre Dame; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC

Docket No. 85-314. Applicant: University of Notre Dame, Notre Dame, IN 46556. Instrument: FT Interferometric Spectrophotometer, Model DA3.10 with Accessories. Manufacturer: Bomem Incorporated, Canada. Intended use: See notice at 50 FR 45646.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides an unapodized resolution of 0.02 cm^{-1}. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-3676 Filed 2-19-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Rochester Medical Center; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to sectjon 6(c) of the Educational Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

DOCKET NO. 85-211. Applicant: University of Rochester Medical Center, Rochester, NY 14620. Instrument: Microscope Photometer, Model MPV 3 with Accessories. Manufacturer: Leitz Wetzlar, West Germany. Intended Use: See notice at 50 FR 28000.

COMMENT: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument can measure reflected or transmitted light at four wavelengths from a 220 to 800 millimeter area at a low temperature (−110 degrees centigrade). The National Institutes of Health advises in its memorandum dated January 2, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel

Director, Statutory Import Programs Staff.

[FR Doc. 86-3677 Filed 2-19-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Texas et al.; Applications for Duty-free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with §§ 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC

Docket No. 83-065R. Applicant: University of Texas, Department of Chemistry, Austin, TX 78712. Instrument: X-ray Photoelectron Spectrometer (ESCALAB 5). Original notice of this resubmitted application was published in the **Federal Register** of December 14, 1982.

Docket No. 86-067. Applicant: Case Western Reserve University, 10900 Euclid Avenue, Cleveland, OH 44106. Instrument: Electron Microscope, Model JEM-4000 EX/THG with Accessories. Manufacturer: JEOL, Japan. Intended use: The instrument is intended to be used for research projects involving:

1. Coherent and incoherent interfaces in ZrO_2-toughened ceramics,
2. Oxygen electrocatalysts,
3. High resolution electron microscopy of polymers,
4. Interface between oxide scales and structural alloys,
5. Titanium alloys,
6. Microstructure of thin films,
7. Interface structures and microstructures in electronic materials and

8. Structure of stacked macrocycles.

In addition the instrument will be used to teach students the practical use, theory and applications of electron microscopy to metallurgy and materials science. Application Received by Commissioner of Customs: December 13, 1985.

Docket No. 86–090. Applicant: Brookdale Hospital Medical Center, Linden Boulevard and Rockaway Parkway, Brooklyn, NY 11212. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: The intended to be used in medical science to generate diagnostic pathological data from human tissue specimens. Application received by Commissioner of Customs: January 16, 1986.

Docket No. 86–092. Applicant: The Mount Sinai Hospital, One Gustave L. Levy Place, New York, NY 10029. Instrument: Lithotripter. Manufacturer: Dornier Medical Systems, Inc., West Germany. Intended use: The instrument is intended to be used in experiments conducted to determine differences in the effects of shock waves on the different types of renal calculi and whether the presence of infection and the possible proteinaceous matrix is a factor in preventing the transmission of the shock waves and dispersion of the calculus. In addition, the instrument will be used to train urological residents and medical students in the overall management of kidney stone problems. Application received by Commissioner of Customs: January 17, 1986.

Docket No. 86–094. Applicant: Vanderbilt University School of Medicine, Nashville, TN 37232. Instrument: Electron Microscope, Model H–800–3. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: Analysis of structural features of tissues, cells and subcellular fractions important to biomedical research projects such as studies on the developing visual system, the developmental biology of reproductive organs, and factors which regulate the proliferation of cells. Application received by Commissioner of Customs: January 23, 1986.

Docket No. 86–095. Applicant: University of Utah, Salt Lake City UT 84112. Instrument: Mass Spectrometer, Model 70SEQ/11–250J and Accessories. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use: Investigation of nucleic acids and their constituents to determine new, natural, chemical structures in the subunits of RNA and DNA. Studies of mass spectrometry methods of analysis of biological mixtures to develop new analytical procedures based on tandem mass spectrometry. Application received by Commissioner of Customs: January 23, 1986.

Docket No. 86–096. Applicant: University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. Instrument: ICP/Mass Spectrometer System, Model PlasmaQuad. Manufacturer: VG Instruments, Inc., United Kingdom. Intended use: Studies of rocks, soils, natural waters, vegetation and human or animal tissues to determine elemental and isotopic compositions of the major, minor and trace constituents. Application received by Commissioner of Customs: January 23, 1986.

Docket No. 86–097. Applicant: U.S. Department of Commerce, NOAA, Air Resources Laboratory, Atmospheric Turbulence & Diffusion Division, Post Office Box E, 456 S. Illinois Avenue, Oak Ridge, TN 37831. Instrument: Nitrogen Dioxide Analyzer, Model #LMA–3. Manufacturer: Scintrex/Unisearch, Canada. Intended use: Studies of nitrogen dioxide, an air pollutant important to research on acid rain. Application received by Commissioner of Customs: January 23, 1986.

Docket No. 86–098. Applicant: Tulane University School of Medicine, 1430 Tulane Avenue, New Orleans, LA 70112. Instrument: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use: Morphological studies on interaction of different neurons which contain or transmit different neurotransmitters. The materials investigated consist of properly fixed tissue, mainly brain tissue, obtained from experimental animals. Application received by Commissioner of Customs: January 23, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–3678 Filed 2–19–86; 8:45 am]

BILLING CODE 3510–05–M

Texas A&M University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86–042. Applicant: Texas A&M University, College Station, TX 77843–3255. Instrument: Fourier Transform Interferometric Spectrophotometer, Model IZMO5 with Accessories. Manufacturer: Bomem Incorporated, Canada. Intended use: See notice at 50 FR 48451.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides an unapodized resolution of 0.002 cm^{-1}. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–3673 Filed 2–19–86; 8:45 am]

BILLING CODE 3510–DS–M

Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held March 13 and 14, 1986, in the Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC. On March 13 the meeting will be held in Room 5230 from 9:30 am to 12:00 pm, and in Room 1092 from 1:00 pm to 5:00 pm. The meeting on March 14 will be in Room 6029 from 9:30 am to 4:00 pm. The Committee advises the Office of export Administration with respect to technical questions that affect the level of export controls applicable to computer systems or technology.

Agenda

General Session

March 13, 1985—Open CSTAC Meeting—9:30 a.m. to 12 p.m.

1. Opening remarks by the Chairman.

2. Presentation of papers or comments by the public.

3. Nomination and election of Committee Chairman.

4. Discussion of the establishment of new subcommittees.

5. Software items proposed for changes in regulations.

6. Hardware items proposed for changes in regulations.

Executive Session

March 13, 12:00–5:00 p.m.; March 14

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Adminstration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classfied under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217. For further information or copies of the minutes contact Liga L. Hagenah, 202/377–4959.

Dated: February 14, 1986.

Margaret Cornejo,

Acting Director, Technical Support Staff Office of Technology & Policy Analysis.

[FR Doc. 86–3687 Filed 2–19–86; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Pacific Coast Groundfish Fishery Experimental Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of issuance of experimental fishing permits.

SUMMARY: This notice announces the issuance of four experimental fishing permits (EFP's) to U.S. fishermen to harvest soupfin shark (*Galeorhinus galeus*) and other groundfish species using gillnets in the fishery conservation zone (FCZ) off the coasts of Washington, Oregon, and California. The permits allow experimental fishing which otherwise would be prohibited by Federal regulations. This action is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP) and its implementing regulations.

EFFECTIVE DATES: August 10, 1985, through July 31, 1986.

ADDRESS: Further details or copies of the permits may be obtained from Rolland A. Schmitten, Director, Northwest Rgion, NMFS, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206–526–6150.

SUPPLEMENTARY INFORMATION: The FMP and its implementing regulations at 50 CFR Part 663 specify that EFPs may be issued to authorize fishing that would otherwise be prohibited. The procedures for issuing EFPs appear at § 663.10.

Soupfin, leopard, and spiny dogfish sharks are species regulated under the FMP. The FMP bans the use of drift gillnets except as authorized under California State law. The use of set nets north of 38°00′ N. latitude is also banned.

Two EFP applications to harvest groundfish species using gillnets in the FCZ off the coasts of Washington, Oregon, and California were received by the NMFS Northwest Regional Office on April 5, 1985. Three individuals were signatory to one of the EFP applications for retention and utilization of soupfin, leopard, and spiny dogfish taken in a drift gillnet fishery that targets on thresher shark (a species not managed under the FMP). The same three individuals and three others were signatory to the other application for an experimental gillnet fishery targeting on soupfin shark. A notice acknowledging receipt of the applications, describing the proposals, and requesting public comment was published in the **Federal Register** on May 16, 1985 (50 FR 20470). The applications were considered by the Pacific Fishery Management Council at its July public meeting in Los Angeles, California. The Council recommended that NMFS issue EFPs for the purposes described in both applications and NMFS issued the EFPs under § 663.10. Three of the six individuals signatory to the applications subsequently advised us they were no longer interested in obtaining permits. Therefore, EFPs were only executed with three individuals, one of whom was signatory to both applications and was thereby issued two EFPs.

Three of the EFPs, executed on August 19, August 30, and December 18, 1985, provide for experimental use of drift gillnets and set nets (anchored gillnets) to target fishing on soupfin sharks with an incidental catch of other groundfish species in the FCZ north of 40°30′ N. latitude from August 10, 1985 to July 31, 1986. Under the terms and conditions of the EFP, the permittees are authorized to use a minimum nine-inch mesh webbing and may fish no more than 1600 fathoms of net simultaneously. Sets may not be made in areas shallower than thirty fathoms nor closer than five nautical miles to shore to minimize incidental interaction with marine mammals. Prmittees are required to maintain logs and allow an observer to accompany the vessel if so requested.

The other EFP, executed on August 19, 1985, provides for the retention and marketing of soupfin, leopard, and spiny dogfish sharks taken incidentally in drift gillnets in a fishery that targeted on thresher shark from August 1, 1985, to December 31, 1985, in the FCZ off the coasts of Washington, Oregon, and California. The terms and conditions of this EFP are similar to the other three EFPs except that no groundfish species other than sharks may be retained and the minimum mesh size is sixteen inches.

(16 U.S.C. 1801 *et seq.*)

Dated: February 14, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–3679 Filed 2–19–86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Permit Modification: Southwest Fisheries Center Modification No. 2 to Permit No. 404; Correction

In **Federal Register** Volume 51, Number 18, published January 28, 1986, pages 3489–3490, Item B.5 reads:

"The Permit is valued with respect to the taking authorized herein until November 31, 1987."

It should read:

"The Permit is valid with respect to the taking authorized herein until December 31, 1987."

Dated: February 11, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries service.

[FR Doc. 86–3705 Filed 2–19–86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Restraint Limit for Certain Cotton Textile Products, Produced or Manufactured in India

February 14, 1986.

On October 31, 1985 the United States Government, under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, requested the Government of India to enter into consultations concerning exports to the United States of cotton printcloth in Category 315, produced or manufactured in India.

No agreement has been reached in consultations on a mutually satisfactory solution. The Committee for the Implementation of Textile Agreements has decided, therefore, to establish a specific limit for imports of cotton printcloth in Category 315, exported during the twelve-month period which began January 1, 1986 and extends through December 31, 1986 at a level of 6,085,776 square yards. A prorated limit of 966,120 square yards has also been established for the category for the period which began on October 31, 1985 and extended through December 31, 1985.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton printcloth in Category 315, exported during the twelve-month period which began January 1, 1986 and extends through December 31, 1986.

For further information contact: Claudia Wolfe, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212)

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

February 14, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 20, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 315, produced or manufactured in India and exported during the period which began on January 1, 1986 and extends through December 31, 1986 in excess of 6,085,776 square yards.[1]

Textile products in Category 315 which have been exported to the United States prior to January 1, 1986 shall not be subject to this directive.

Textile products in Category 315 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–3688 Filed 2–19–86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after December 31, 1985.

CONSUMER PRODUCT SAFETY COMMISSION

Interagency Committee on Cigarette and Little Cigar Fire Safety; Technical Study Group Meeting

AGENCY: Interagency Committee on Cigarette and Little Cigar Fire Safety.

ACTION: Notice of meeting.

SUMMARY: The Technical Study Group on Cigarette and Little Cigar Fire Safety will meet on March 25, 1986, in Washington, DC. The purpose of the meeting is to consider reports on: (1) Testing conducted by the National Bureau of Standards to measure the ignition propensity of cigarettes; (2) gathering and analyzing data to support a cost-benefit study; and (3) testing of cigarettes which have been produced in accordance with various patents but which are not manufactured commercially.

DATE: The meeting will be on March 25, 1986, from 9:30 a.m. to 5:00 p.m.

ADDRESS: The meeting will be in the first floor auditorium of the Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Hylton, Office of Program Management, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6554.

SUPPLEMENTARY INFORMATION: The Cigarette Safety Act of 1984 (Pub. L. 98–567, 98 Stat. 2925, October 30, 1984) created the Technical Study Group on Cigarette and Little Cigar Fire Safety to prepare a final technical report to Congress within 30 months concerning the technical and commercial feasibility of developing cigarettes and little cigars with minimum propensity to ignite upholstered furniture and mattresses.

The Technical Study Group will meet on March 25, 1986, to consider reports on the following topics:

(1) Testing conducted by the National Bureau of Standards to measure the ignition propensity of cigarettes.

(2) Gathering and analyzing the data needed to make the analysis of costs and benefits required by the Cigarette Safety Act.

(3) Testing cigarettes which have been produced in accordance with various patents but which are not manufactured commercially.

(4) Other activities necessary to implement the Cigarette Safety Act.

The meeting will be open to observation by members of the public, buy only members of the Technical

Study Group may participate in the discussion.

Dated: February 10, 1986.

Colin B. Church,

Federal Employee Designated by the Interagency Committee on Cigarette and Little Cigar Fire Safety.

[FR Doc. 86-3600 Filed 2-19-86; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday and Wednesday, 18-19 March 1986.

Times of Meeting: 0830-1600 hours.

Places: US Army Missile Command, Redstone Arsenal, AL.

Agenda: The Army Science Board AHSG on MICOM Lab Effectiveness Review will visit the Research, Development and Engineering Center for the purpose of gathering data for conducting the effectiveness review of that facility. Briefings will be presented by each directorate covering their work program. The panel will meet in executive session to discuss the methodology for conducting the review and to discuss observations as a result of the briefings. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-3611 Filed 2-19-86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: Wednesday & Thursday, 26-27 March 1986

Times of Meeting: 0800-1700 hours

Place: The Pentagon, Room 2E715B, Washington, DC

Agenda: The Army Science Board 1986 Summer Study on Technology Forecast for the Key Operational Capabilities will meet for information briefings and planning for the conduct of the Summer Study. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-3612 Filed 2-19-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office of Management

Federal Education Data Acquisition Council

AGENCY: Department of Education.

ACTION: Notice of data acquisition activities approved prior to February 15, 1986.

SUMMARY: Under section 400A of the General Education Provisions Act (the Act), the Secretary publishes this notice of education-related data acquisition activities, approved before February 15, 1986, that Federal agencies will use to collect data during school year 1986-87.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret B. Webster, Division of Education Information Management, U.S. Department of Education, Room 4074, Switzer Building, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 426-7304.

SUPPLEMENTARY INFORMATION: Under section 400A of the General Education Provisions Act, the Secretary of Education is responsible for reviewing and coordinating the collection of information and data acquisition activities of Federal agencies—

(a) Whenever the respondents are primarily educational agencies or institutions; or

(b) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

Under section 400A the Secretary also publicly announces the data acquisition activities that were approved prior to February 15, 1986. These data acquisition activities are considered information collection requests under the Paperwork Reduction Act of 1980. The title of each information collection request approved before February 15, 1986, is published in this document with the Office of Management and Budget approval number for the request. These information collection requests are approved for use during school year 1986-87.

Dated: February 13, 1986.

William J. Bennett,

Secretary of Education.

OMB control No.	Title of Information Collection
US International Development Cooperation Agency	
0412-0019	Certificate of Eligibility for Exchange Visitor (J-1) Status.
0412-0522	Historically Black Colleges and Universities—Individual Profile.
Department of Agriculture—Office of Grants and Program Systems	
0525-0001	Research Grant Application Kit.
0525-0002	Financial Report, Morrill-Nelson Funds for Food and Agricultural Higher Education.
Food and Nutrition Service	
0584-0002	Report of Schools Program Operations.
0584-0005	7 CFR Part 215—Special Milk Program for Children Reporting.
0584-0006	7 CFR Part 210—National School Lunch Program.
0584-0026	7 CFR Part 245—Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools—Reporting.
0584-0046	Cash in Lieu of Donated Foods.
0584-0062	Nutrition Education and Training Program—Annual Participation Report, State Plan and Recordkeeping.
0584-0327	Federal-State Agreement.
0584-0335	7 CFR Part 230—Food Service Equipment Assistance Program—Recordkeeping.
Department of Commerce—Bureau of the Census	
0607-0165	Survey of Local Government Finances (School System).
0607-0459	School Enrollment Report.
National Oceanic and Atmospheric Administration	
0648-0019	Sea Grant Project Summary.
0648-0034	Sea Grant Budget.
0648-0147	Application for Designation as a Sea Grant College or Regional Consortia.
Department of Defense—Department of the Air Force	
0701-0001	Application for Training Leading to a Commission in the United States Air Force.
0701-0063	Air Force Academy Candidate Activities Record.
0701-0066	Air Force Academy Request of Secondary School Transcript.
0701-0090	Air Force ROTC Preapplicant Questionnaire.
0701-0101	Air Force ROTC Four Year Scholarship Application.
0701-0103	Air Force ROTC Scholarship Nomination.
Department of the Army	
0702-0013	Application for Establishment of an Army Senior Reserve Officers' Training Corps Unit.
0702-0015	Information on Applicant for U.S. Army Nurse Corps.
0702-0021	Application and Agreement for Establishment of a Junior Reserve Officers' Corps Unit.
Department of the Navy	
0703-0011	Academic Certification Form for Marine Corps Officers Candidate Programs.
0703-0024	Drug Statement for NROTC Application.
0703-0026	Reference Questionnaire—Reserve Officers Training Corps.
0703-0028	NROTC Navy-Marine Corps Scholarship Application.

OMB control No.	Title of Information Collection
	DEPARTMENTAL AND OTHERS
0704-0035	Professional Evaluation.
0704-0200	Annual Report on Uniform Commutation Fund.
	DEPARTMENT OF HEALTH AND HUMAN SERVICES—HEALTH SERVICES ADMINISTRATION
0915-0028	Application-Scholarship Program for First-Year Students of Exceptional Financial Need.
0915-0033	Health Education Assistance Loan (HEAL) Borrower Status Form.
0915-0034	Lender's Manifest for Health Education Assistance Loan (HEAL) Program.
0915-0035	Health Education Assistance Loan Program Loan Transfer Statement.
0915-0036	Lender's Application for Insurance Claim on a Health Education Assistance Loan (HEAL).
0915-0037	Lender's Application for Contract of Federal Loan Insurance (HEAL).
0915-0038	Health Education Assistance Loan (HEAL) Student Loan Application.
0915-0044	Health Professions Student Loan and Nursing Student Loan Programs—Administrative Requirements (Forms).
0915-0047	Health Professions Student Loan (HPSL) & Nursing Student Loan Programs—Administrative Requirements (Forms).
0915-0048	Nursing Student Loan (NSL) Program-Financial Aid Transcript, Costs of Attendance & Evidence of Loans—NPRM.
0915-0054	Health Education Assistance Loan (HEAL) Program School Recordkeeping Requirements.
0915-0056	Annual Space Utilization and Enrollment Report for Nursing and Health Professions.
0915-0060	HRSA Competing Training Grant Application and Supplements.
0915-0061	HRSA NON-Competing Training Grant Application and Supplement.
0915-0073	Nursing Student Loan (NSL) Program Promissory Note.
0915-0074	Health Professions Student Loan (HPSL) Program Promissory Note.
0915-0080	Indian Health Service Scholarship Application and Progress Reports.
0915-0083	Nurse Practitioner Traineeship Grant Program.
0915-0089	Application to Participate in Health Professions Capitation Program.
0915-0100	Request for Collection Assistance Under the Health Education Assistance Loan (HEAL) Program.
	NATIONAL INSTITUTES OF HEALTH
0925-0022	National Research Service Award Research Training, Competing and Noncompeting Applications.
0925-0137	Protection of Human Subjects—Certification and Recordkeeping Requirements.
	OFFICE OF ASSISTANT SECRETARY FOR HEALTH
0937-0148	Presidents Council on Physical Fitness and Sports School Population Survey.
	SOCIAL SECURITY ADMINISTRATION
0960-0064	Report of Individual With Childhood Impairment.
0960-0089	Report of Student Beneficiary at end of School Year.
0960-0322	Report of Black Lung Student Beneficiary at end of School Year.
	OFFICE OF HUMAN DEVELOPMENT SERVICES
0980-0172	Program Performance Report—Developemental Disabilities.
	DEPARTMENT OF THE INTERIOR—BUREAU OF MINES
1032-0116	Mining and Materials Resources and Research Institutes Program (MMRR I).
	DEPARTMENT OF JUSTICE—IMMIGRATION AND NATURALIZATION SERVICE
1115-0119	Student Status Form.

OMB control No.	Title of Information Collection
	DEPARTMENT OF LABOR—EMPLOYMENT STANDARDS ADMINISTRATION
1215-0080	Application for Authority for an Institution of Higher Education to employ its Full-Time Students at Subminimum Wage.
1215-0121	Work Experience and Career Exploration Program.
	DEPARTMENTAL MANAGEMENT
1225-0033	Women in Non-Traditional Program Questionnaire.
	DEPARTMENT OF STATE—ADMINISTRATION OF FOREIGN AFFAIRS
1405-0031	Approval of Funding to Support Educational Projects.
1405-0033	Overseas Schools-Grant Status Reform.
1405-0037	Oversees Schools Request for Assistance.
	DEPARTMENT OF THE TREASURY—INTERNAL REVENUE SERVICE
1545-0213	Annual Certification of Racial Nondiscrimination for a Private School Exempt From Federal Income Tax.
1545-0244	Certification of Youth Participating in a Qualified Cooperative Education Program.
1545-0471	Student Tax Clinic Pattern Letter (Application Package).
1545-0779	Understanding Taxes (Teacher Evaluation Guide).
	DEPARTMENT OF EDUCATION—OFFICE OF ELEMENTARY AND SECONDARY EDUCATION
1810-0003	Application for Continuations for the Follow Through Program.
1810-0020	Indian Fellowship Application (New and Continuation).
1810-0021	Application for Grants Under Indian Education Act Program.
1810-0026	Nomination for the National Advisory Council on Indian Education.
1810-0027	Application for Disaster Assistance Under Section 7 of P.L. 81-874.
1810-0028	Application for Grants Under Section 143: The Migrant Education Interstate and Intrastate Coordination Program.
1810-0029	Application for Migrant Educational Program.
1810-0030	Application for Civil Rights Technical Assistance and Training State Educational Agency Program.
1810-0031	Indian Student Certification Form—Indian Education Programs.
1810-0036	School Assistance in Areas Affected by Federal Activity Application.
1810-0037	State Performance Report (ECIA, Chapter 1).
1810-0051	High School Equivalency and College Assistance Migrant Programs, Financial Status and Performance Reports.
1810-0053	State Application, Chapter 2 of the Education Consolidation and Improvement Act of 1981.
1810-0054	Application for Grant Under the High School Equivalency Program (HEP).
1810-0055	Application for Grant Under the College Assistance Migrant Program (CAMP).
1810-0060	Annual Survey of Children in Institutions for Neglected or Delinquent Children or in Adult Correctional Institutions.
1810-0062	Application Package: Women's Educational Equity Act (WEEA) Program.
1810-0502	Preapplication for Federal Assistance (Construction) P.L. 81-815 & Application for Federal Assistance.
1810-0503	Project Performance Report—Indian Education Programs.
1810-0504	Recordkeeping Requirements 34 CFR, Parts 201, 203 & 204 Pursuant to the Education Consolidation & Improvement Act, 1981.
1810-0506	Instructions for Performance Status Report—State Educational Agency & Desegregation Assistance Center Programs.
1810-0507	Law-Related Education Grant Application Package.
1810-0508	Women's Educational Equity Act Performance Report.
1810-0510	Law-Related Education Grant Financial and Performance Reports.

OMB control No.	Title of Information Collection
1810-0511	Migrant Education Interstate & Intrastate Coordination Program Financial Status & Performance Report.
1810-0512	State Assessment of Need, Title II of the Education for Economic Security Act.
1810-0513	Performance/Financial Reports, Postsecondary Education Programs, Title II of the Education for Economic Security Act.
1810-0514	Performance/Financial Reports, Elementary & Secondary Education, Title II of the Education for Economic Security Act.
1810-0515	State Application, Title II of the Education for Economic Security Act.
1810-0516	Application for the Magnet Schools Assistance Program.
1810-0517	Application for Civil Rights Technical Assistance & Training Desegregation Assistance Center Program.
1810-0518	Form for Nomination of Successful Chapter I Projects.
1810-0519	State Performance Report (ECIA, Chapter 1, Migrant Program).
1810-0520	Annual Report of the Number of Full Time Equivalent Migratory Children.
1810-0525	Local Educational Agency Application, Title II of Education for Economic Security Act.
1810-0526	Performance Status Report for Magnet Schools Assistance Program.
	OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
1820-0002	Performance Report for Special Education Program Discretionary Grant Programs.
1820-0009	Report of Vending Facility Program.
1820-0013	Quarterly Cumulative Caseload Report.
1820-0014	Annual Report on State Vocational Rehabilitation Agency Post-Employment Services and Annual Reviews.
1820-0017	Annual Vocational Rehabilitation Program/Cost Report.
1820-0018	RSA Discretionary Grant Application (34 CFR 396—Training of Interpreters for Deaf Individuals Program).
1820-0027	Application for Grants Under Rehabilitation Research and Demonstration Program.
1820-0028	Grant Applications Under Education for the Handicapped Programs.
1820-0041	Performance Report for P.L. 94-142 and P.L. 89-313.
1820-0500	Three-Year State Plan for Vocational Rehabilitation Services Under Title I of the Rehabilitation Act, as Amended.
1820-0508	Program Impact Reporting System (PIRS).
1820-0509	List of Hearing Officers (Recordkeeping).
1820-0510	State Agency Project and Local Educational Agency Recordkeeping.
1820-0513	Report of Children Transferring to Local Agency Programs (Recordkeeping).
1820-0514	Captioned Films for the Deaf: Application for Loan Service, User Response Forms (2).
1820-0517	Implementation of Least Restrictive Environment Requirements.
1820-0518	Number of Personnel Employed to Provide Special Education & Related Services to Handicapped Children & Youth.
1820-0520	Client Assistance Program Request for Assistance.
1820-0521	Report of Handicapped Children and Youth Exiting the Educational System.
1820-0522	Report of Special Education/Related Services in Need of Improvement.
1820-0523	Number of Additional Personnel Needed to Provide Special Education & Related Services to Handicapped Children & Youth.
1820-0524	Report of Federal, State, and Local Funds Expended for Special Education and Related Services.
1820-0525	Final Report for Rehabilitation Research.
1820-0527	Three-Year State Plan for Independent Living Rehabilitation Services Under Title VII, Part A, of the Rehabilitation Act.
1820-0528	Annual Client Assistance Program Report.
1820-0529	Evaluation of the Impact of the Projects With Industry Program.
1820-0530	Training Personnel for the Education of the Handicapped.
1820-0531	Comprehensive Evaluation of the Title VII, Part B, Independent Living Program.
1820-0532	Services for Deaf-Blind Children and Youth.
1820-0533	Removal of Architectural Barriers to the Handicapped Program Financial Report.

OMB control No.	Title of Information Collection
1820-0534	Removal of Architectural Barriers to the Handicapped Program Application for Federal Assistance.
1820-0537	Longitudinal Study on a Sample of Handicapped Students.
1820-0538	Survey of Expenditures for Special Education and Related Services at the State and Local Level.
1820-0539	Evaluation of the Client Assistance Program (CAP).
	Office of Vocational and Adult Education
1830-0011	State-Administered Vocational Education Program Improvement Projects—Abstracts and Final Reports.
1830-0013	Application for Vocational and Adult Education Direct Grant Programs.
1830-0026	State Plan for Adult Education.
1830-0027	Financial Status and Performance Reports for the Adult Education State-Administered Program.
1830-0029	The Carl D. Perkins Vocational Education Act of 1984 (P.L. 98-524)—State Plan.
1830-0030	State Council on Vocational Education—Narrative Report.
1830-0501	Financial Status and Performance Report for Direct Grants-OVAE.
1830-0505	Vocational Education Accountability Report.
	Office of Postsecondary Education
1840-0002	Guarantee Agency Quarterly/Annual Report.
1840-0005	Application for Fulbright-Hays Training Grants: Faculty Research and Doctoral Dissertation Research Abroad Programs.
1840-0008	Request for Payment of Pell Grant Award, Notice of Termination/Leave of Absence, & Ads Student Report.
1840-0013	Pell Grant Program Student Validation Roster.
1840-0017	Application for Noncompeting Continuation Grants Under the Special Services for Disadvantaged Students Program.
1840-0028	Physicians Certification of Borrower's Total and Permanent Disability for Student Loan Program.
1840-0034	Lender's Request for Interest and Special Allowance-GSL and Plus Programs.
1840-0041	Application for Grants Under the Law School Clinical Experience Program.
1840-0042	Financial Status and Performance Reports for Veterans' Cost-of-Instruction Payments Program.
1840-0053	Performance/Financial Status Report Forms for the Cooperative Education Program.
1840-0054	Application for Grants and Contracts Under the Veterans' Cost-of-Instruction Payments Program (VCIP).
1840-0065	Application for the Educational Opportunity Centers Program.
1840-0068	Application for Foreign Language and Area Studies.
1840-0073	Fiscal Operations Report/Application to Participate in the Campus-Based Student Aid Programs.
1840-0077	Student Confirmation Report for the Federal Insured Student Loan Program.
1840-0079	Call Report—Lender's Annual Report on Guaranteed Student Loan and Parent Loans for Undergraduate Students Outstanding.
1840-0082	Loan Transfer Statement for the Federal Insured Student Loan Program.
1840-0091	National Direct (Defense) Student Loan Assignment Form.
1840-0093	Lenders Manifest for Federal Insured Student Loans.
1840-0095	Application for Assistance Under the College Housing Program.
1840-0099	Application for State Student Incentive Grant Program.
1840-0108	Guarantee Agency Request for Reimbursement for Claims Paid, Agreements Under Reinsurance & on Death/Disability.
1840-0109	Application (Program Announcement) for Grants and Contracts Under the Minority Institutions Science Improvement Program.
1840-0110	Application for Federal Student Aid.
1840-0111	Special Condition Application for Federal Student Aid.
1840-0112	Evaluation of Training Activities on the Title IV Student Financial Assistance Programs.
1840-0114	Application for Strengthening Special Needs and Challenge Grant Programs.
1840-0117	Program Announcement—Fund for the Improvement of Postsecondary Education-Comprehensive Program Final Year Dissemination.
1840-0125	Application for the Training Program for Special Programs Staff and Leadership Personnel.
1840-0126	Cooperative Education Program Application Form.
1840-0129	Report of Defaulted Loans as of December 31.
1840-0130	Summary Data Sheet/Listing Form (National Direct Student Loan.)
1840-0132	Student Aid Report.
1840-0133	Request for Collection Assistance Under the Federal Insured Student Loan Program.
1840-0500	Federal Loan Transaction Statement Federal Insured Loan Program.
1840-0501	Fulbright Seminars Abroad Program Application for Seminar Position Abroad.
1840-0503	Performance/Financial Reports for the Supplemental Funds Program for Cooperative Education.
1840-0504	Application for the Supplemental Funds Program for Cooperative Education.
1840-0505	State Student Incentive Grant Performance Report and Financial Status Report.
1840-0507	Training Programs for Social Programs Personnel Performance and Financial Status Report.
1840-0508	Application for Grants Under the Graduate and Professional Study Fellowships Program.
1840-0509	Application for Grants Under the Education for Public Service Fellowships Program.
1840-0514	Program Announcements-Fund for the Improvement of Postsecondary Education—New Awards and Continuations.
1840-0515	Application for Nina Shaughnessy Scholars Program.
1840-0517	Lender's Application for Payment of Insurance Claim Under the Federal Insured Student Loan Program.
1840-0525	Performance Report for the Special Services for Disadvantaged Students Program.
1840-0528	Certification of Project Costs for College Housing Program and Academic Facilities Programs.
1840-0529	Foreign Language and Area Studies Fellowship Information Reports.
1840-0531	Application Form for the Endowment Grant Program.
1840-0535	Recordkeeping Requirement for the Campus-Based Student Aid Programs.
1840-0536	Pell Grant Administrative and Technical Regulations (Final).
1840-0537	NPRM-Student Assistance General Provisions (Recordkeeping).
1840-0538	Guaranteed Student Loan Program (Recordkeeping).
1840-0540	Institutional Payment Summary (IPS) and IPS Batch Report for Pell Grants.
1840-0544	State Student Incentive Grant Program Recordkeeping Requirement.
1840-0549	Application for Grants Under The Talent Search Program.
1840-0550	Application for Grants Under Upward Bound Program.
1840-0553	Certification Form for the Endowment Grant Program.
1840-0554	Tax-Exempt Obligations to Finance Student Loans Under the GSL and Plus Programs (Final Regulations).
1840-0555	Performance Report Under the Minority Institutions Science Improvement Program (MISIP).
1840-0556	A Demonstration of Behavior Scoring Models to Prevent Defaults and to Collect Defaulted Loans in the GSL Program.
1840-0558	National Direct/Defense Student Loan Program.
1840-0559	Institutional Release of 1984-85 Unexpended Balances for the CWS, SEOG and NDSL Programs.
1840-0560	Performance Report for International Education Programs.
1840-0561	Performance Report for the Talent Search, Upward Bound and Educational Opportunity Centers Program.
1840-0562	National Graduate Fellows Program.
1840-0563	Performance Report for the Graduate and Professional Opportunity and the Public Service Education Programs.
1840-0564	Performance Report Form for the Endowment Grant Program.
1840-0567	Institutional Quality Control Pilot Project.
	Office of Educational Research and Improvement
1850-0022	Standard Application for Grants Under Library Career Training Program (HEA Title II-B).
1850-0038	State-Level Personnel Exchange (Elementary-Secondary).
1850-0053	Degrees and Other Formal Awards Conferred Between July 1, 1984 and June 30, 1985.
1850-0054	Application for Grants Under the Strengthening Research Library Resources Program.
1850-0067	Common Core of Data (CCD).
1850-0072	Final Financial Status and Performance Report For HEA Library Programs—Title II-B and Title II-C.
1850-0086	Application for Grants Under the National Diffusion Network.
1850-0095	State-Level Personnel Exchange (Postsecondary).
1850-0099	Survey of College and University Libraries, Fall 1985.
1850-0515	National Survey of Private Schools. 1985-86.
1850-0528	Library Services and Construction Act, State Administration Program Application & Annual Program, Titles I, II & III.
1850-0547	Verification of the Universe of Postsecondary Education Poviders (VUPEP) Survey.
1850-0557	High School & Beyond Third Follow-up & National Longitudinal Study of the Class of 1972 Fifth Follow-up Field test.
1850-0565	Application for Special Project Grants Under Library Services for Indian Tribes & Hawaiian Natives Program.
1850-0568	Application for Basic Grants Under Library Services for Indian Tribes and Hawaiian Natives Program.
1850-0569	Survey of Public and Private School Libraries and Media Centers, 1985.
1850-0571	NAEP-Part II: Background/Attitude, Math, Reading, Science, Computers, OBEMLA, Foundations of Literature-U.S. History & Lit.
1850-0572	Preapplications and Applications for Educational Research Grant Program.
1850-0573	Performance Report for the Library Services for Indian Tribes and Hawaiian Natives Program and Recordkeeping.
1850-0578	National Assessment of Educational Progress (NAEP) Part II Bridge Assessments.
1850-0580	A Study of Local Implementation of Chapter I of the Education Consolidation and Improvement Act (ECIA).
1850-0581	Institutional Characteristics of Postsecondary Institutions, 1985-86.
1850-0582	The Integrated Postsecondary Education Data System (IPEDS).
1850-0583	ESCA (P.L. 98-480) Financial, Performance & Completion Reports for State-Administered Programs—Titles I, II & III.
1850-0585	Field Study For the National Postsecondary Student Aid Survey.
	Office of Intergovernmental and Interagency Affairs
1850-0501	Presidential Academic Fitness Award (PAFA) School Participation Order Form.
	Office of Planning and Budget and Evaluation
1875-0004	State Uses of Federal Funds Under State-Administered Federal Education Programs.
1875-0006	National Longitudinal Evaluation of Services to Language Minority & Limited English Proficient Students.
1875-0007	Longitudinal Study of Immersion Programs for Language Minority Children.
1875-0012	Selection Procedures for Identifying Students in Need of Special Services.
1875-0013	Assessment of Chapter I Grant Programs for the Handicapped.
	Departmental Management
1880-0172	Computer Generated Recipient Report of Expenditures.
1880-0173	Computer Generated "Recipient Cash Advance Request".
1880-0505	Application for the Secretary's Discretionary Program.

OMB control No.	Title of Information Collection
1880-0507	Student Rights in Research, Experimental Activities and Testing Information Collections.
1880-0508	Recordkeeping Requirement Under the Family Educational Rights and Privacy Act.
1880-0509	Information Collection Requirements for Cost Principles for Non-Profit Organizations.
1880-0510	Application for the Excellence in Education Program.
1880-0511	The Secretary's Discretionary Program for Mathematics, Science, Computer Learning & Critical Foreign Languages.
1880-0512	Authorization for Automatic Preauthorized Debits.
1860-0513	Education Department General Administrative Regulations (EDGAR).
	OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS
1885-0001	Application for New & Continued Participation in Bilingual Education Fellowship Program.
1885-0002	Application for Grants Under Bilingual Vocational Training and Instructor Training Programs.
1885-0005	Demonstration of Compliance with Terms and Conditions of the Bilingual Education Fellowship Program Contract.
1885-0503	Application for Grants Under Transition Program for Refugee Children.
1885-0505	National Clearinghouse for Bilingual Education.
1885-0506	Performance Report and Recordkeeping—Bilingual Education Programs.
1885-0507	Application for the Emergency Immigrant Program and Recordkeeping.
1885-0508	Application & Survey Form for the Bilingual Education State Educational Agency Program.
	ENVIRONMENTAL PROTECTION AGENCY—PESTICIDES AND TOXIC SUBSTANCES
2070-0062	Application for Loan/Grant Under the Asbestos School Hazard Abatement Act of 1984.
	Department of Transportation—US Coast Guard
2115-0012	Application and supplementary Forms for Admission to the U.S. Coast Guard Academy.
2115-0111	Course Approvals for Merchant Marine Training Schools.
	VETERANS ADMINISTRATION
2900-0014	Authorization and certification of Entrance or Reentrance Into Rehabilitation and Certification of Status.
2900-0034	Trainee Request for leave—Chapter 31, Title 38, U.S. Code.
2900-0057	School Attendance Report.
2900-0073	Enrollment Certification (under Chapter 32, 34, or 35 Title 38, USC).
2900-0099	Request for Change of Program or Place of Training Survivors' and Dependents' Educational Assistance.
2900-0180	Compliance Report of Propriety Institutions.
2900-0209	Veterans Application for Work-Study Allowance.
2900-0236	Application for Education Loan.
2900-0262	Designation of Certifying Official(s).
2900-0263	Application for Educational Assistance Under the Veterans Education Assistance Program.
2900-0353	Certification of Lessons completed.
2900-0354	Certification of Attendance for Courses not Leading to a Standard College Degree and Farm Cooperative Courses.
2900-0355	Verification of Pursuit of Course Leading to a Standard College Degree.
2900-0358	Supplemental Information for Change of Program or Reenrollment after Unsatisfactory Progress or Conduct.
2900-0368	Monthly Statement of Wages Paid to Trainee.
2900-0394	Certification of School Enrollment.
2900-0414	Nondiscrimination on the Basis of Handicap in Programs and Activities, as Required by 38 CFR 18.422(E).
2900-0455	Equal Opportunity Compliance Review Report.
2900-0456	Supplement to Equal Opportunity Compliance Review Report.
2900-0457	Self-evaluation Supplement to Equal Opportunity Compliance Review Report.

OMB control No.	Title of Information Collection
	ACTION
3001-0097	Nomination Form for "The President's Volunteer Action Awards."
	COMMISSION ON CIVIL RIGHTS
3035-0019	Elementary and Secondary School Desegregation Study.
	EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
3046-0003	Elementary-Secondary Staff Information.
3046-0009	Higher Education Staff Information.
	UNITED STATES INFORMATION AGENCY
3116-0011	Update of Information on Exchange Visitor Program Sponsor.
3116-0168	President's International Youth Exchange Initiative Program Report.
3116-0170	Exchange Visitor Programs.
3116-0173	Bureau of Educational and Cultural Affairs Grant Application Cover Sheet.
3116-0179	University Affiliated Program.
3116-0187	International Youth Exchange Organization Index.
	MERIT SYSTEMS PROTECTION BOARD
3124-0001	Evaluating the Attractiveness of Federal Employment for College Students.
	NATIONAL ENDOWMENT FOR THE HUMANITIES
3136-0052	Financial Status Report for Individuals.
3136-0057	Division of Education Programs Summary Report on Institute Participants (ES).
3136-0058	Division of Education Programs Summary Report on Institute Participants (EH).
3136-0059	Division of Education Programs application Instructions.
3136-0060	Guidelines and Application Materials-High School Humanities Institutes for Historically Black Colleges and Universities.
3136-0062	NEH Challenge Grant Guidelines and Application Instructions.
3136-0063	NEH Challenge Grants Administrative Regulations.
3136-0067	Humanities, Science and Technology Guidelines.
3136-0069	NLH Performance Reporting Requirements.
3136-0075	Reviewer Comment Sheets.
3136-0077	Division of State Programs: Interim Progress Report Format.
3136-0078	Division of State Programs Plan for Compliance by State Humanities Councils Operating as State Agencies.
3136-0079	Division of State Programs Plan for Compliance by State Humanities Councils Operating as Citizens' Committees.
3136-0080	Division of State Programs: Guidelines for Biennial Proposals.
3136-0081	NEH Planning and Assessment Studies Program Grant Application Review Process.
3136-0084	Division of State Programs: Application Cover Sheet.
3136-0093	Guidelines and Application Form for Directors in Summer Seminars for College Teachers Program.
3136-0095	Guidelines and Application Forms for Directors in the Summer Seminars for Secondary School Teachers Program.
3136-0097	Guidelines and Application Forms for Participants in the Summer Seminars for Secondary School Teachers Program.
3136-0100	NEH Planning and Assessment Studies Program Grant Application Review Process.
3136-0101	NEH Financial Status Report.
3136-0103	Nondiscriminantion on the Basis of Handicap in Federally Assisted Programs and Activities.
3136-0108	Process of APPI., Evaluation, Award, and Report, for NEH Faculty Grad. Study Programs for Historically Black Colleges.
3136-0052	Financial Status Report for Individuals.
3136-0057	Division of Education Programs Summary Report on Institute Participants (ES).
3136-0058	Division of Education Programs Summary Report on Institute Participants (EH).
3136-0059	Division of Education Programs Application Instructions.

OMB control No.	Title of Information Collection
3136-0060	Guidelines and Application Materials—High School Humanities Institutes for Historically Black Colleges and Universities.
3136-0062	NEH Challenge Grant Guidelines and Application Instructions.
3136-0063	NEH Challenge Grants Administrative Regulations.
3136-0067	Humanities, Science and Technology Guidelines.
3136-0069	NEH Performance Reporting Requirements.
3136-0075	Reviewer Comment Sheets.
3136-0077	Division of State Programs: Interim Progress Report Format.
3136-0078	Division of State Programs Plan for Compliance by State Humanities Councils Operating as State Agencies.
3136-0079	Division of State Programs Plan for Compliance by State Humanities Councils Operating as Citizens' Committees.
3136-0080	Division of State Programs: Guidelines for Biennial Proposals.
3136-0081	NEH Planning and Assessment Studies Program Grant Application Review Process.
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3136-0100	NEH Planning and Assessment Studies Program Grant Application Review Process.
3136-0101	NEH Financial Status Report.
3136-0103	Nondiscrimination on the Basis of Handicap in Federally Assisted Programs and Activities.
3136-0106	Process of Appl., Evaluation, Award, and Report, for NEH Faculty Grad. Study Programs for Historically Black Colleges.
	NATIONAL SCIENCE FOUNDATION
3145-0009	Higher Education Statistical Survey Panel.
3145-0015	Survey of Scientific and Engineering Expenditures at Universities and Colleges: FY 1984, 1985 and 1986.
3145-0019	Survey of Earned Doctorates in U.S.
3145-0035	National Science Foundation Science Awards.
3145-0062	Survey of Graduate Science and Engineering Students and Postdoctorates.
3145-0084	Patents.
3145-0087	Compliance Information Under 45 CFR Part 611.
3145-0091	Research Participation and Characteristics of Science and Engineering Faculty.

[FR Doc. 86-3571 Filed 2-14-86; 8:45 am]

BILLING CODE 4000-01-M

Intergovernmental Advisory Council on Education; Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Intergovernmental Advisory Council of Education. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: March 7, 1986.

ADDRESS: National Press Club Building, 14th and F Streets, NW., 13th floor, Washington, DC 20045.

FOR FURTHER INFORMATION CONTACT: Jacqueline E. McGregor, Executive Director, Intergovernmental Advisory Council of Education, Department of

Education, 300 7th Street, SW., Washington, DC 20202, (202) 472–6464.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education was established under section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council is established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education. The meeting of the Intergovernmental Advisory Council on Education is open to the public. The meeting is scheduled from 2:00 p.m. to 4:00 p.m. on March 7, 1986.

The proposed agenda includes: Conference on job training and retraining; Report to the President.

Records are kept of all Council proceedings and are available for public inspection at the office of the Intergovernmental Advisory Council on Education 300 7th Street, SW., Room 513, Washington, DC.

Signed at Washington, DC on Tuesday, February 11, 1986.

A. Wayne Roberts,

Deputy Under Secretary for Intergovernmental & Interagency Affairs.

[FR Doc. 86–3614 Filed 2–19–86: 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Petroleum Council Refinery Survey Task Group; Meeting

Notice is hereby given that the Refinery Survey Task Group will meet in March 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Refinery Survey Task Group will address previous Council refining studies and evaluate future refinery operations and their impact on petroleum markets. Its analysis and findings will be based on information and data gathered by the various task groups.

The Refinery Survey Task Group will hold its eighth meeting on Wednesday, March 12, 1986, starting at 9:00 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, DC.

The tentative agenda for the Refinery Survey Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review individual drafting assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Refinery Survey Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Refinery Survey Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Office of Oil, Gas, Shale and Coal Liquids. Fossil Energy, 301/353–2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on February 12, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86–3706 Filed 2–19–86; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy; Public Meeting

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of public meeting: Cost sharing requirements for Magnetohydrodynamics (MHD) Program.

DATE: February 28, 1986 1:00–5:00 p.m.

ADDRESS: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 1E–245, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Georgia Benjamin, U.S. Department of Energy, 301/353–3966.

SUPPLEMENTARY INFORMATION:

I. Purpose of Meeting

Senate Report 99–141, the report from the Committee on Appropriations, requires the Department of Energy to enter into discussions with private sector companies involved in the magnetohydrodynamics (MHD) program, for the purpose of implementing the Bill's cost sharing requirements. The purpose of this public meeting is to discuss with the private sector the Department's policy for implementing the cost-sharing requirements for the MHD program for FY 1986.

II. Public Participation

The meeting is open to the public. Any member of the public who wishes to attend the meeting should contact Ms. Georgia Benjamin at 301/353–3966 within one day prior to the meeting, in order to provide for admittance.

III. Transcripts

Available for public review and copying at the Public Reading Room, IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday thru Friday, except federal holidays.

Issued at Washington, DC on February 11, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86–3708 Filed 2–19–86; 8:45 am]

BILLING CODE 6450–01–M

Office of Conservation and Renewable Energy

[Docket No. CE–RM–86–101]

The Least-Cost Utility Planning Project

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Public Briefing.

SUMMARY: The Department of Energy (DOE) announces a new project, the Least-Cost Utiltiy Planning Program. This project represents an approach to utility resource planning, where a variety of demand-side and supply-side options will be assessed for their potential contribution to providing adequate and reliable energy services at the least cost. DOE, with appropriate fiscal year 1986 funds, is initiating research to identify existing least-cost programs and to develop recommendations for Federal support of least cost intiatives. A public briefing will be held to announce the research plans and to introduce the staff who will be working on the project. Additionally, DOE in this notice and at the briefing will request that ideas and information be submitted in writing from knowledgeable individuals and organizations. Specific questions will be raised by the staff for consideration in preparation of written comments.

DATES: A public briefing will be held on March 12, 1986, 9:30 a.m. in Washington, DC, at the Department of Energy, 1000 Independence Avenue, SW, Room 6E–

069. Written comments must be received no later than March 24, 1986.

ADDRESSES: Send written comments (five copies) to: Office of Conservation and Renewable Energy, Hearings and Dockets Branch, U.S. Department of Energy, Least Cost Planning Project, Docket Number CE–Rm–86–101, 1000 Independence Avenue, SW, Room 6B–025, Washington, DC 20585, (202) 252–9319.

FOR FURTHER INFORMATION CONTACT: Joseph Cooper, Least-Cost Utility Planning Project, Building and Community Systems, Conservation and Renewable Energy, Department of Energy, Room GF–231, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252–1665.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comment Procedures

I. Background

The business of utility provided energy services is currently going through a complex and profound change that is likely to affect virtually every aspect of utility operations. On the demand-side, there has been a substantial increase in competition between energy forms (e.g., electricity versus gas), emergence of viable alternatives to purchases of energy from the local utility (e.g., insulation, cogeneration, passive solar, high-efficiency appliances), and a resulting trend for utilities to become more customer-driven and less production-driven.

On the supply-side, lengthened construction times, high interest rates, construction cost increases, and extreme variability in fuel prices have made electric utilities' traditional reliance on supply-side strategies a more risky strategy. Profound changes in regulation (e.g., common carriage, price controls), world oil prices, and gas prices have also introduced uncertainty into supply planning for gas utilities.

The common denominator is the substantial increase in uncertainty that now permeats the entire utility planning process. The implication of this increase is that forecasting efforts are inevitably going to be wrong and suggests that utility planning in the future should have several important characteristics:

- It must go beyond sensitivity analysis (e.g., examining several sets of alternatives) to risk analysis in order to address explicitly the cost of being wrong.
- It must incorporate a much greater understanding of the needs, attitudes, and options of consumers.
- It must improve flexibility for drawing on a broader portfolio of supply and demand options including a wide variety of demand-side options, refurbishing and upgrading existing supply capability, and new energy resources.

The DOE Least-Cost Utility Planning Project will focus on supplementing, rather than duplicating, existing planning efforts by utilities, regulators, trade associations, public interest groups, and national laboratories. The Project will pay particular attention to the "customer side of the meter" options, and include technology transfer mechanisms as well as tools, data, and information.

An initial research phase will be conducted to identify recent past, existing, and planned research programs of relevant organizations. Analyses will be made of these research programs to identify both areas for additional research and how to effectively transmit the research among interested organizations.

DOE has basic questions to be considered during preparation of written comments:

- What barriers exist within the utility industry to the adoption of least-cost programs, with special attention to conservation, demand side, and load shaping programs? What should DOE consider doing to remove or reduce these barriers?
- What barriers exist to public utility commissions giving greater attention to the adoption of least-cost planning programs, with special attention to conservation, demand side, and load shaping programs? What should DOE consider doing to remove or reduce these barriers?
- What should be the role of DOE in the development of the data bases that can be used in estimating the effect of conservation, demand side, and load shaping programs? How can any DOE activity in this area be more effectively coordinated with the activity of States, utilities and other organizations?
- What should be the role of DOE in the development of models and other analytical tools for estimating and planning the effect of conservation, demand side, and load shaping programs? How can DOE activity in this area be most effectively coordinated with the activity of States, utilities, and other organizations?
- What should be the role of DOE in the information, education, and technology transfer area to accelerate the adoption by utilities and public service commissions of conservation, demand side, and load shaping programs? How can DOE activity in this area be most effectively coordinated with the activity of States, utilities, and other organizations?

II. Comment Procedures

All interested persons are invited to submit written comments to DOE. The correspondence should be mailed to: Office of Conservation and Renewable Energy, Hearings and Docket Branch, Department of Energy, 1000 Independence Avenue, SW., Room 6B–025, Washington, DC 20585. (202) 252–9319 Comments should be identified on the document and envelopes submitted to DOE with the designation "Least-Cost Utility Planning Project." Docket No. CE–RM–86–101. Three (3) copies should be submitted. All written comments and related information should be received by DOE March 24, 1986.

Issued in Washington, DC, February 7, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 86–3707 Filed 2–19–86; 8:45 am]

BILLING CODE 6450–01–M

Energy Conservation Program for Consumer Products; Representative Average Unit Costs of Energy

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy is forcasting the representative average unit costs of five residential energy sources for the year 1986. The five sources are electricity, natural gas, No. 2 heating oil, propane and kerosene. The representative unit costs of these energy sources are used in the Energy Conservation Program for Consumer Products established by the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act.

EFFECTIVE DATE: The representative average unit costs of energy contained in this notice will become effective March 24, 1986, and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station CE–132, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–12, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9513

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619), (Act) [1] requires that the Department of Energy (DOE) prescribe test procedures for the determination of the estimated annual operating cost and other measures of energy consumption for certain consumer products specified in the Act. DOE has prescribed test procedures for the types of products listed in section 322(a)(1)–(13) of the Act. These test procedures are found in 10 CFR Part 430, Subpart B.

Section 323(b) of the Act requires that the estimated annual operating cost of a covered product be computed from measurements of energy use in a representative average-use cycle and from representative average unit costs of the energy needed to operate such product during such cycle. The section further requires DOE to provide information regarding the representative average unit costs of energy for use wherever such costs are needed to perform calculations in accordance with the test procedures. Most notably, these cost are used under the Federal Trade Commission labeling program established by section 324 of the Act and in connection with advertisements of appliance energy use and energy costs which are covered by section 323(c) of the Act.

DOE last published representative average unit costs of residential energy for use in the Energy Conservation Program for Consumer Products on February 4, 1985 (50 FR 4868). Effective March 24, 1986, the cost figures published on February 4, 1985, will be superseded by the cost figures set forth in this notice.

DOE's Energy Information Administration (EIA) has developed the 1986 representative average unit costs of electricity, natural gas and No. 2 heating oil found in this notice. These costs were taken from the October 1985 "EIA Short-Term Energy Outlook", DOE/EIA–0202(85/4Q), which forecasts the retail cost of selected energy products based on changes in world oil prices, wellhead natural gas prices, seasonal patterns in retail prices and established trends in margins and operating expenses. The development of these costs is discussed in detal in the October 1985 issue of this report which is EIA's quarterly publication of historical and forecasted energy consumption and prices. The costs appear in Table 3 of this report.

[1] Reference to the "Act" refer to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act.

Copies of this report are available at the National Energy Information Center, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

In the cases of kerosene and propane, the 1986 representative average unit costs found in this notice were developed by other means since BIA's "Short-Term Energy Outlook" does not provide a forecast of the retail costs of these fuels. However, historical refiner and gas plant operator sales prices for kerosene and propane, and residential prices for No. 2 heating oil are available from another EIA publication, "Petroleum Marketing Monthly," DOE/EIA–0380. Referring to Table 10 of the September 1985 issue of "Petroleum Marketing Monthly," and Table 23 of the issues from February 1985 through September 1985, DOE obtained refiner and gas plant operator average sales prices to end users (excluding major refiners) for kerosene and propane, and for No. 2 heating oil prices to residential consumers for each month of the period January 1985 to the most recent month for which data were available, September 1985. Based on these data, DOE computed the average monthly sales prices for each of these fuels. To forecast 1986 representative average unit costs for kerosene and propane, DOE made the assumption that the percentage change in 1986 from the January–September 1985 period for No. 2 heating oil prices to residential customers also would be applied to kerosene and propane prices. Non-major refiner and gas plant operator prices to end users for kerosene and propane were used since, of the comparable recent data available, these are believed to be most representative of prices to residential consumers. On the basis of this assumption, DOE computed the relative difference between the 1986 representative average unit cost of No. 2 heating oil (taken from the October 1985 issue of "Short-Term Energy Outlook") and the average monthly residential price for No. 2 heating oil over the period January 1985 through September 1985. DOE then applied this computed value to the average monthly non-major refiner and gas plant operator sales prices to end users for kerosene and propane over the period January 1985 through September 1985 to forecast its 1986 representative average unit costs.

The 1986 representative average unit costs stated in Table 1 are provided pursuant to section 323(b)(2) of the Act and will become effective March 24, 1986. They will remain in effect until further notice.

Issued in Washington, DC, February 12, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (1986)

Type of energy	In common terms	As required by test procedure	Dollars per million Btu[1]
Electricity.	6.20 ¢/kWh[2, 3]	$0.0820/kWh	$24.03
Natural gas.	62.0 ¢/therm[4] or $6.30/MCF[5, 6]	$0.00000620/Btu	6.20
No. 2 heating oil.	$1.04/gal[7]	$0.00000750/Btu	7.50
Propane	81.6 ¢/gal[8]	$0.00000897/Btu	8.97
Kerosene.	$1.15/gal[9]	$0.00000854/Btu	8.54

[1] Btu stands for British thermal units.
[2] kWh stands for kilowatt hour.
[3] kWh=3,413 Btu.
[4] 1 therm=100,000 Btu.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,016 Btu.
[7] For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,700 Btu.
[8] For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,000 Btu.
[9] For the purposes of this table, one gallon of kerosene has an energy equivalance of 134,700 Btu.

[FR Doc. 86–3655 Filed 2–19–86; 8:45 am]
BILLING CODE 6450–01–M

[Docket No. CAS–RM–80–304]

Industrial Energy Conservation Program; Exempt Corporations and Adequate Reporting Programs

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of Proposed Exempt Corporations and Adequate Reporting Programs.

SUMMARY: As an annual part of the Department of Energy's (DOE) Industrial Energy Conservation Program, DOE is proposing to exempt certain corporations from the requirement for filing corporate energy efficiency progress reports directly with DOE and is proposing to determine as adequate certain industrial reporting programs for third party sponsor reporting. This notice is required pursuant to section 376(g)(1) of the Energy Policy and Conservation Act (EPCA) and DOE's regulation set forth at 10 CFR Part 445, Subpart D. DOE has compiled this list based on submissions filed by corporations and third party sponsors in accordance with 10 CFR 445.34 and 445.35. The deadline for these filings was January 27, 1986. These procedures, which allow identified corporations to be exempted from filing energy data directly with DOE, assist in maintaining

the confidentiality of consumption information and reduce the reporting burden for corporations. Parentheses with the word "partial" follow any corporation which reports less than its total energy data in a particular 2-digit SIC code through the program sponsor under which it is listed. The corporation reports the rest of its efficiency data through another sponsor or directly to DOE. The proposed exempt corporations and the respective sponsors of adequate reporting programs are listed alphabetically by industry in the appendix to this notice. DOE will accept written comments with respect to this proposed list and will publish a final list in the **Federal Register.**

DATE: Written comments must be received by March 24, 1986.

ADDRESS: Comments should be addressed to: Conservation and Renewable Energy, Department of Energy, Office of Hearings and Dockets, Docket Number CAS–RM–80–304, Forrestal Building Room 6B–025, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252–9319. (3 copies).

FOR FURTHER INFORMATION CONTACT:

Charles J. Glaser, Office of Industrial Programs, CE–14, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252–2429

Vivian S. Lewis, Office of General Counsel, GC–12, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252–9507.

Issued in Washington, DC, January 17, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

Proposed Exempt Corporations and Sponsors of Adequate Reporting Programs

SIC 20—Food and Kindred Products

American Bakers Association

- Anheuser-Busch Co.
- Campbell Soup Company (partial)
- Flowers Industries Inc.
- G. Heileman Brewing Company, Inc. (partial)
- Interstate Bakeries Corporation
- Ralston Purina (partial)
- Sara Lee Corporation (partial)

American Feed Manufacturers Association

- Bell Grain
- Bell Mining
- Cargill Inc.
- Central Soya Company Inc. (partial)
- Gold Kist Inc.
- Land O'Lakes, Inc. (partial)
- Moorman Manufacturing Company
- Quincy Soy Bean Company
- Ralston Purina Company (partial)

American Frozen Good Institute

- Campbell Soup Company (partial)
- J.R. Simplot Company

American Meat Institute

- Beatrice Foods Company (partial)
- Consolidated Foods Corporation (partial)
- Farmland Industries Inc.
- FDL Foods, Inc.
- George A. Hormel & Company
- IBP Inc.
- Oscar Mayer & Company
- Sara Lee Corporation (partial)
- Swift Independent Packing Company
- Wilson Foods Corporation

Biscuit & Cracker Manufacturers Association

- Keebler Company
- Lance, Inc.
- Nabisco Brands, Inc. (partial)
- Sunshine Biscuits, Inc.

Chemical Manufacturers Association

- National Distillers Association

Corn Refiners Association

- A.E. Staley Manufacturing Company (partial)
- American Maize-Products Company
- CPC International Inc.
- Grain Processing Corporation
- Hubinger Company
- National Starch & Chemical Corporation
- Univar Corporation

Grocery Manufacturers of America, Inc.

- A.E. Staley Manufacturing Company (partial)
- American Home Products Corporation
- Amstar Corporation
- Anderson Clayton & Company
- Archer Daniels Midland Company (partial)
- Basic American Foods
- Beatrice Foods Company (partial)
- Borden Inc. (partial)
- Cadbury Schweppes
- Carnation Company
- Central Soya Company, Inc. (partial)
- Chesebrough-Ponds Inc.
- Coca Cola Company
- E.J. Brach & Sons
- General Foods Corporation
- General Mills Inc.
- H.J. Heinz Company (partial)
- Hershey Foods Corporation
- Kellogg Company
- Kraft Inc.
- Lance Inc.
- Mars Inc.
- Nabisco Brands, Inc. (partial)
- PepsiCo Inc.
- Pet Inc.
- Pillsbury Company
- Procter & Gamble Company
- Quaker Oats Company
- Ralston Purina Company (partial)
- R.T. French Company
- Sara Lee Corporation (partial)
- Thomas J. Lipton Inc.
- Universal Foods Corporation

National Food Processors Association

- Campbell Soup Company
- Castle & Cooke Inc.
- Curtice-Burns Inc.
- Del Monte Corporation
- Gerber Products Company
- H.J. Heinz Company (partial)
- Star-Kist Foods Inc.
- Sunkist Growers Inc.
- Tri/Valley Growers Inc.

Pharmaceutical Manufacturers Association

- Eli Lilly and Company

U.S. Beet Sugar Association

- Amalgamated Sugar Company
- American Crystal Sugar Company
- Delta Sugar Company
- Holly Sugar Corporation
- Michigan Sugar Company
- Minn-Dak Farmers Cooperative
- Monitor Sugar Company
- Southern Minnesota Sugar Cooperative
- Union Sugar Company

U.S. Brewers Association

- Adolph Coors Company
- Anheuser-Busch Inc. (partial)
- Archer Daniels Midland Company (partial)
- Froedtert Malt Corporation
- Ladish Malting Company
- Miller Brewing Company
- Pabst Brewing Company
- The Stroh Companies Inc.

U.S. Cane Sugar Refiners Association

- California & Hawaiian Sugar Company
- Colonial Sugars Inc.
- Georgia Sugar Refinery
- Imperial Sugar Company
- Refined Sugars Inc.
- Revere Sugar Corporation
- Savannah Foods & Industries Inc. (partial)
- Supreme Sugar Company, Inc.

SIC 22—Textile Mill Products

American Textile Manufacturers Institute

- Avondale Mills Inc.
- Bibb Company
- Burlington Industries Inc.
- Clinton Mills Inc.
- Coats & Clark Inc.
- Colgate-Palmolive Company
- Collins & Aikman Corporation
- Cone Mills Corporation
- Cranston Print Works Company
- Crompton Company Inc.
- Dan River Inc.
- Dixie Yarns Inc.
- Fieldcrest Mills Inc.
- Goodyear Tire & Rubber Company
- Graniteville Company
- Greenwood Mills Inc.
- J.P. Stevens & Company Inc.
- Johnson & Johnson
- Kimberly-Clark Corporation
- M. Lowenstein & Sons Inc.
- Milliken & Company
- Northwest Industries Inc.
- Reeves Brothers Inc.
- Riegel Textile Corporation
- Russell Corporation
- Sayles Biltmore Bleacheries Inc.
- Spartan Mills Inc.
- Sperry and Hutchinson Company (partial)
- Springs Industries Inc.
- Standard-Coosa-Thatcher Company
- Thomaston Mills Inc.
- Ti-Caro Inc.
- United Merchants & Manufacturers Inc.
- West Point-Pepperell Inc.

Carpet & Rug Institute

- Bigelow-Sanford Inc.

Mohasco Corporation
Shaw Industries Inc.
Standard Oil Company (Indiana)
World Carpets Inc.

SIC 24—Lumber and Wood Products

National Forest Products Association

Abitibi-Price Corporation
Boise Cascade Corporation
Champion International Corporation
Georgia-Pacific Corporation
Koppers Corporation (partial)
Louisiana-Pacific Corporation
Masonite Corporation
Weyerhaeuser Company
Willamette Industries Inc.

Chemical Manufacturers Association

Koppers Co. Inc. (partial)

SIC 26—Paper and Allied Products

American Paper Institute

Abitibi-Price Southern Corporation
Alabama River Pulp Company Inc.
Appleton Papers Inc.
Arcata National Corporation
Bell Fibre Products Corporation
Blandin Paper Company
Boise Cascade Corporation
Bowater Incorporated
Caraustar Industries Company
Champion International Corporation
Chesapeake Corporation
Consolidated Packaging Corporation
Consolidated Papers Inc.
Crown Zellerbach Corporation
Deerfield Specialty Papers, Inc.
Dennison Manufacturing Company
Dexter Corporation
Eddy Forest Products Limited
Erving Paper Mills Inc.
Federal Paper Board Company Inc.
Finch Pruyn & Company Inc.
Fort Howard Paper Company
Fraser Paper Limited
GAF Corporation
Garden State Paper Company Inc.
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc.
Gulf States Paper Corporation
Hammermill Paper Company
Hearst Corporation
International Paper Company
International Telephone & Telegraph Corporation
James River Corporation of Virginia
Jefferson Smurfit Corporation
Kimberly-Clark Corporation
Longview Fibre Company
Macmillan Bloedel Inc.
Marcal Paper Mills Inc.
Mead Corporation
Menasha Corporation
Mobil Oil Corporation (partial)
Mosinee Paper Corporation
Newark Group
Newton Falls Paper Mill Inc.
Olin Corporation
Owens-Illinois Inc.
PH Glatfelter Company
Penntech Papers Inc.
Pentair Industries Inc.
Pope and Talbot Inc.
Potlatch Corporation
Procter & Gamble Company
Rhinelander Paper Company
Scott Paper Company
Simpson Timber Company
Sonoco Products Company
Southeast Paper Manufacturing Company
Southwest Forest Industries
St. Joe Paper Company
Stone Container Corporation
Technographics Inc.
Temple-Inland Inc.
Tenneco Inc.
Times Mirror Company
Union Camp Corporation
Virginia Fibre Corporation
Wausau Paper Mills Company
Weston Paper & Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc.

Chemical Manufacturers Association

Minnesota Mining & Manufacturing Company

Glass—Pressed and Blown (Battelle Institute)

Owens-Corning Fiberglas

SIC 28—Chemicals and Allied Products

Aluminum Association

Aluminum Company of America
Reynolds Metals Company

American Feed Manufacturers Association

Cargill Inc.

Chemical Manufacturers Association

Air Products & Chemicals Inc.
Airco Inc.
Akzona Inc.
Allied Corporation
American Cyanamid Company
American Hoechst Corporation
Arizona Chemical Company
Ashland Oil Inc.
Atlantic Richfield Company
Avtex Fibers Inc.
BF Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Baxter Travenol Laboratories, Inc.
Big Three Industries Inc.
Borden Inc.
Borg-Warner Corporation
Buffalo Color Corporation
Cabot Corporation
Carus Chemical Company Inc.
Celanese Corporation
Chemplex Corporation
Chemtech Industries Inc.
Chevron Chemical Company
CIBA-GEIGY Corporation
Columbia Nitrogen Corporation
Corpus Christi Petrochemical Company
Cosden Oil & Chemical Co.
CPC International Inc.
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemical Company
Dow Corning Corporation
E.I. du Pont de Nemours & Company
Eastmand Kodak Company
Emery Industries
Essex Chemical Corporation
Ethyl Corporation
Exxon Corporation
Firestone Tire & Rubber Company
First Chemical Corporation
FMC Corporation
Freeport Minerals Company
GAF Corporation
Georgia-Pacific Corporation
Goodyear Tire & Rubber Company
Great Lakes Chemical Corporation
Greyhound Corporation
Gulf Oil Corporation
Harshaw/Filtrol Partnership
Henkel Corporation
Hercules Inc.
ICI Americas Inc.
International Minerals & Chemicals Corporation (partial)
Inter North Inc.
Kaiser Aluminum & Chemical Corporation
Kay-Fries Inc.
Kerr-McGee Corporation
Koppers Company Inc.
LCP Chemicals & Plastics, Inc.
Lever Brothers Company
Lubrizol Corporation
Mallinckrodt Inc.
Merichem Company
Minnesota Mining & Manufacturing Company
Mobay Chemical Corporation
Mobil Oil Corporation
Monsanto Company
Morton Thiokol, Inc.
Nalco Chemical Company
National Starch & Chemical Corporation
Neville Chemical Company
Occidental Chemical Corporation
Olin Corporation
Pennwalt Corporation
Pfizer Inc.
Phillips Chemical Company
Pilot Chemical Company
Polysar Gulf Coast, Inc.
Procter & Gamble Company
Reilly Tar & Chemical Corporation
Rohm and Haas Company
Shell Oil Company
Shepherd Chemical Company
Sherex Chemical Company Inc.
Soltex Polymer Corporation
Standard Chlorine of Delaware, Inc.
Standard Oil Company (Indiana)
Stauffer Chemical Company
Sun Olin Chemical Company
Texaco Inc.
Texasgulf Chemicals Co.
Travenol Laboratories Inc.
Union Carbide Corporation
Uniroyal Chemical
United States Borax & Chemical Corporation
United States Industrial Chemicals Corporation
United States Steel Corporation (partial)
Upjohn Company (partial)
USS Chemicals
Velsicol Chemical Corporation
Vertax Inc. (partial)
Vista Chemical Company
Vulcan Materials Company
W.R. Grace & Company
Westvaco Corporation
Weyerhauser Company
Witco Chemical Corporation

Ferilizer Institute

Arcadian Corporation
Atlas Power Company

Beker Industries Corporation
CF Industries Inc.
CPEX Pacific
Cominco America Inc.
Estech General Chemicals Corporation
Farmland Industries Inc. (partial)
First Mississippi Corporation
Gardinier Inc.
Green Valley Chemical Company
Hawkeye Chemical Company
International Minerals & Chemical Corporation (partial)
J.R. Simplot Company
Mississippi Chemical Corporation
Occidental Petroleum Corporation (partial)
Terra Chemicals International Inc.
Union Oil Company of California
United States Steel Corporation (partial)
Williams Companies
Wycon Chemical Company

Pharmaceutical Manufacturers Association

Abbot Laboraties
A.H. Robins Company
American Home Products Corporation (partial)
Beecham Laboratories
Eli Lilly & Company
G.D. Searle & Company
Hoffman-La Roche Inc.
Johnson & Johnson
Merck & Company Inc.
Miles Laboratories Inc.
Schering-Plough Corporation
Squibb Corporation
Upjohn Company (partial)
Warner-Lambert Company

SIC 29—Petroleum and Coal Products

American Petroleum Institute

Agway Inc.
Amber Refining
American Petrofina Inc.
Amoco Corporation
Asamera Oil (US) Inc.
Ashland Petroleum Company
Atlantic Richfield Company
Atlantic Refining & Marketing Co.
Beacon Oil Company
Champlin Petroleum Company
Charter International Oil Company
Chevron Corporation
Clark Oil & Refining Corporation
Coastal Corporation
Conoco Inc.
CRA Inc.
Crown Central Petroleum Corporation
Diamond Shamrock Corporation
Exxon Corporation USA
Farmers Union Central Exchange Inc.
Flecther Oil & Refining Company
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association
Kerr-McGee Corporation
Koch Refining Company
Marathon Petroleum
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association, Inc.
Pacific Resources Inc.
Pennzoil Company
Phillips Petroleum Company
Placid Refining Company
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Sinclair Oil Corporation
Southland Oil Company
Standard Oil Company (Ohio)
Sun Company Inc.
Tenneco Oil Company
Tesoro Petroleum Company
Texaco Inc.
Texas Eastern Corporation
Time Oil
Tosco Corporation
Total Petroleum Inc.
Unocal
Witco Chemical Corporation

Chemical Manufacturers Association

GAF Corporation
Great Lakes Carbon Corporation
Koppers Company Inc. (partial)

Glass—Pressed and Blown (Battelle Institute)

Owens-Corning Fiberglass Corporation

SIC 30—Rubber and Miscellaneous Plastic Products

Chemical Manufacturers Association

American Cyanamid Company
Dart Industries Inc.
Ethyl Corporation
Exxon Corporation
Minnesota Mining & Manufacturing Companyo
Travenol Laboratories Inc.
Union Carbide Corporation
W.R. Grace & Company

Rubber Manufacturers Association

Ames Rubber Corporation
Armstrong Rubber Company
B.F. Goodrich Company
Carlisle Corporation
Cooper Tire & Rubber Company
Dayco Corporation
Dunlop Tire & Rubber Corporation
Firestone Tire & Rubber Company
Gates Rubber Company
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Owens-Illinois Inc.
Teledyne Monarch Rubber Company
Uniroyal Inc.

SIC 32—Stone, Clay and Glass Products

Brick Institute of America

Belden Brick Company
Bickerstaff Clay Products Company Inc.
Boren Clay Products Company
Delta Brick & Tile Company Inc.
General Dynamics Corporation (partial)
General Shale Products Corporation
Glen-Gery Corporation
Justin Industries Inc.
Maryland Clay Products, Inc.
Merry Companies, Inc.
Pine Hall Brick & Pipe Company
Richards Brick Company
Robinson Brick & Tile Company
Victor Cushwa & Sons, Inc.

Chemical Manufacturers Association

GAF Corporation
Minnesota Mining & Manufacturing Company
Vulcan Materials Company

Glass—Flat (Eugene L. Stewart)

AFG Industries Inc.
Ford Motor Company
Guardian Industries Corporation
Libbey-Owens-Ford Company
PPG Industries Inc.

Glass—Pressed & Blown (Battelle Institute)

Anchor Hocking Corporation (partial)
CertainTeed Corporation
Corning Glass Works (partial)
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc. (partial)

Gypsum Association

Domtar Industries, Inc. (partial)
Genstar Gypsum Products Company
Georgia-Pacific Corporation
Jim Walter Corporation (partial)
National Gypsum Company (partial)
Pacific Coast Building Products Company (partial)
United States Gypsum Company (partial)

National Lime Association

Ash Grove Cement Company (partial)
Bethlehem Steel Corporation (partial)
Blue Circle Inc.
Can-Am Corporationo
Continental Lime Company
Cutler-Magner Company
Detroit Lime Company
Dravo Lime Company
General Dynamics Corporation (partial)
Genstar Lime Company
National Lime & Stone Company
Pete Lien & Sons
Rockwell Lime Company
St. Clair Lime Company
Streetley Resources, Inc.
Tenn-Luttrell Lime Companies
United States Gypsum Company (partial)
Vulcan Materials Company (partial)
Warner Company

Portland Cement Association

Aetna Cement Corporation
Arkansas Cement Corporation
Ash Grove Cement Company (partial)
Atlantic Cement Company Inc.
Blue Circle Industries
California Portland Cement Company
Capitol Aggregates Inc.
Centex Corporation
Columbia Cement Corporation
Coplay Cement Manufacturing Company
Davenport Cement Company
Dragon Products Company
Dundee Cement Company
General Portland Inc.
Genstar Cement & Company
Giant Portland & Masonary Cement Co.
Gifford-Hill & Co. Inc.
Ideal Basic Industries
Independent Cement Corporation
Kaiser Cement Corporation
Keystone Portland Cement Company
Lehigh Portland Cement Company (partial)
Lone Star Industries Inc.
Louisville Cement Company
Medusa Corporation
Missouri Portland Cement Company
Monarch Cement Company
Monolith Portland Cement Company
Moore McCormack Cement, Inc.
National Cement Company

Northwestern State Portland Cement Company
Rinker Portland Cement Corporation
River Cement Company
South Dakota Cement Company
Southwestern Porland Cement Company
St. Marys Peerless Cement Co.
Texas Industries Inc. (partial)

Refractories Institute

Allied Chemical Corporation (partial)
Corning Glass Works (partial)
Dresser Industries Inc. (partial)
Kaiser Aluminum & Chemical Corporation (partial)
Martin Marietta Corporation (partial)
National Refractories & Minerals Corporation
Norton Company (partial)
United States Gypsum Company (partial)

Tile Council of America

American Olean Tile Company

SIC 33—Primary Metal Industries

Aluminum Association

Alcan Aluminum Corporation
Alumax
Aluminum Company of America
American Can Company
Atlantic Richfield Company (partial)
Cabot Corporation
Consolidated Aluminum Corporation
Ethyl Corporation
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
National Steel Corporation (partial)
Noranda Aluminum Inc.
Ormet Corporation
Pechiney Ugine Kuhlmann Corporation (partial)
Revere Copper and Brass Inc. (partial)
Reynolds Metals Company
Southwire Company

American Die Casting Institute

Hayes-Albion Corporation (partial)

American Foundrymen's Society

American Cast Iron Pipe Company
Amcast Corporation
Grede Foundries Inc.
Mead Corporation
Teledyne Inc. (partial)
United States Pipe Company

American Iron & Steel Institute

A. Finkl & Sons Company
Allegheny Ludlum
Atlantic Steel Company
Armco Inc.
Babcock & Wilcox
Bethlehem Steel Corporation
Cargill, Inc.
Carpenter Technology Corporation
Colt Industries Inc.o
Cyclops Corporation
Florida Steel Corporation
Ford Motor
Georgetown Steel Corporation
Inland Steel Company
Interlake
Jessop Steel
Keystone Consolidated Industries Inc.
Lone Star Steel Company
LTV Steel
Lukens Steel Corporation
McLaclede
National Steel Corporation (partial)
Northwest Steel Rolling Mills Inc.
Northwestern Steel & Wire Company
Pheonix Steel
Sharon Steel Corporation
Shenago
Teledyne Inc. (partial)
Timken Company
United States Steel Corporation
Washington Steel Corporation
Wheeling Pittsburgh Steel Corporation

American Mining Congress

Amax Inc.
Asarco Inc.
Inspiration Consolidated Copper Company
Kennecott Corporation (partial)
Louisiana Land & Exploration Company (partial)
Marmon Group Inc.
Newmont Mining Corporation (partial)
Phelps Dodge Corporation (partial)
St. Joe Minerals Corporation

Chemical Manufacturers Association

Dow Chemical Company
N.L. Industries

Construction Industry Manufacturers Association

J.I. Case—Tenneco Inc.

Copper & Brass Fabricators Council

Atlantic Richfield Company (partial)o
Bridgeport Brass Corporation
Cerro Copper Products Co.
Cerro Metal Products Co.
Chicago Extruded Metals Company
Extruded Metals
Hussey Copper Ltd.
Kennecott Corporation (partial)
Olin Corporation
Revere Copper & Brass Inc. (partial)

SIC 34—Fabricated Metal Products

Aluminum Association

Aluminum Company of America
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
Reynolds Metals Company

American Boiler Manufacturers Association

Combustion Engineering Inc.
McDermott Inc.

Can Manufacturers Institute

American Can Company
Campbell Soup Company
Continental Group Inc.
Crown Cork & Seal Company Inc.
Miller Brewing Company
National Can Corporation
Stroh Brewery Company

Chemical Manufacturers Association

E.I. du Pont de Nemours & Company

SIC 35—Machinery, Except Electrical

Air Conditioning & Refrigeration Institute

Emerson Electric Company
Honeywell Inc.
Hussman Refrigeration Company
Johnson Controls Inc.
Sundstrand Corporation
Trane Company

Computer & Business Equipment Manufacturers Association

Control Data Corporation
Digital Equipment Corporation
International Business Machines Corporation
Sperry UNIVAC Corporation
TRW Inc.
Xerox Corporation

Construction Industry Manufacturers Association

Caterpillar Tractor Company
Clark Equipment Company
Cummins Engine Company Inc.
Ford Motor Company
Harnischfeger Corporation
Ingersoll-Rand Company
J.L. Case—Tenneco Inc.

SIC 36—Electric, Electronic Equipment

Chemical Manufacturers Association

Great Lakes Carbon Corporation
Minnesota Mining & Manufacturing Company
Airco Inc.
Allied Corporation
Emerson Electric Company
Harvey Hubbell Inc.
Johnson Controls Inc.
Reliance Electric Company
Square D Company
Union Carbide Corporation

SIC 37—Transportation Equipment

Aerospace Industries Association of America

Boeing Company
General Dynamics Corporation (partial)
Grumman Corporation
Hughes Aircraft Corporation
Lockheed Corporation
LTV Aerospace and Defense Company
Marquardt Company
Martin Marietta Corporation
McDonnell Douglas Corporation
Morton Thiokol Corporation
Northrop Corporation
Textron Inc.
TRW Inc.

Chemical Manufacturers Association

Hercules Incorporated

Motor Vehicle Manufacturers Association

American Motors Corporation
Chrysler Corporation
Ford Motor Company (SIC Code 33, Recovered Materials)
General Motors Corporation (SIC Code 30, 33, Recovered Materials)

SIC 38—Instruments and Related Products

Chemical Manufacturers Association

Eastman Kodak Company
Minnesota Mining & Manufacturing Company

Pharmaceutical Manufacturers Association

Johnson & Johnson

[FR Doc. 86-3656 Filed 2-19-86; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Federal Energy Regulatory Commission (FERC) has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: A request for Public Comment was published Monday, December 30, 1985 (50 FR 53190).

FOR FURTHER INFORMATION CONTACT: John Gross, Director, Data Collection Services Division (DCSD), Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., SW, Washington, DC 20585, (202) 252-2308.

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503 (202) 395-7313.

SUPPLEMENTARY INFORMATION: Copies of the proposed collection and supporting documents may be obtained from Mr. Gross. Comments and questions about the item on this list should be directed to the OMB reviewer for the Federal Energy Regulatory Commission.

If you anticipate commenting on the collection, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, DC, February 14, 1986.

Kenneth M. Pusateri,

Acting Director, Office of Hydropower Licensing.

[FR Doc. 86- Filed —86; 8:45 am]

FERC Collection Under Review By OMB

Collection No.: FERC-587
Docket No.: EL85-40-000
Collection title: Index of Essential Power Site Withdrawals
Type of request: New
Response frequency: On occasion
Response obligation: Mandatory
Respondent Description: Individuals or households; State or Local Government; Businesses or other profit; Non-profit institutes; Small businesses or organizations.
Estimated number of respondents: 1,000
Annual respondent burden hours: 25,000

Abstract: Section 24 of the Federal Power Act provides for the automatic withdrawal of federally-owned lands within the proposed boundaries of hydropower projects when an application for preliminary permit or license is filed with the Commission. FERC-587 will collect information to enable the Commission to determine which reserved Federal lands should be released for other possible uses, and which must remain reserved in order to protect the rights of the license and permit holders.

[FR Doc. 86-3794 Filed 2-19-86; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

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, DC 20573.

Louis C. Peterson dba American Global Services, 28200 SW 159th Avenue, Homestead, FL 33033.

Felix A. Paredes, 38 West 37th Street, Hialeah, FL 33012.

By the Federal Maritime Commission.

Dated: February 14, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86-3613 Filed 2-19-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Reissuance of License; Caltrex Forwarders Corp.

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act, 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 No.	Name and address	Date reissued
2665	Caltrex Forwarders Corp., 7901 N.W. 67th Street, Miami, FL 33166.	Oct. 17, 1985.

Eugene P. Stakem,

Deputy Director, Bureau of Tariffs.

[FR Doc. 86-3683 Filed 2-19-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants; Combined Transport Systems, Inc., 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.

Combined Transport Systems, Inc., 815 Elizabeth Avenue, Elizabeth, NJ 07201, Officers: Craig B. Huston, President/Director, Per Ulf Vranum, Vice President/Director, Lona Winblad Vranum, Secretary/Treasurer/Director

Clearfreight, 8647 Aviation Blvd., Inglewood, CA 90301, Officers: Kevin W. Maloney, President/Director, Richard Anderson, Vice President/Director, Janet Swain, Secretary/Treasurer.

By the Federal Maritime Commission.

Dated: February 14, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86-3684 Filed 2-19-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations; Schaefer & Krebs, Inc., et al.

Notice is hereby 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: 271
Name: Schaefer & Krebs, Inc.
Address: One Exchange Place, #308, Jersey City, NJ 07302

Date Revoked: December 31, 1985
Reason: Requested revocation voluntarily
License Number: 1035
Name: Arrow International, Inc.
Address: 7001 SW 15th Street, Miami, FL 33144
Date Revoked: January 15, 1986
Reason: Failed to maintain a valid surety bond
License Number: 2378
Name: Wesco Shipping (U.S.A.) Ltd.
Address: 4700 Broadway, New York, NY 10040
Date Revoked: January 30, 1986
Reason: Failed to maintain a valid surety bond
License Number: 2148
Name: Euramex International Forwarding, Inc.
Address: Hook Creek Blvd., Valley Stream, NY 11581
Date Revoked: February 5, 1986
Reason: Failed to maintain a valid surety bond
License Number: 2954
Name: Cargonet (N.Y.) Inc.
Address: 145 Hook Creek Blvd., Valley Stream, NY 11581
Date Revoked: February 5, 1986
Reason: Failed to maintain a valid surety bond
License Number: 2027
Name: A. H. International Freight Forwarding Corp.
Address: 44 New Street, New York, NY 10004
Date Revoked: February 5, 1986
Reason: Requested revocation voluntarily
License Number: 2751
Name: Wyndam Young dba Wyndam Company
Address: 240 Chattanooga Street, San Francisco, CA 94114
Date Revoked: February 6, 1986
Reason: Requested revocation voluntarily
License Number: 2283
Name: United Export Company
Address: P.O. Box 17205, Washington, D.C. 20041
Date Revoked: February 6, 1986
Reason: Requested revocation voluntarily

Eugene P. Stakem,

Deputy Director, Bureau of Tariffs.

[FR Doc. 86-3685 Filed 2-19-86; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212-010286-008
Title: Italy-U.S.A. North Atlantic Pool Agreement
Parties:
Costa Container Lines
Farrell Lines
Jugolinja
Med-America Express Service
Nedlloyd Lines
Sea-Land Service, Inc.
Zim Israel Navigation Co., Ltd.
Synopsis: The proposed amendment would further define cargo which is not suitable for containerization under the agreement.

Agreement No.: 223-010888
Title: Sea-Land Service/Hanjin Container Terminal Services Agreement
Parties:
Sea-Land Service, Inc. (Sea-Land)
Hanjin Container Lines, Ltd. (Hanjin)
Synopsis: The proposed agreement would permit Sea-Land to provide appropriate container terminal services to Hanjin at the Port of Elizabeth, New Jersey with respect to Hanjin's all-water service between Asia and the Port of Elizabeth. The parties have requested a shortened review period.

Dated: February 14, 1986.

By Order of the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-3690 Filed 2-19-86; 8:45 am]

BILLING CODE 6730-01-M

Filing and Effective Date of Agreement

The Federal Maritime Commission hereby gives notice that on February 10, 1986, the following argeement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed effective that date, to the extent it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No.: 201-000089-003
Title: Morehead City, Wilmington, Southport, Georgetown, Charleston, Port Royal, Savannah, Port Monatee, Brunswick, St. Mary's Fernandina, Jacksonville, Tampa; Tonnage Assessment Agreement
Parties:
South Atlantic Employers Negotiating Committee
International Longshoremen's Association, AFL-CIO
Synopsis: This amendment lowers the overall assessment per ton and that unit assessment. The agreement is a tonnage assessment agreement covering the aforementioned ports. The agreement is designed to obtain funds necessary to meet the fringe benefits obligations under the Employers-ILA collective bargaining agreement. It contains a tonnage assessment formula for funding the fringe benefits obligations for guaranteed annual income, vacation and holiday, and administrative support for these benefits.

By Order the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-3691 Filed 2-19-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

President's Advisory Committee on Mediation and Conciliation; Meeting.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, (Pub. L. 92-463, as amended), notice is hereby given that the President's Advisory Committee on Mediation and Conciliation will meet on the 9th Floor of the Federal Mediation and Conciliation Service on Tuesday, March 4, 1986 from 9:00 a.m. to 5:00 p.m.

The proposed meeting is for the purpose of discussing and reviewing negotiation strategies and discussion of confidential bargaining and mediation information. Because the proposed meeting is likely to disclose: (1) Trade secrets and commercial or financial information obtained from persons which is privileged and confidential strategy; and (2) information the premature disclosure of which would significantly frustrate the implementation of proposed agency action, I have determined that these meetings will be closed to the public

pursuant to subsections (c)(4) and (9)(b) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Dennis R. Minshall, Executive Director, President's Advisory Committee on Mediation and Conciliation, 2100 K Street, NW., Washington, DC 20427 or call (202) 653–5290.

Kay McMurray,

Director.

[FR Doc. 86–3658 Filed 2–19–86; 8:45 am]

BILLING CODE 6372-01-M

FEDERAL RESERVE SYSTEM

Goodhue County Financial Corp., et al.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) and (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 13, 1986.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Goodhue County Financial Corporation,* Red Wing, Minnesota; to acquire Red Wing Loan and Investment Company, Red Wing, Minnesota, and thereby engage in making and servicing loans in accordance with § 225.25(b)(1) of Regulation Y and operating an industrial loan and thrift company in accordance with § 225.25(b)(2) of Regulation Y.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, VIce President) 400 South Akard Street, Dallas, Texas 75222:

1. *Haleco Bancshares, Inc.,* Plainview, Texas, to acquire First Mortgage Services and Investment, Inc., Plainview, Texas, and thereby engage in origination, sale, and servicing of mortgage loans pursuant to section 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 13, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–3608 Filed 2–19–86; 8:45 am]

BILLING CODE 6210-01-M

National City Financial Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 14, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *National City Financial Group, Inc.,* Coral Springs, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of National City Bank, Coral Springs, Florida.

2. *Mid State Banks, Inc.,* Dublin, Georgia; to acquire 100 percent of the voting shares of Planters Bank, Hawkinsville, Georgia; Pineview Bankshares, Inc., Pineview, Georgia, thereby indirectly acquiring Pineview State Bank, Pineview, Georgia; and Flint Bancshares, Inc., Cordele, Georgia, thereby indirectly acquiring Cordele Banking Company, Cordele, Georgia.

b. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Stratford Bancshares, Inc.,* Stratford, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Stratford State Bank, Stratford, Wisconsin.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Commerce Financial Corporation,* Alma, Arkansas; to become a bank holding company by acquiring at least 99.76 percent of the voting shares of Commercial Bank at Alma, Alma, Arkansas.

2. *King Financial Corporation,* Louisville, Kentucky; to become a bank holding company by acquiring at least 85.5 percent of the voting shares of The Central Bank of North Pleasureville, Kentucky, Pleasureville, Kentucky.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Alpine, Inc.,* Alpine, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Alpine, Alpine, Texas.

Board of Governors of the Federal Reserve System, February 13, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–3609 Filed 2–19–86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 86-0484—Keith Rupert Murdoch's proposed acquisition of voting securities of Twentieth Holdings (The News Corp., Limited, UPE).	Jan. 22, 1986.
(2) 86-0496—Keith Rupert Murdoch's proposed acquisition of assets of Metromedia, Inc. and certain voting securities of its subsidiaries.	Do.
(3) 86-0514—The Philip Co. Trust's proposed acquisition of voting securities of WMF Container Corp. (Melville Wier, UPE).	Do.
(4) 86-0515—The Philip Co. Trust's proposed acquisition of voting securities of WMF Container Corp. (Warren Florkiewicz, UPE).	Do.
(5) 86-0485—The Hearst Corp.'s, (The Hearst Trust, UPE) proposed acquisition of assets of VHF television broadcasting station WCVB-TV in Boston, Massachusetts (John W. Kluge, UPE).	Jan. 24, 1986.
(6) 86-0598—John CHR. M.A.M. Duess' proposed acquisition of assets of Northeast Petroleum Corp. (The Charter Co., UPE).	Do.
(7) 86-0534—Convergent Technologies, Inc.'s proposed acquisition of voting securities of 3 Com Corp.	Jan. 27, 1986.
(8) 86-0579—Beneficial Corp.'s proposed acquisition of assets of Commercial Credit Services Corp. (Control Data Corp., UPE).	Do.
(9) 86-0387—Hospital Service Plan of New Jersey's (New Jersey Blue Cross Plan) proposed acquisition of assets of Medical-Surgical Plan of New Jersey (New Jersey Blue Shield Plan).	Jan. 28, 1986.
(10) 86-0513—Louis Marx, Jr.'s proposed acquisition of voting securities of The Prospect Group, Inc.	Do.
(11) 86-0550—Illinois Tool Works, Inc.'s proposed acquisition of assets of Olin Corp. and voting securities of Spit Holding, Inc. and foreign subsidiaries.	Do.
(12) 86-0578—Lennox International, Inc.'s proposed acquisition of assets of Grenada Operations of McQuay, Inc. (Snyder General Corp., Richard W. Snyder, UPE).	Do.
(13) 86-0456—A.B. Aritmos, a Swedish Corp.'s proposed acquisition of assets of Etonic, Inc. (Colgate-Palmolive Co., UPE).	Jan. 29 1986.
(14) 86-0536—Erskine Bronson Ingram's proposed acquisition of voting securities of Micro D, Inc.	Do.
(15) 86-0549—The Goodyear Tire & Rubber Company's proposed acquisition of assets of Mark Bloom Co.; Aurora Tire Co.; Gerard Tire Service; Sims Tire & Auto Service Centers (Texas Eastern Corp.).	Do.
(16) 86.0551—James Crean plc's proposed acquisition of assets of United Foods, Inc.	Do.
(17) 86-0561—Heilig-Meyers Co.'s proposed acquisition of voting securities of Sterchi Bros. Stores, Inc.	Do.
(18) 86-0564—Days Inns Corp.'s proposed acquisition of assets of a Chicago Hotel, H.L.S.D. Venture, a limited partnership.	Do.
(19) 86-0574—Forest Laboratories, Inc.'s proposed acquisition of assets of Berlex Laboratories, Inc. (Schering A.B.).	Do.
(20) 86-0582—Mason Best Co.'s proposed acquisition of voting securities of BBL Industries, Inc. and Decibel Products, Inc. (Commmunications Industries, Inc., UPE).	Do.
(21) 86-0585—Public Service Co. of New Mexico's proposed acquisition of voting securities of BBL Industries, Inc. and Decibel Products, Inc. (Communications Industries, Inc., UPE).	Do.
(22) 86-0215—Rodney L. Propps's proposed acquisition of voting securities of Cadillac Fairvew Corp., Limited, UPE).	Jan. 30, 1986.
(23) 86-0599—Harvard Industries, Inc.'s proposed acquisition of voting securities of Trim Trends Inc. (George W. Walker, Jr., Trust U/A, UPE).	Do.
(24) 86-0525—J. Rothschild Holdings, plc's proposed acquisition of voting securities of L.F. Rothschild, Unterberg, Towbin Holdings, Inc. (L.F. Rothschild, Unterberg, Towbin, UPE).	Jan. 31, 1986.
(25) 86-0528—Westinghouse Electric Corporation's proposed acquisition of assets of Royal Crown Beverage Companies of Southern California (Commercial Las Alturas, S.A., UPE).	Do.
(26) 86-0583—GFI/Knoll International Holding Company's proposed acquisition of voting securities of Foamex Products, Inc. (Foamex Partners, Ltd., UPE).	Do.
(27) 86-0584—Forbes Healthmark's proposed acquisition of voting securities of Metrocare, Inc.	Do.
(28) 86-0589—Trio-Tech International's proposed acquisition of voting securities of MQS Inspection, Inc. (GEO International Corp., UPE).	Do.
(29) 86-0594—Wyndham Foods, Inc.'s proposed acquisition of voting securities of Zatarain's, Inc. (Shamrock Capital, L.P., UPE).	Do.
(30) 86-0597—ITT Corp.'s proposed acquisition of assets of Standard's Heat Transfer Division (American Standard, Inc., UPE).	Do.
(31) 86-0535—Nalco Chemical Co.'s proposed acquisition of assets of Penray Co., X-Laboratories, Inc. & U.S. Packaging Corp. (Robert Latousek, UPE).	Feb. 3, 1986.
(32) 86-0545—TLC Associates' proposed acquisition of voting securities of GATX Corp.	Do.
(33) 86-0548—Exxon Corp.'s proposed acquisition of voting securities of Citco Australia Petroleum Ltd. (Occidental Petroleum Corp., UPE).	Do.
(34) 86-0573—The Coco-Cola Co.'s proposed acquisition of voting securities of The Louisiana Coca-Cola Bottling Co., Ltd.	Do.
(35) 86-0539—Dillard Department Stores, Inc.'s proposed acquisition of assets of R.H. Macy & Co., Inc.	Feb. 4, 1986.
(36) 86-0556—Akzo N.V.'s proposed acquisition of assets of Wilson-Fiberfil International (Plastic Specialties & Technologies, Inc., UPE).	Feb. 5, 1986.
(37) 86-0609—Mid-South Bottling Co.'s proposed acquisition of voting securities of Buchanan Enterprises, Inc. (Sam Buchanan, UPE).	Do.
(38) 86-0540—Snap-On Tools Corp.'s proposed acquisition of voting securities of ATI Industries, Inc. (Industrial Capital Group, UPE).	Feb. 7, 1986.
(39) 86-0616—International Multifoods Corp.'s proposed acquisition of voting securities of Shamrock Capital, L.P.	Do.
(40) 86-0617—Phibro-Salomon, Inc.'s proposed acquisition of assets of Charter International Oil Co. and Acorn Pipe Line Co. (The Charter Co., UPE).	Do.
(41) 96-0634—United States Leasing International, Inc.'s proposed acquisition of assets of The Hertz Corp. (UAL, Inc., UPE).	Do.
(42) 86-0559—Emerson Electric Co.'s proposed acquisition of voting securities of Amerace Corp. (Bass Investment Limited Partnership, UPE).	Feb. 10, 1986.
(43) 86-0614—Alan Bond's proposed acquisition of voting securities of Pittsburgh Brewing Co..	Do.
(44) 86-0591—William Lyon's proposed acquisition of voting securities of Golden West Homes, Inc..	Feb. 11, 1986.
(45) 86-0602—International Technology Corp.'s proposed acquisition of voting securities of McKittrick Mud Co. (William A. Wheeler, UPE).	Do.
(46) 86-0603—William A. Wheeler's proposed acquisition of voting securities of International Technology Corp.	Do.
(47) 86-0605—DMC/WSU Health System's proposed acquisition of voting securities of Woodland Medical Group, P.C..	Do.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-3640 Filed 2-19-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of March 1986:

Name: National Advisory Council on the National Health Service Corps.

Date and Time: March 10–12, 1986, 8:30 a.m.–5:00 p.m.

Place: East Bay Inn, 225 East Bay Street, Savannah, Georgia 31401.

Site visit will be made to the Beaufort-Jasper Community Health Center in Ridgeland, South Carolina, on Tuesday, March 11. Transportation will not be provided for visitors and observers.

The entire meeting is open to the public.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provisions of the legislation.

Agenda: The agenda will include: discussion of Region IV activities, overall National Health Service Corps policies and budget and the visit to the Beaufort-Jasper Community Health Center.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Dr. Kenneth P. Moritsugu, Director, National Health Service Corps, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 6–40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301 443–2900.

Agenda items are subject to change as priorities dictate.

Dated: February 14, 1986.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 86–3665 Filed 2–19–86; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N.86–1589]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Departement. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission Proposed Information Collection to OMB

Proposal: Memorandum of Acceptance for Occupancy (MAO), 24 CFR 841.117/504
Office: Public and Indian Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated Burden Hours: 52
Status: Extension
Contact: Raymond W. Hamilton, HUD, (202) 426–0938; Robert Fishman, OMB, (202) 395–6880

Authority: Sec: 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 8, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Request for Determination of Eligibility as Nonprofit Sponsor and/or Mortgagor
Office: Housing
Form Number: FHA–3433
Frequency of Submission: Annually
Affected Public: Non-Profit Institutions
Estimated Burden Hours: 1,400
Status: Reinstatement
Contact: Robert Wilden, HUD, (202) 426–8730; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 US.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 23, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Lead-Based Paint Hazard Elimination in Public Housing
Office: Public and Indian Housing
Form Number: None
Frequency of Submission: Recordkeeping
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated Burden Hours: 92,400
Status: New
Contact: Thomas Sherman, HUD, (202) 755–5380; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 US.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 10, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Title I Property Improvement and Manufactured Home Programs (24 CFR 201)
Office: Housing
Form Number: FH–1(HP), FH–13(MH), HUD–9399, 50083, 56001, 56001(MH), 56004, and 92802
Frequency of Submission: On Occasion
Affected Public: Individuals or Households, Businesses or Other For-Profit, and Small Businesses or Organizations
Estimated Burden Hours: 142,343
Status: Revision
Contact: James L. Anderson, HUD, (202) 755–6880; Robert Fishman, OMB, (202) 395–6860.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 US.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 3, 1986.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Public Housing Agency (PHA) and Indian Housing Authorities (IHA) Automation Questionnaire
Office: Public and Indian Housing
Form Number: HUD–52492.4
Frequency of Submission: Single-Time

Affected Public: State or Local Governments
Estimated Burden Hours: 6,320
Status: New
Contact: Fred Hurd, HUD, (202) 755–7920; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 US.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 31, 1985.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 86–3659 Filed 2–19–86; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–86–1581]

Office of Lender Activities and Land Sales Registration, Interstate Land Sales Registration Division; Order of Suspension

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Office of Interstate Land Sales Registration, Interstate Land Sales Registration Division, HUD.

ACTION: Order of Suspension.

SUMMARY: The Department is issuing an Order of Suspension to each developer listed on the attached Appendix. These developers have failed to either file amendments to their registrations or file documentation establishing that no such amendments were necessary.

The Order of Suspension is issued pursuant to the Interstate Land Sales Full Disclosure Act.

EFFECTIVE DATE: February 20, 1986.

FOR FURTHER INFORMATION CONTACT: Roger G. Henderson, Branch Chief, Land Sales Enforcement Branch, Department of HUD, Room 6278, Washington, DC 20410. Telephone: (202) 755–0502. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Interstate Land Sales Registration Division gives public notice of its attempt to serve upon certain persons at their last known address a notice requiring revisions to their Statement of Record. Although service of notice by certified mail was attempted in accordance with 24 CFR 1720.170, it was not possible. Consequently, on January 13, 1986 the Department of Housing and Urban Development, pursuant to 44 U.S.C. 1508, published in the **Federal Register** a Notice of Proceedings and Opportunity for Hearing (51 FR 1444) effecting constructive notice on certain Developer respondents. The Notice informed these persons of omissions of material provisions required by law in their Statement of Record and Property Reports, and advised them of their rights to request a hearing within 15 days of publication of the Notice. More than 15 days have now elapsed since the publication of the Notice and the persons listed in the attached Appendix and referred to in the Order of Suspension as "Developer" have not requested a hearing; therefore, the Department is required to issue this Order of Suspension.

Order of Suspension

1. The Developer being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.) and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, has filed its Statement of Record and Property Report covering its subdivision which became effective pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. Pursuant to lawful delegation, as authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been vested in the Secretary or designee.

3. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), if it appears to the Secretary or designee at any time that a Statement of Record which is in effect includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading the Secretary or designee may after notice and after an opportunity for a hearing requested within 15 days of receipt of such notice issue an order suspending the Statement of Record.

4. A Notice of Proceedings and Opportunity for Hearing was published in the **Federal Register** on January 13, 1986, (51 FR 1444), informing the Developer of information obtained by the Interstate Land Sales Registration Division stating an untrue statement of a material fact or an omission of a material fact required to be stated therein or necessary to make the statements therein not misleading in the Developer's Statement of Record. The Developer was constructively notified of its right to request a hearing and that if it failed to request a hearing it would be deemed in default and the proceedings would be determined against it, the allegations of which would be determined to be true. The Developer has failed to answer or to request a hearing pursuant to 24 CFR 1720.220 within 15 days of publication of said Notice of Proceedings and Opportunity for Hearing.

Therefore, pursuant to the provision of 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) the Statement of Record filed by the developer covering its subdivision is hereby suspended, effective as of February 20, 1986. This Order of Suspension shall remain in full force and effect until the Statement of Record has been properly amended as required by the Interstate Land Sales Full Disclosure Act and the Implementing Regulations.

Pursuant to 44 U.S.C. 1508, service of this Order upon the Respondent is constructively noticed by publication of this Order in the **Federal Register.**

Unless otherwise exempt any sales or offers to sell made by the Developer or its agents, successors, or assigns while this Order of Suspension is in effect will be in violation of the provisions of said Act.

Dated: February 3, 1986.

Janet Hale,

General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

Appendix

The captioned matters in this Appendix are listed alphabetically by subdivision in each State. The list contains the name of the subdivision developer representative and title. OILSR number and Land Sales Enforcement Division Docket number.

California

Tahoe Donner. Dart Resorts. Justin Dart. Chairman of the Board; c0 01700 04 330 plus (A–F) and (I–L), M–85–070

Morro Strand Units 1–4, Morro Strand, Inc., Joseph Rizzo, President c0–04535–04–0813, M–85–101

Florida

St. Johns Riverdale Estates. Highland Continental-Southwest Land Corporation. Robert Kaufman, President; 0–02590–09–774, M–85–020

Georgia

Sea Plam Gold and Country Club, Sea Palm, Incorporated, Charlie A. Evans II. President 0–01393–10–10, M–85–084

Idaho

Thunder Mountain Ranch, Thunder Mountain Ranch Joint Venture, Scott W. Bennett, President; 0–05212–12–79 and (A–B), M–85–080

Hawaii

Wailoloa Urban Reserve, Boise Cascade Home and Land Corp., Ann L. Davie, Agent; 0–04064–14–69, M–85–083

Kentucy

Beach Bend Estates, Trigg Lands, Inc., Fred Beach, President; 0–04939–20–101 and (A), M–85–090

Michigan

Forest Lake, Stanton Properties, Ltd., John M. Stanton, President; 0–05641–26–148, M–85–086

New Hamphsire

Gunstock Acres, Steven H. Byrne and Paul Woods, Joint Owners; 0–05583–34–103, M–85–022

New Mexico

Happy Valley, Kaneoke Land Company, Ltd., Morris Moche, President; 0–05874–36–250, M–85–087

Oregon

Newberry Estates, Sun Country Land and Cattle Corp., Wayne Roan, President; 0–05223–43–115 and (A), M–85–088

Vermont

Ascutney Mountain Village, Mt. Ascutney Corporation, Robert C. Williams, President; 0–01295–53–24, M–85–078

Virginia

Carisbrooke Sections 1,2, and 3, Tidewater Virginia Properties, Inc., Elmon T. Gray and Horace A. Gray, III, Principals; 0–04738–54–233, M–85–015

Washington

Arthur's Tranquil Acres and Lazy River Farmettes, Arthur's Land Co., Inc., Robert C. Authur, President; 0–03430–56–90, M–85–045

Wisconsin

Greenwood Acres, Waushara Land Corp., William W. Creamer, Secretary; 0–04089–58–87, M–85–089

[FR Doc. 86–3660 Filed 2–19–86; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. D–86–813, FR–2220]

Organization, Functions, and Authority Delegations; Buffalo

AGENCY: Department of Housing & Urban Development.

ACTION: Designation of Order of Succession.

SUMMARY: The Manager is designating officials who may serve as Acting Manager during the absence, disability, or vacancy in the position of Manager.

EFFECTIVE DATE: This designation is effective January 22, 1986.

FOR FURTHER INFORMATION CONTACT: Administrative and Management Services Division, Office of Administration, New York Regional Office, Department of Housing and Urban Development, 26 Federal Plaza, New York, NY 10278, telephone (212) 264–2761. (This is not a toll-free number.)

Designation: Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence, disability, or vacancy in the position of the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided, that no official is authorized to serve as Acting Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Manager
2. Director, Community Planning and Development Division
3. Director, Housing Management Division
4. Director, Housing Development Division
5. Director, Fair Housing and Equal Opportunity Division
6. Chiet Counsel

This designation supersedes the designation effective July 11, 1984.

Authority: Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971.

Dated: January 22, 1986.

Joseph D. Monticciolo,

Regional Administrator, Regional Housing Commissioner, Region II.

[FR Doc. 86–3661 Filed 2–19–86; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. D–86–812; FR–2219]

Organization, Functions, and Authority Delegations; Chicago

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of Order of Succession.

SUMMARY: The Regional Administrator-Regional Housing Commissioner is designating officials who may serve as Acting Regional Administrator-Regional Housing Commissioner during the absence, disability or vacancy in the position of the Regional Administrator-Regional Housing Commissioner.

EFFECTIVE DATE: This designation is effective January 27, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis Nixon, Regional Counsel, Chicago Regional Office, 300 South Wacker Drive, Chicago, Illinois, 60606–6765, (312) 353–4681. (This is not a toll-free number).

Designation: Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator-Regional Housing Commissioner during the absence, diability or vacancy in the position of the Regional Administrator-Regional Housing Commissioner, with all the powers, functions and duties redelegated or assigned to the Regional Administrator-Regional Housing Commissioner: Provide that no official in this designation is authorized to serve as the Regional Administrator-Regional Housing Commissioner unless all other officials whose title precedes his or hers in this designation are unable to act by reason of absence, disability or vacancy.

1. Deputy Regional Administrator
2. Regional Counsel
3. Executive Assistant to the Regional Administrator
4. State Program Director

This designation supersedes the designation published May 15, 1984 (at Docket No. D–84–752) and FR (Citation) Vol. 49, No. 95, effective September 15, 1983.

Authority: Delegation of Authority, 27 FR 4319 (1962): section 9(c), Department of Housing and Urban Development Act, 42 U.S.C. 3531 note: and Interim Order II, 31 FR 815 (1966).

Dated: January 27, 1986.

Gertrude W. Jordan,

Regional Administrator, Regional Housing Commissioner, Region V, Chicago Regional Office.

[FR Doc. 86–3662 Filed 2–19–86; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. D–86–814; FR–2218]

Organization, Functions, and Authority Delegations; Sacramento

AGENCY: Department of Housing and Urban Development.

ACTION: Designation and Order of Succession.

SUMMARY: The Manager of the Sacramento Office in Region IX is designating Officials who may serve as Acting Manager during the absence, disability, or vacancy in the position of Manager.

EFFECTIVE DATE: January 17, 1986.

FOR FURTHER INFORMATION CONTACT: Beverly G. Agee, Regional Counsel, Department of Housing and Urban

Development, Region IX, 450 Golden Gate Avenue, Box 36003, San Francisco, CA 94102. Telephone (415) 556–6110. This is not a toll-free number.

Designation of Acting Manager: Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence, disability, or vacancy in the position of Manager, with all the powers, functions, and duties redelegated or assigned to the Manager:

Provided, that no official is authorized to serve as Acting Manager unless all preceding listed officials in this designation are unable to act by reason of absence, disability, or vacancy in said position:

1. Deputy Manager/Director, Housing Management
2. Director, Housing Development
3. Chief Attorney
4. Supervisory Loan Specialist Realty and Property Disposition
5. Supervisory Housing Management Officer
6. Supervisory Loan Specialist Realty (Mortgage Credit)
7. Supervisory Appraiser
8. Supervisory Construction Analyst

This designation supersedes and cancels any previous designation, published or unpublished, that may be in effect prior to the effective date of this document.

Authority: Delegation of Authority by the Secretary of Housing and Urban Development effective October 1, 1970; 36 FR 3389, February 23, 1971.

Dated: January 17, 1986.

Anthony A. Randolph,

Manager, Sacramento Office, Department of Housing and Urban Development, Region IX.

Concur:

Duncan Lent Howard,

Regional Administrator, Regional Housing Commissioner, Region IX.

[FR Doc. 86–3663 Filed 2–19–86; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D–86–815; FR–2217]

Organization, Functions, and Authority Delegations; Seattle

AGENCY: Department of Housing and Urban Development, HUD.

ACTION: Designation of order of succession.

SUMMARY: The Regional Administrator-Regional Housing Commissioner of Region X (Seattle) is designating officials who may serve as Acting Regional Administrator-Regional Housing Commissioner during the absence, disability, or vacancy in the position of Regional Administrator-Regional Housing Commissioner.

EFFECTIVE DATE: January 15, 1986.

FOR FURTHER INFORMATION CONTACT: Waller Taylor, III, Regional Counsel, Seattle Regional Office, Department of Housing and Urban Development, 1321 Second Avenue, Seattle, Washington, 98101, (206) 442–4970. (This is not a toll-free number.

Designation: Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator-Regional Housing Commissioner during the absence, disability, or vacancy in the position of the Regional Administrator-Regional Housing Commissioner with all the powers, functions, and duties redelegated or assigned to the Regional Administrator-Regional Housing Commissioner: provided, that no official is authorized to serve as Acting Regional Administrator-Regional Housing Commissioner unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position.

1. Deputy Regional Administrator
2. Director, Office of Administration
3. Regional Counsel
4. Director, Office of Fair Housing and Equal Opportunity
5. Director, Office of Community Planning and Development
6. Director, Operational Support

Authority: Delegation of Authority, 27 FR 4319 (1962): Section 9(c). Department of Housing and Urban Development Act, 42 U.S.C. 3531 note; and Interim Order II, 31 FR 815 (1966).

Dated: January 13, 1986.

William Y. Nishimura,

Regional Administrator—Regional Housing Commissioner, Seattle Regional Office.

[FR Doc. 86–3664 Filed 2–19–86; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20530, telephone 202–395–7340.

Title: Coal Management—Federally Owned Coal, 43 CFR Group 3400.

Abstract: Respondents supply information on coal quality and quantity, their interest in leasing coal, their qualifications to hold Federal coal leases, and, if the respondents are qualified surface owners, their preference for or against surface mining. This information allows the bureau to comply with statutory provisions pertaining to Federal coal leasing.

Bureau Form Number: None.

Frequency: Non-recurring.

Description of Respondents: Prospective coal lessees and licensees and qualified surface owners.

Annual Response: 762.

Annual Burden Hours: 8,685.

Bureau Clearance Officer: Rose Marie Berezowsky, 202–653–8860.

July 24, 1985.

Arnold E. Petty,

Director.

[FR Doc. 86–3603 Filed 2–19–86; 8:45 am]

BILLING CODE 4310-84-M

[M 68761]

Montana; Proposed Withdrawal and Opportunity for Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 320 acres of public land to protect a rare paleontological site 25 miles southeast of Lewistown, Montana. This notice closes the land for up to 2 years from surface entry, mining, and surface use and occupancy under the mineral leasing laws.

DATE: Comments and requests for a public meeting should be received by May 15, 1986.

ADDRESS: Comments and meeting requests should be sent to: Montana State Director, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office (406) 657–6090.

On January 28, 1986, a petition was approved allowing the Bureau of Land

management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general public land laws, including the mining laws and surface use and occupancy under the mineral leasing laws, subject to valid existing rights:

Principal Meridian

T. 13 N., R. 22 E.,
Sec. 6, W½SE¼;
Sec. 8, SW¼NW¼.
T. 14 N., R. 22 E.,
Sec. 33, N½SE¼;
Sec. 34, N½SW¼ and SE¼NE¼.
The area described contains 320 acres in Fergus County.

The purpose of the proposed withdrawal is to protect the land for its valuable paleontological properties.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Montana State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Montana State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the terms and place will be published in the Federal Register at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregation period are limited to archeological exploration and any approved surface uses.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

February 10, 1986.

[FR Doc. 86-3604 Filed 2-19-86; 8:45 am]

BILLING CODE 4310-DN-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on the theme: "The Field Perspective—Small Scale Projects for Long-Term African Development". This is a preparatory meeting for the Advisory Committee's June 1986 meeting in Lome, Togo. The meeting will be *one day only*, Thursday, March 6, 1986, in the Loy Henderson International Conference Room, Department of State, Washington, DC. To enter the building, use C Street (Diplomatic Entrance) between 21st and 23rd Streets, NW., Washington, DC.

Thursday, March 6, 1986

Registration:

The meeting is free and open to the public. However, *PRE-REGISTRATION BY MARCH 1, 1986 THROUGH ADVISORY COMMITTEE HEADQUARTERS IS REQUIRED BY THE DEPARTMENT OF STATE FOR SECURITY REASONS.*

8:30 am.—On-site registration will begin for PRE-REGISTERED participants.
9:00–9:15 a.m.—*INTRODUCTORY REMARKS.*
9:15–10:15 a.m.—*TOPIC I*—Review of Committee's preliminary recommendations from December 1985 meeting—Question and Answer Period.
10:15–10:45 a.m.—*TOPIC II*—Discussion of ACVFA objectives for Africa meeting.
10:45–11:00 a.m.—*BREAK.*
10:00–12:15 p.m.—*TOPIC III*—Review of draft agenda and identification of resources—e.g., speakers, organizational contacts, site visits etc., for Africa meeting.
12:15–2:00 p.m.—*LUNCH.*
2:00–2:30 p.m.—*TOPIC IV*—Report on Gramm-Rudman-Hollings Bill:
2:30–3:15 p.m.
TOPIC V—Report on Privateness Update.
TOPIC VI—Report to Congress on NGO effectiveness; highlights in relation to Africa meeting; recommendations regarding future areas that PVOs and/or AID should be tracking.
3:15–3:30 p.m.—*TOPIC VII*—Report of African Famine Supplemental.
3:30–3:45 p.m.—*BREAK.*
3:45–4:00 p.m.—*TOPIC VIII*—Briefing update on upcoming DAC meeting on NGO role in Africa.
4:00–4:30 p.m.—Final review of agenda and logistics for Africa meeting.

There will be AID representatives at the meeting. Any interested person may attend, request to appear before, or file statements with the Advisory Committee. Written statements should be filed prior to the meeting and should be available in twenty five (25) copies.

Persons wishing to attend the meeting must call (703) 235–2708/3336, or write, or send registration form to arrive *NLT March 1, 1986,* to arrange entrance to the Department of State Building. The address is: The Advisory Committee on Voluntary Foreign Aid, Room 227, SA–8, Agency for International Development, Washington, DC 20523.

Dated: February 7, 1986.

Julia Chang Block,

Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 86-3601 Filed 2-19-86 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collection: The proposed information collection is for use by the Commission in connection with investigation No. 332–222, A Competitive Assessment of the U.S. Jewelry Industry.

Summary of Proposals:

(1) Number of forms submitted: six;

(2) Title of forms: Questionnaire for Producers of Costume Jewelry and/or Parts Thereof; Questionnaire for Importers of Costume Jewelry and/or Parts Thereof; Questionnaire for Purchasers of Costume Jewelry and/or Parts Thereof; Questionnaire for Producers of Precious Metal Jewelry and/or Parts Thereof; Questionnaire for Importers of Precious Metal Jewelry and/or Parts Thereof; Questionnaire for Purchasers of Precious Metal Jewelry and/or Parts Thereof;

(3) Type of Request: new;

(4) Frequency of use: non-recurring;

(5) Description of respondents: U.S. jewelry producers, importers and purchasers;

(6) Estimated number of respondents: 590;

(7) Estimated total number of hours to complete the forms: 7,728;

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment: Copies of the proposed forms and supporting documents may be obtained from Brian Garbecki (USITC, tel. no. 202–724–1731). Comments and questions about the proposals should be directed to Ms. Francine Picoult, Desk Officer for U.S. International Trade Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503 (202–395–7231). If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent within two weeks of the date this notice appears in the **Federal Register**. Copies of any comments should be provided to Charles Ervin (United States Internaitonal Trade Commission, 701 E Street, NW., Washington, DC 20436).

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

By order of the Commission.

Issued: February 14, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–3681 Filed 2–19–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–232]

Import Investigations; Certain Glass Firescreens for Fireplaces; Termination of Investigation

AGENCY: International Trade Commission.

SUMMARY: Termination of investigation as to all respondents on the basis of a settlement agreement; termination of investigation.

ACTION: The Commission has determined not to review the presiding administrative law judge's initial determination (ID) (Order No. 5) terminating the above-captioned investigation with respect to all parties on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: E. Clark Lutz, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–164.

SUPPLEMENTARY INFORMATION: On December 20, 1985, complainants Cumberland Valley Metals, Inc., and Niles Mfg. & Finishing, Inc., and the only respondents in the investigation, Thomas Industries, Inc., and Oliver-MacLeod, Ltd., filed a joint motion to terminate the investigation as to all parties on the basis of a settlement agreement. The motion was supported by the Commission investigative attorney. The administrative law judge (ALJ) issued an ID granting the joint motion for termination on January 9, 1986. No petitions for review or comments from Government agencies or the public were received.

Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.,) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: February 10, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–3636 Filed 2–19–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731–TA–306 and 307 (Preliminary)]

Glyoxal From the Federal Republic of Germany and France

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731–TA–306 and 307 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Federal Republic of Germany and France of glyoxal, provided for in item 427.53 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in these cases by March 31, 1986.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: February 12, 1986.

FOR FURTHER INFORMATION CONTACT: Cynthia Wilson (202–523–0291), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-imparied individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on February 12, 1986, by counsel on behalf of the American Cyanamid Company of Wayne, NJ.

Participation in the investigations.—Persons wishing to participate in these investigations 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 then seven (7) 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 these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by party to the investigations must be served on all other parties to the investigations (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.

Conference.—The Director of Operations of the Commission has

scheduled a conference in connection with these investigations for 9:30 a.m., on March 7, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Cynthia Wilson (202–523–0291) not later than March 5, 1986, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before March 11, 1986, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). 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 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 must 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).

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: February 14, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–3682 Filed 2–19–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–240]

Import Investigations; Certain Laser Inscribed Diamonds

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and 19 U.S.C. 1337a.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 9, 1986, under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and under 19 U.S.C. 1337a, on behalf of Lazare Kaplan, Inc., 529 Fifth Avenue, New York, New York 10017. Amendments to the complaint were filed on January 22, 1986 and January 30, 1986. The complaint as amended alleges unfair methods of competition and unfair acts in the importation of certain laser inscribed diamonds into the United States, and in their sale, by reason of alleged (1) infringement of claims 1–4, 7, 9, 11–13, 15, and 18–20 of U.S. Letters Patent 4,392,476; and (2) false description and representation in violation of Section 43(a) of the Lanham Act and false advertising under the common law of unfair competition. The complaint further alleges that the effect of tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Gary L. Kaplan, Esq., or Robert D. Litowitz, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–523–1088 and 202–523–4693, respectively.

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on February 6, 1986, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation into the United States of certain laser inscribed diamonds, or in their sale, by reason of alleged (1) infringement of claims 1–4, 7, 9, 11–13, 15, and 18–20 of U.S. Letters Patent 4,392,476; and (2) false advertising, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Lazare Kaplan, Inc., 529 Fifth Avenue, New York, New York 10017.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

I.B. Goodman Mfg. Co., Inc., 420 Plum Street, Fourth Floor, Cincinnati, Ohio 45202

Sears, Roebuck & Co., Sears Tower, Chicago, Illinois 60684

(c) Gary L. Kaplan, Esq., and Robert D. Litowitz, Esq., Office of Unfair Import Investigations, United States International Trade Commission, 701 E Street NW., Room 126, Washington, DC 20436, shall be the Commission investigative attorneys, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to § § 201.16(d) and 210.21(a) of the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 710 E Street NW., Room 156, Washington, DC 20436, telephone 202–523–0471. Hearing-impaired individuals are advised that information on this matter can be obtained by

contacting the Commission's TDD terminal on 202–724–0002.

Issued: February 10, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–3635 Filed 2–19–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–226]

Import Investigation; Certain Mass Spectrometers and Components Thereof; Commission Decision To Review Initial Determination

AGENCY: International Trade Commission.

ACTION: Review of initial determination.

SUMMARY: Notice is hereby given that the Commission has determined to review the administrative law judge's initial determination (ID) (Order No. 3) granting a joint motion to terminate the investigation filed by complainant Finnigan Corporation and S.N. Nermag and Delsi, Inc., the only respondents remaining in the investigation.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0375.

SUPPLEMENTARY INFORMATION: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53–210.55 of the Commission's rules (19 CFR 210.53–.55).

On January 9, 1986, the presiding administrative law judge (ALJ) issued an ID granting the joint motion to terminate the investigation filed by complainant and the remaining respondents in the investigation. The joint motion to terminate was based on a proposed consent order. Respondents filed a petition for review of the ID pursuant to § 210.54(a) of the Commission's rules. Complainant and the Commission investigative attorney filed responses to that petition. No Government agency or public comments were received with respect to the ID.

Copies of the nonconfidential version of the ALJ's ID and all other nonconfidential documents file in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: February 13, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–3639 Filed 2–19–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–237]

Import Investigations; Certain Miniature Hacksaws; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Scotty's Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the dermination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on February 11, 1986.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: February 11, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–3638 Filed 2–19–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–237]

Import Investigations; Certain Miniature Hacksaws; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: U.S. General Supply Corp.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on February 10, 1986.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the

Commission's TDD terminal on 202–724–0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: February 10, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–3637 Filed 2–19–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–241]

Import Investigations; Certain Prefabricated Bow Forms

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 15, 1986, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, Minnesota 55133. The complaint alleges unfair methods of competition and unfair acts in the importation into the United States of certain prefabricated bow forms, and in their sale, by reason of alleged infringement of claims 1 and 2 of U.S. Letters Patent 3,637,455. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Deborah S. Strauss, Esq. or Gary L. Kaplan, Esq, Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–523–1233 and 202–523–1088, respectively.

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on February 12, 1986 ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain prefabricated bow forms into the United States, or in their sale, by reason of alleged infringement of claims 1 and 2 of U.S. Letters Patent 3,637,455, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complaint is: Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, Minnesota 55133.

(b) The respondents are following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Sky Blue Import/Export, P.O. Box 757, Manila, Philippines

Nastrificio Angelo Bolis S.p.A, 24036 Ponte S. Pietro, Bergamo, Italy

Celifix & Co., Ltd., Room 906–907 Man Yee Building, Des Voeux Road, Central G.P.O. Box 4901, Hong Kong

Gen Art Co., Ltd., P.O. Box 87–327, Taipei, Taiwan

Sunny Valley, Inc., P.O. Box 58460, Taipei, Taiwan

Berwick Industries, Inc., 80 East Ridgewood Avenue, Paramus, New Jersey 07652

McGinley Mill, Inc., P.O. Box 68, Phillipsburg, New Jersey 08865

Tracy Hamilton, Inc., 20 Maple Place, Freeport, New York 11520

Sterling Novelty Products, 2139 North Elston Avenue, Chicago, Illinois 60614

Harvard Fair Corporation, P.O. Box 2317, Del Mar, California 92014.

(c) Deborah S. Strauss, Esq., and Gary L. Kaplan, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E. Street NW., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorneys, party to this investigation; and

(4) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and the authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, DC 20436, telephone 202–523–0471. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: February 13, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–3634 Filed 2–19–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation 332-223]

Impact of Increased U.S.-Mexican Trade on Southwest-Border Development

Correction

In FR Doc. 86-2562 beginning on page 4665 in the issue of Thursday, February 6, 1986, make the following correction: The investigation number was inaccurate in the heading and should read as set forth above.

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30746 (Sub-1)]

Southern Railway Co. & Southern Railway—Carolina Division; Construction of Connection Tracks; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission, under 49 U.S.C. 10505, exempts from the requirements of 49 U.S.C. 10901, the cosntruction of three connection tracks totaling 719 feet at Shelby, near Conshel, and at Forest City, NC, by the Southern Railway Company and the Southern Railway—Carolina Division.

DATES: The decision is effective on February 20, 1986, and petitions to reopen must be filed by March 12, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30746 (Sub-No. 1) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Nancy S. Fleischman, Norfolk Southern Corporation, 1050 Connecticut Avenue NW., Suite 740, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commisison's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Interstate Commerce Commission Building, Room 2229, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: January 30, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley commented with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 86-1873 Filed 2-19-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration; Ciba-Geigy Corp.

By Notice dated October 29, 1985, and published in the **Federal Register** on November 15, 1985; (50 FR 47293), Pharmaceuticals Division, Ciba-Geigy Corporation, Attention: Regulatory Compliance, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: February 10, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-3653 Filed 2-19-86; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application; Knoll Pharmaceuticals

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 18, 1985, Knoll Pharmaceuticals, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II

Any other such applicant and any person who is presently registered with the DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than March 24, 1986.

Dated: February 12, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-3654 Filed 2-19-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time, and place: March 11, 1986, 9:30 a.m., Rm./ S4215 A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210.

Purpose: To discuss Trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, DC this 13th day of February, 1986.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 86-3680 Filed 2-19-86; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL TRANSPORTATION SAFETY BOARD

Safety Recommendations Issued; Availability

NATIONAL TRANSPORTATION SAFETY BOARD

[Safety recommendations issued]

Recommendation No.	Issued to	DAte	Subject
A-85-141	Federal Aviation Administration (FAA)	12/31/85	JT8D outer combustion case cracking and evidence of high temperature burner air impingement.
A-86-7 through -12	FAA	1/15/86	Washington National Airport—air traffic rules, procedures, routes.
A-86-142 through -144	FAA	1/16/86	Cessna 12, 206, 207, 210, and 337 model airplanes; control wheel switch wire ribbons.
A-86-13	FAA	2/11/86	Nose gear centering spring bolt on Piper PA-34-200 airplanes.
A-86-4 and -5	FAA	2/11/86	Cessna T310, 320, 340, 401, 411, and Model 402, 402A, 402B, 414, 421, 421A, and 421,B airplanes; inspection of engine exhaust manifold assemblies, wye assemblies, turbo inlet elbow assemblies, and collector assemblies.
A-86-6	FAA	2/11/86	Beech series 33, 35, 36, 55, 58, and 95-67 airplanes; sponge-filled fuel reservoir tanks.
Highway			
H-85-56	South Carolina Office of Transportation and Alabama Office of Pupil Transportation.	2/5/86	Hiring of 16- and 17-year-old schoolbus drivers.
H-85-53	National Highway Traffic Safety Administration	2/5/86	Student behavior on schoolbuses.
H-85-59	North Carolina Department of Transportation	2/5/86	Installation of a guardrail on North Carolina State Route 88 from 0-35 to 0.65 mile west of Jefferson, North Carolina.
H-85-56 through -58	North Carolina State Board	2/5/86	Practice of hiring 16- and 17-year old schoolbus drivers, passenger discipline.
H-85-54 and -55	Ashe County School Board, Jefferson, North Carolina.	2/5/86	Emergency evacuation drills; monthly schoolbus inspections followup.
H-85-52	Federal Highway Administration	2/6/86	Re-audit of motor carriers or hazardous materials shippers within 1 year after completion of an enforcement action.
H-85-51	National Highway Traffic	2/6/86	School Bus Body Joint Strength.
Marine			
M-85-120 and -121	U.S. Coast Guard	1/15/86	Remote release of barges from the pilothouse and EPIRBs (emergency position indicating radio beacons.
M-85-122	M.J. Rudolph Corporation	1/15/86	Barge maintenance program; watertight compartmentation.
M-85-123	Island Park Tanker Corp	1/15/86	Quick-release devices on tugs that tow scrap barges.
M-85-124	Jacob Brothers, Inc	1/15/86	Safe depth for barge drafts.
M-86-8 through -10	Dakota Creek Industries, Inc	2/6/86	Stability test for vessels;
M-86-4 through -7	Jeff Hendricks & Associates	2/5/86	Stability tests for new & modified vessels and training for fishing vessel captains in vessel stability.
M-86-11	U.S. Coast Guard	2/6/86	Stability tests for commercial fishing vessels.
M-86-1 through -3	North Pacific Fishing Vessel Owners Association	2/6/86	Stability tests for commercial fishing vessels; deadweight surveys; operator compliance with stability letters & booklets.
RAILROAD			
R-85-130 and -131	National Oceanic and Atmospheric Administration	1/15/86	Voluntary citizen submission of real-time severe weather observations; criteria for tone alert signal use.
R-85-125 through -128	National Railroad Passenger Corporation (Amtrak)	1/15/86	Relocation of battery boxes in carbody, replacement of existing mirrors with shatterproof material, modification of seatback cushions; overhead luggage retention.
R-85-129	Federal Railroad Administration	1/15/86	Regulations for radio use for operational purposes on trains.
R-85-118	Chemical Manufacturers Association	1/15/86	Determinaiton of the quantity of material remaining in rail tankcars after unloading.
R-85-119 and -120	Association of American	1/15/86	Pre-shipment and interchange inspection of "empty" placarded tankcars; inspection practices for suspected leaking or venting hazardous materials tankcars.
R-85-117	North American Car Corporation	1/15/86	Stub-sill tankcars fabricated before 1967; weld undercuts in tankheads.
R-85-121	allied Corporation-Chemical Corporation	1/15/86	Hydrogen fluoride unloading procedures.
R-85-123	Burlington Northern Railroad Co. and Consolidated	1/15/86	Yard procedures for handling tankcars suspected to be leaking.
R-85-124	Federal RAilroad Administration	1/15/86	Undercut welds in tankcar heads.
R-86-01	Association of American Railroads	2/11/86	Identification of railroad car roller bearings.
R-86-02 and -03	Federal Railroad Administration	2/11/86	Railroad freight car bearings manufactured from 1978 through 1980 by Brenco Inc.

Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, DC 20594. Please include addressee's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Catherine T. Kaputa,

Federal Register Liaison Officer.

February 14, 1986.

[FR Doc. 86-3694 Filed 2-19-86; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-269, 59-270, 50-287, 50-289, 50-302, 50-312, 50-313]

Director's decisions; Arkansas Power and Light Co. et al.

In the Matter of Arkansas Power and Light Company, [Arkansas Nuclear One, Unit No.1]; Sacramento Municipal Utility District, [Rancho Seco Nuclear Generating Station]; Florida Power Corporation, [Crystal River Unit No. 3 Nuclear Generating Plant]; Duke Power Company, [Oconee Nuclear Station, Unit Nos, 1, 2, and 3]; General Public Utilities Nuclear Corporation, [Three Mile Island Nuclear Station, Unit No.1]; Issuance of Director's Decision Under 10 CFR 2.206.

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a modified decision concening a petition dated June 11, 1985, submitted by John F. Doherty. The petition requested the issuance of an order under 10 CFR 2.202 to the licensees of the following Babcock and Wilcox facilities to show cause why the operating licenses for those facilities should not be suspended or revoked

until the problem identified in IE Information Notice 85–38 is resolved: Arkansas Nuclear One, Unit No. 1; Rancho Seco Nuclear Generating Station; Crystal River Unit No. 3 Nuclear Generating Plant]; Oconee Nuclear Station, Unit Nos, 1, 2 and 3; and Three Mile Island Nuclear Station, Unit 1. The IE Notice concerned loose parts which had been found to obstruct certain control rod drive mechanisms at the Davis-Besse facility of the Toledo Edison Company.

The Director, Office of Nuclear Reactor Regulation, has determined to deny the petitioner's request to initiate such show cause orders. The reasons for this decision are explained in a "Director's Decision under 10 CFR 2.206" (DD–85–19) issued this date which is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and the local public document room for each affected facility as follows:

Arkansas Nuclear One, Unit No.1, Tomlinson Library, Arkansas Tech University, Russellville, Arkansas
Rancho Seco Nuclear Generating Station, Sacramento City-County Library, 828 I Street, Sacramento, California
Crystal River Unit No. 3 Nuclear Generating Plant, Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida
Oconee Nuclear Station, Unit Nos, 1, 2 and 3, Oconee County Library, 501 West Southboard Street, Walhalla, South Carolina
Three Mile Island Nuclear Station, Unit No. 1, Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania

An earlier Director's Decision in this matter dated December 4, 1985, is hereby withdrawn.

A copy of the Decision will be filed with the Secretary of the Commission for its review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance of the Decision unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Bethesda, Maryland, this *29th* day of January, 1986.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 86–3695 Filed 2–19–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–220]

Niagara Mohawk Power Corp.; Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

Correction

In FR Doc. 86–3217 beginning on page 5285 in the issue of Wednesday, February 12, 1986, make the following correction: On page 5285, in the third column, in the third complete paragraph, in the first line, the date should read "March 14, 1986".

BILLING CODE 1505-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Losses and Goals Advisory Committee; Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Losses and Goals Advisory Committee to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4, Activities will include:

- Contributions issue scoping
- Goal issue scoping
- Other
- Public comment.

DATE: February 19, 1985. 9:30 a.m.

ADDRESS: The meeting will be held at the Council's Meeting Room, 850 SW Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: John Marsh, 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 86–3629 Filed 2–19–86; 8:45 am]

BILLING CODE 0000-00-M

POSTAL RATE COMMISSION

[Docket No. SS86–1]

Preferred Rate Study; Hearing

February 14, 1986.

Notice is hereby given that the Postal Rate Commission will commence hearings on the study of federally subsidized mail, pursuant to Notice dated January 24, 1986 (51 FR 3867–3869).

The opening hearing will be held on Wednesday, March 12, 1986 at 9:30 a.m., Commission Headquarters, 1333 H Street NW., Suite 300, Washington, DC. Similar hearings will be conducted in New York, Atlanta, Chicago, Denver, Dallas and Los Angeles. Further information on these hearings will be announced at a later date.

Charles L. Clapp,

Secretary.

[FR Doc. 86–3632 Filed 2–19–86; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22877; File No. 4–288]

Applications, Hearings and Determinations; William Higgins and Michael Robbins

February 7, 1986.

On April 9 and May 31, 1985, the Commission received applications from New York Stock Exchange ("NYSE") floor brokers William Higgins and Michael Robbins, respectively, seeking Commission review of decisions by the NYSE Board of Directors denying their applications to provide their non-member customers with direct telephone access to the NYSE floor.[1] As discussed below, the Commission has instituted proceedings under section 19(d) of the Securities Exchange Act of 1934 ("Act") to determine whether the NYSE's denials of the Higgins and Robbins applications were consistent with the Act.

I. Background

A. Requests for Review

After Higgins' application to the NYSE for direct telephone access to non-member customers had been denied by the NYSE Operations and Administration Group ("Operations Group"), he appealed to the NYSE Board, which deferred action on his application pending its receipt of a report from an *ad hoc* Commission on Telephone Access ("Committee"), specially established by the Board after

[1] *See* letters from John T. Buckley, Werner, Kennedy & French ("Buckley"), counsel to Higgins, to John Wheeler, Secretary, SEC, dated April 9, 1985, ("Higgins letter") and attached Notice of Appearance, and Michael D. Robbins to Shirley Hollis, Assistant Secretary, SEC, dated May 22, 1985 ("Robbins letter"). While the applications of Higgins and Robbins were submitted to the Commission separately, the Commission has joined the applications in view of the similarity of the issues presented.

it received Higgins' appeal, to study NYSE policies in this area.[2]

In his letter to the Commission, Higgins contended, among other things, that the NYSE Board's decision to defer action in his case unduly delayed resolution of the matter and therefore denied Higgins access to a service—on-floor telephone access between himself and his customers—to which he was entitled under exisiting NYSE Rules.

The Commission staff contacted the NYSE and was informed that the Committee intended to expedite its review of the telephone access question.[3] The Commission staff then decided to postpone further consideration relating to Higgins' application pending a determination of the matter by the NYSE Board.

On March 7, 1985, the Committee issued a report stating that non-member access to on-floor brokers is not a service provided by the NYSE and recommending denial of Higgins' request.[4] The Board then voted to deny his appeal.[5] On April 9, 1985, the Commission's Office of the Secretary received a letter from Buckley stating that, to preserve Higgins' appeal rights, he was filing for Commission review of the NYSE Board's decision.[6]

Following the NYSE Board's determination in Higgins' case, Michael Robbins filed an application with the Director of Floor Services of the NYSE to install a telephone link-up in his floor booth enabling him to communicate with off-floor non-members. His request was denied by the floor operations committee and the denial was upheld by the NYSE Board on May 2, 1985. On May 31, 1985, Robbins filed his application for review with the Commission's Office of the Secretary.[7]

[2] John T. Buckley, Higgins' counsel, initially contacted the Commission staff concerning the issue of non-member telephone access to the NYSE floor in October 1984. *See* letter from Buckley to Michael Cavalier, Branch Chief, Division of Market Regulation, SEC, dated October 9, 1984 ("October 9 Letter"). Higgins previously had requested a telephone on the NYSE floor in 1981. This request was denied by a floor operations group; that denial was not formally pursued by Higgins at that time.

[3] *See* letter from Henry Poole, General Counsel, NYSE, to Michael Cavalier, dated October 26, 1984.

[4] Report of the Committee on Telephone Access, dated March 1, 1985 ("1985 Report").

[5] *See* letter from James E. Buck, Secretary, NYSE, to Buckley, dated March 12, 1985.

[6] *See* Higgins letter, *supra* note 1.

[7] *See* Robbins letter, *supra* note 1. Although both Higgins and Robbins requested on-floor access to non-member customers, Higgings' application is for a portable radio phone that would enable him to speak with customers while in a trading crowd, whereas Robbins has requested access to non-member customers on the phone he currently has in his floor booth.

B. The NYSE Position on Non-Member Access

In recommending against granting Higgins' request,[8] the Committee's 1985 Report stated that the competitive benefits which might arise from unrestricted floor broker access to customers were outweighed by several disadvantages. The 1985 Report acknowledged that potential competitive benefits to both floor brokers and institutional customers might arise from granting Higgins' application. The Report indicated that, if Higgins' request were granted, floor brokers could provide customers with immediate and continuous floor intelligence [9] and, in particular, could provide benefits to institutional customers by enabling them to better direct how their orders should be handled by floor brokers. In addition, the Report noted that heightened competition for institutional order flow might decrease the commission rates paid by institutions.[10]

On the other hand, the Report identified certain concerns with granting non-member telephone access. In particular, it noted that upstairs firms might be encouraged to forego NYSE membership and internalize order flow if they lost significant institutional business to independent and small firm-affiliated floor brokers.[11] In addition, according to the Report, permitting non-member access could create the public perception that the market unfairly favored those customers with direct access to the trading floor.[12]

Subsequently, the Commission staff contacted the NYSE to inquire whether, in light of the Board's decision, the NYSE planned to file: (1) A notice of final action pursuant to section 19(d)(1) of the Act regarding Higgins' appeal, or (2) a proposed rule change pursuant to section 19(b)(2) of the Act of codify the policies adopted in the 1985 Report. The NYSE indicated that it did not intend to pursue either course of action. The NYSE stated that it did not intend to file a notice of final action regarding Higgins' request because it did not deem its action regarding Higgins to constitute a prohibition of access to Exchange services. Specifically, the NYSE indicated that it did not regard non-member telephonic access to the trading floor to be a service offered by the Exchange within the meaning of section 19(d) of the Act. The NYSE also indicated that it did not intend to file a proposed rule change with the Commission codifying the Committee's Report. The NYSE contended that its "longstanding policy" of limiting direct access to the floor to members was a direct application of existing provisions of the NYSE Constitution and rules as well as of NYSE policy statements such as the 1985 Report and an earlier 1976 Report on Access.[13] In the NYSE's view, in addition to the policy concerns noted above, the NYSE's rules that provide by their terms for members' access to services thereby exclude non-members by implication.

Specifically, the NYSE believes that Article I, Section 2 and Article III, Sections 5 and 6 of its Constitution and NYSE Rules 36 and 54 govern non-member telephonic access.[14] Thus, the NYSE stated, that "[Article III, Section 5] in granting the Board of Directors the power to make rules with respect to 'the access of members to . . . the Floor of the Exchange and their use of Floor facilities . . . ,' strongly suggests that Exchange members have reserved the power to permit non-member access and have denied that power even to the Board of Directors." [15] In addition, the NYSE has stated that:

[t]elephonic, electronic order and other forms of access to the Floor will be limited to members. In the opinion of the Committee, the essential characteristic of membership on the Exchange is access to the Floor. . . . All such access [physical and electronic] should be a prerequisite of membership, and non-members should have access to the Exchange, only through members. This basic concept has always been true at the New

[8] The 1985 Report stated that "[t]he Committee . . . recognized that Exchange staff had properly interpreted existing Exchange policy in this matter." The Committee pointed out, however, that "the issues raised by Mr. Higgins' proposal were complex and had not been reviewed in-depth by the Board since 1977." The Committee recommended a review of these issues "[i]n view of the . . . many technological changes that had occurred since then, and the importance of the issues involved. . . ." Id. at 2.

[9] *Id.* at 10–11.

[10] *Id.* at 11.

[11] *Id.* at 15–17.

[12] *Id.* at 12–14.

[13] *See* NYSE Committee on Access, Achieving Greater Access to the NYSE, dated December 1976.

[14] *See* letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC, dated May 1, 1978 ("1978 letter"). The 1978 letter followed publication of a Commission release approving an NYSE proposed rule change creating a category of "electronic access" memberships on the Exchange. *See* Securities Exchange Act Release No. 14535, 43 FR 10659 (1978) ("1978 release").

[15] 1978 letter, *id.*, at 3–4. Regarding the other cited provisions, Article III, Section 6 empowers the Board ". . . to approve or disapprove of any connection or means of communication with the Floor . . ." In addition, NYSE Rule 36 prohibits any member from ". . . establish[ing] or maintain[ing] any telephonic or electronic communication between his . . . office and the Exchange without the aproval of the Exchange." Rule 54 provides that "[o]nly members shall be permitted to make or accept bids and offers, consummate transactions or otherwise transact business on the Floor. . . ."

York Stock Exchange and the Committee reaffirms that principle.[16]

C. Prior Commission Review of the Access Question

The Commission discussed the significance of the non-member access question in a 1978 release approving the NYSE rule creating categories of physical and electronic access memberships.[17] In that release, the Commission indicated that ". . . no existing NYSE rule or stated policy requires membership as a prerequisite to the establishment of a direct communications link to any particular NYSE member on the floor." Thus, under NYSE rules in effect at that time (which have not been amended in any relevant respect since then), the Commission concluded that "electronic access membership should not be viewed as the exclusive means by which non-members may obtain direct communications access to the NYSE floor." [18]

The 1978 release also stated that, absent Commission approval of an NYSE rule or an effective interpretation of existing rules concerning non-member access to the trading floor, "non-members who wish to forego the opportunity to become electronic access annual members may continue to pursue the alternative of negotiating with the NYSE floor member for direct communication links to that member on the floor."[19] The Commission noted that the NYSE had "declined to provide [it] with a new rule or an interpretation of existing rules concerning non-member communications access to the floor" and suggested that "the NYSE make an appropriate filing under section 19(b) of the Act to clarify [the] matter." [20]

The Commission pointed out, however, that it was reserving judgment on the merits of any NYSE rule proposal to permit only members to have direct communications access to floor members, and as to whether such proposal would be consistent with the Act.[21] As noted above, in response to the Commission order, the NYSE declined to submit a proposed rule change under section 19(b)(2) of the Act, but instead sent its 1978 letter strongly contesting the Commission's views on the matter.

II. The Commission's Review Authority

Under section 19(d)(2) of the Act, the Commission's review authority extends to prohibitions of, and limitations on, any person's access to services offered by an SRO or member thereof. Further, section 19(d)(1) provides that an SRO taking final action regarding an alleged prohibition of, or limitation on access to SRO or member services must promptly file notice of its action with the Commission. Under section 19(d)(2), however, filing by the SRO is not the exclusive method of commencing a Commission review procedure. Rather, section 19(d)(2) provides that "[a]ny action with respect to which an SRO is required by [Section 19(d)(1)] to file notice shall be subject to review by [the Commission] on its own motion. . . ." The Commission may commence such a review irrespective of whether a filing is, in fact, submitted by the SRO.

A. Services offered by an SRO or Member Thereof

As discussed above, the NYSE has contended that the Exchange is not required to file notice of its determinations regarding Higgins' and Robbins' request (and that such requests are not a proper subject for review under section 19(d) of the Act) because it believes that, under its existing rules, non-member telephone access to the floor is not a "service" offered by the NYSE within the meaning of section 19(d)(1).

The Commission believes, however, that operation of a trading floor and access to that floor is perhaps the principal service offered by a national securities exchange to its members and by its members to customers.[22] In the 1978 release, the Commission stated that, absent an NYSE rule prohibiting non-member telephone access to the trading floor, such access constituted a service that could be offered by members to non-members.[23] The release stated that until the NYSE submitted a rule proposal for Commission review "to establish the principle that direct communications access to the [NYSE] floor may be made available only to [members]," non-members could continue to negotiate with on-floor brokers for access to the trading floor.[24]

The Commission continues to believe that no NYSE rule prohibits non-member communication with the trading floor, that such communication capabilities constitute a service that members may offer customers, and that therefore the Exchange's denials of Higgins' and Robbins' appeals constitute prohibitions of, or limitations on, access to such services.[25]

B. Statutory Framework

Section 19(f) of the Act sets forth the standard for determining whether the NYSE properly may prohibit non-member telephone access to its members while they are on the floor.[26] In brief, section 19(f) provides that an SRO may prohibit access to services offered by an SRO or member thereof only if: (1) The "specific grounds" for such prohibition "exist in fact," (2) the prohibition "is in accordance with the rules of the [SRO]," (3) those rules "were applied in a manner consistent with the purposes of [the Act]," and (4) the prohibition does not impose "any

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[16] *Id.* at 5, citing 1976 Report at 6. In response to the 1978 letter, the Commission wrote to the NYSE, reaffirming its views expressed in the 1978 release. *See* letter from George A. Fitzsimmons, Secretary, SEC, to James E. Buck, Secretary, NYSE, dated August 31, 1978.

[17] Article IX, section 1(b) of the NYSE Constitution provides for a maximum of 24 NYSE physical access members who, on payment of annual dues, may ". . . enter physically upon the trading floor and . . . have facilities thereon for the execution of orders . . . "

In addition, Article IX, section 1(c) under NYSE Article IX provides for NYSE electronic access memberships which permit "electronic or telephonic access to (i) the floor facilities of a member, member firm or member corporation, and (ii) the Designated Order Turnaround System of the Exchange, and (iii) such other automated trading systems of the Exchange as the Board of Directors may from time to time determine. . . ."

[18] *See* 1978 release, *supra* note 14. *See also* note 17 *supra*, regarding physical access and electronic access memberships.

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] In addition, the Commission notes that Section 19(d) was intended to encompass "all final quasi-adjudicatory actions [by SROs] affecting members and non-members," [Senate Comm. on Banking, Housing & Urb. Affs., *Report to Accompany S. 249: Securities Acts Amendments of 1975* at 26 ("Senate Report"), S. Rep. No. 94–75, 94th Cong., 1st Sess. (1975)] including SRO decisions to require "members to cease doing business . . . in specified ways with a particular non-member . . . ." *Id.* at 24. Moreover, Section 19(d)(2) of the Act provides for Commission review of SRO denials of access to services offered by members of the SRO as well as by the SRO itself.

[23] *See* 1978 release, *supra* note 14.

[24] *Id.*

[25] As noted above, the NYSE has indicated that it disagrees with these points. The Commission, of course, will make its final determination on these issues in the context of the proceedings instituted today. The Commission expects the parties will address these issues in their submissions to the Commission.

[26] While the Commission recognizes that other regulatory concerns may support an SRO argument for prohibiting non-member telephone access (*see* 1985 Report, *supra* notes 8–12 and accompanying text), the NYSE's refusal to file a rule proposal under section 19(b)(2) of the Act expressly addressing this matter has denied the Commission the opportunity to review those concerns, and evaluate, with the benefit of public comment, the important issues involved in the access issue. Absent a section 19(b)(2) filing from the NYSE, the Commission must consider instead, under section 19(f) of the Act, whether the NYSE's denials of the two applications were consistent with the Act and the rules under the Act, *i.e.*, whether they were "proper" prohibitions of access within the meaning of that Section.

burden on competition not necessary or appropriate in furtherance of the purposes of [the Act]." If the prohibition fails to meet any of these standards, the Commission is directed by the Act to "set aside" the SRO action.

As a preliminary matter, the Commission believes that the NYSE's prohibition of non-member telephone access to members raises questions under section 19(f). For example, the prohibition does not appear to be in accordance with any existing Exchange rule, because there is no rule authorizing it to deny access in this manner.[27] In addition, in view of the prohibition's effect on a floor broker's ability to attract institutional order flow, the prohibition appears to impose a burden on competition. The Commission, however, is unable to determine, on the record before it, whether such a burden is necessary or appropriate in furtherance of the purposes of the Act.[28] In this connection, the Commission will examine separately whether institutional access through a portable phone which may be carried into trading crowds raises different issues than telephonic access to the member's floor booth.

III. The Order

In light of the foregoing, the Commission has determined to institute denials of access proceedings to review whether these denials to access by the NYSE are appropriate under the Act, the rules under the Act and the NYSE's rules. Pursuant to its authority under sections 19(d)(1) and (2) of the Act, the Commission hereby orders that a proceeding be instituted to review the determinations of the NYSE that Messrs. Higgins and Robbins be precluded from having on-floor, telephonic access to off-floor, non-member customers.

The NYSE is directed to certify and file with the Commission pursuant to Rule 19d–3 under the Act, one copy of the records upon which the action complained of by Messrs. Higgins and Robbins were taken, together with seven copies of an index to such record within 10 days following the NYSE's receipt of this order.

Within 20 days after receipt of a copy of the SRO index from the Secretary of the Commission, the applicants shall file a brief or other statement in support of their applications, pursuant to Rule 19d–3(c). Further, within 20 days after receipt of the applicants' brief or statement, the NYSE may file an answer thereto, and within 10 days of receipt of any such answer the applicant may file a reply, pursuant to paragraph (d) of Rule 19d–3.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 86–3699 Filed 2–19–86; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–14642]

Application and Opportunity for Hearing; Storage Equities, Inc.

Notice is hereby given that Storage Equities, Inc., a California corporation ("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 that the trusteeship of Trust Services of America, Inc., a California corporation ("TSA") (as successor trustee to First Interstate Bank of California, a California banking corporation), under a twelfth supplement of an existing indenture qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify TSA from acting as trustee under such twelfth supplement.

Section 310(b) of the Act provides in part that, if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within ninety (90) days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, with certain exceptions, 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 of the same issue are outstanding.

However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. TSA, as successor trustee, currently is acting as trustee under an indenture (the "Indenture") and several prior supplements thereto under which the Applicant is an obligor. The Indenture, dated as of August 9, 1983, is between Applicant and TSA and provides for the periodic issuance of secured notes in partial consideration for the purchase of property by Applicant. This indenture was filed as Exhibit 4.3 to Applicant's registration statement no. 2–80850 filed under the Securities Act of 1933, and has been qualified under the Trust Indenture Act in connection with a Form T–1 filing, File No. 22–12633.

Applicant has also entered into, and filed by way of post-effective amendments to the registration statement stated above, prior supplements under which TSA is a trustee. Applicant has issued several series of its secured notes under the prior supplements.

2. Applicant wishes TSA to continue as Trustee under the twelfth supplemental indenture executed December 6, 1985.

3. The Applicant is not in default in any respect under the Indenture or prior supplements thereto.

4. Each series of secured notes issued under the prior supplements is secured by separate and distinct assets of Applicant so that should TSA have occasion to proceed against the security under any series of notes, such action would not affect the security, or the use of any security, under any other series. Thus, the existence of the other trusteeships should not inhibit or discourage TSA's actions under any one series.

The Applicant has waived notice of hearing, hearing on the issues raised by its Application and all rights to specify procedures under Rule 8(b) of 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. 22–14642, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than March 10, 1986, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or

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[27] *See* 1978 release, *supra* note 14. The Commission notes, however, that, even if the NYSE could show that one of its rules applied to such a prohibition, the Commission still would have to consider whether the application and effect of such a prohibition was consistent with section 19(f), including, for example, the requirement that such a prohibition not impose any unnecessary or inappropriate burden on competition.

[28] The NYSE has furnished the Commission a copy of the 1985 Committee Report. In addition, the Commission has received previous material prepared by the NYSE on this subject, such as the 1976 Committee Report.

law raised by said 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: Secretary, Securities and Exchange Commission, 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 for the protection 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.

[FR Doc. 86-3700 Filed 2-19-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22896; SR-MSE-85-11]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc., Order Approving Proposed Rule Change

The Midwest Stock Exchange, Inc. ("MSE") submitted on September 4, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend its rules regarding the use of Midwest's Automatic Execution System ("MAX") in order to facilitate the routing and execution of transactions in a portfolio of equity securities ("portfolio execution").

The four proposed changes to MAX procedures apply only to portfolio executions and will be implemented on a one-year pilot basis.[1] The first of these changes will allow principal orders for portfolio executions to be sent over MAX. This change will enable member firms to execute more efficiently a portfolio for the firm's own account as well as for customers.

Second, the time frame between the time a market order is entered into MAX and the time it is automatically executed will be reduced from 15 seconds to 0 seconds. According to the MSE, the need for a timely execution is significantly more important to the customer and the firm in this type of transaction than the possibility that a better fill may be obtained in a particular issue in a portfolio by exposing the order for 15 seconds.

The third change clarifies that specialist participation in a portfolio execution is voluntary for principal orders or agency orders above 1,099 shares. The MSE notes that this is consistent with the current MAX requirements. Portfolio executions over MAX beyond the existing MAX requirements only will be executed in accordance with arrangements agreed upon in advance by the specialist and the order entry firm.

The fourth change precludes the use of the MAX System for portfolio executions before 9:30 a.m. and after 2:45 p.m. (Central Standard Time). According to the MSE, this restriction will avoid creating any problems at the opening or closing in periods of heavy volume.

A limited number of portfolio executions have taken place using the MAX system under the preceding parameters. The MSE anticipates that further enhancements to the system may be developed as experience shows where the system can be improved. Such enhancements also will be submitted to the Commission where appropriate.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22734, December 20, 1985) and by publication in the **Federal Register** (50 FR 53045, December 27, 1985). No comments were received with respect to the proposed rule change.

The Commission believes that approval of the proposed modifications to MSE's MAX procedures for purposes of portfolio execution is appropriate on a one-year pilot basis to permit the MSE to assess and develop further its procedures under the program. The MSE has stated that many MSE member firms wish to utilize portfolio executions to hedge against their own positions as well as customer positions in index options and futures, and for arbitrage activities for their proprietary accounts. Appropriate modifications to MAX can provide efficient executions of portfolios for the firm's account and for customers.[2]

The Commission notes that the reduction of order exposure time through MAX from 15 seconds to zero seconds for portfolio executions represents an exception from procedures for executing orders in individual securities based on the need by member firms for timely execution of portfolios. The Commission recognizes that the pricing benefits that may adhere to the exposure of orders in individual securities are significantly reduced in the context of the simultaneous execution of a number of securities comprising a portfolio. The Commission will continue to examine, however, the appropriateness of eliminating any exposure time for portfolio excutions.[3]

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 Sections 6 and 11A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 18(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 12, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-3701 Filed 2-19-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22895; SR-PSE-85-34]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

Dated: February 12, 1986.

The Pacific Stock Exchange,

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[1] The MSE has agreed that its procedures applying to portfolio executions will be implemented as a one-year pilot. Telephone conversation between Michael Cavalier, Branch Chief, Division of Market Regulation, and Patrick Conroy, Midwest Stock Exchange, January 30, 1986.

[2] The Commission notes that the proposed changes are similar to the Philadelphia Stock Exchange's ("Phlx") pilot program implementing procedures regarding the delivery and pricing of orders in Phlx-traded securities that compose an index—the Designated Underlying Index Transaction ("DUIT") program. The Commission approved the DUIT proposal on a nine-month pilot basis in Securities Exchange Act Release No. 20928 (May 4, 1984), 49 FR 20097 (SR-Phlx-83-26). The program was extended for an additional year in Securities Exchange Act Release No. 21709 (February 4, 1985), 50 FR 5828. The Commission understands, however, that the Phlx has not yet implemented its DUIT system.

[3] Both the MSE and the Pacific Stock Exchange ("PSE") have implemented pilot programs reducing the order exposure time for executions through the MAX and SCOREX systems, respectively, from 30 seconds to 15 seconds. *See* Securities Exchange Act Release No. 22357 (August 26, 1985), 50 FR 35890 (order approving MSE procedures); Securities Exchange Act Release No. 21329 (September 17, 1984), 49 FR 57199 (order approving PSE's procedure on a one-year pilot basis); Securities Exchange Act Release No. 22814 (January 21, 1986), 51 FR 3556 (order approving one-year extension of PSE pilot procedures).

Incorporated ("PSE") submitted on November 20, 1985, copies of a proposed rule change (SR–PSE–85–34) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder to amend the structure of its Pilot Program for the Appointment and Evaluation of Specialists and the Creation of New Specialist Posts, and to extend the pilot through June 1986.

The changes consist of revisions relating to the guidelines used for specialist evaluation which will be based on National Market System Quote Performance (45% of total score), Specialist Evaluation Questionnaire (45% of total score), and SCOREX Limit Order Acceptance (10% of total score). The Exchange is amending sections 1(l) and 11(t) of Rule II of the Rules of the Board of Governors of the PSE to conform Exchange rules to these adjustments in the Specialist Evaluation System. The PSE is also amending section 11(s) of Rule II to conform to the adoption of a new Specialist Evaluation Questionnaire Survey.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22720, December 16, 1985), and by publication in the **Federal Register** (50 FR 52398, December 23, 1985). No comments were received by the Commission with respect to the proposed rule change.[1]

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.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–3702 Filed 2–19–86; 8:45 am]

BILLING CODE 8010–01–M

[1] The PSE received several comments from specialists expressing concern over the proposed guidelines for National Market System Quote Performance. These comments were discussed in the notice of the proposed rule change and are on file at the PSE.

[Release No. 34–22891; File No. SR–MCC–86–01]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corporation Relating to Its Schedule of Charges

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 17, 1986, the Midwest Clearing Corporation 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

Attached to the filing as Exhibit A is the Midwest Clearing Corporation's Fee Schedule for 1986.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change.

The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The MCC Board of Directors annually reviews MCC's fee schedules to insure that service fees fairly cover the cost of providing services. In order to keep a proper balance between fees and the costs of providing clearing and depository services, MCC is proposing a revised fee schedule for 1986. Where MCC has experienced increased costs associated with manual processing, such as physical deliveries, service fees have been increased accordingly. When costs associated with automated services have remained relatively constant, fees have been adjusted where appropriate or have remained unchanged.

The proposed fee schedule is consistent with section 17A of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among MCC's Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that the proposed fee schedule will impose any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such 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 Securities Exchange Act of 1934.

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 there of 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 Commissions's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 13, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 11, 1986.

John Wheeler,

Secretary.

Exhibit A—Midwest Clearing Corporation Schedule of Charges 1986 Pricing Revisions, Effective January 1, 1986

	1985	1986
Account Maintenance		
Participant account maintenance fee:		
Local and out of town accounts.	$160.00/mo	$170.00/mo.
Specialist and trading accounts.	150.00/mo	160.00/mo.
Secondary account, (specialist, trading or market maker accounts).	117.00/mo	125.00/mo.
Trade Recording (Previously Announced and Effective October 1, 1985)		
Trade size/shares (until October the trade recording fee was $.57/side):		
1 to 499		0.40.
500 to 999		0.45.
1,000 to 1,499		0.50.
1,500 to 1,999		0.60.
2,000 to 2,499		0.70.
2,500 to 2,999		0.85.
3,000 to 3,499		1.00.
3,500 to 3,999		1.15.
4,000 to 4,499		1.30.
4,500 to 4,999		1.45.
5,000 and up		1.65.
Less trades per day discounts:		
100+		0.05.
150+		0.06.
300+		0.08.
500+		0.10.
750+		0.15.
Correspondent Delivery and Collection Service (CDCS)		
Service charge	8.00/item	10.00/item.
Correspondent Receipt and Payment Service (CRPS)		
Service charge	8.00/item	10.00/item.
Dividend and Bond Interest Settlement Service		
Claimant (claiming participant).	$2.00/item	$2.00/item.
Recipient (participant charged).	1.00/item	2.00/item.
Rejection by recipient of an invalid claim (charged to claimant).	50.00/item	50.00/item.
Automatic Securities Loan Program		
*Loan value position (annual rate).	5.81 percent	Half average; Broker call; Rate for month.
Percentage charge of the daily average loan value. The annual rate will be half the average of the broker call rate for the month.		
MST Communications System		
Line:		
Leased line 4800—(rebilled at cost).	253.00	335.00/mo.
Long distance line charges.	0.18/mile/mo	No change.
Access fee	280.00/mo	No change.
Additional account access fee.	25.00/mo/symbol.	No change.
Port:		
Port charges for customer providing own line.	N/A	15.00/port.

Equipment is rebilled at cost:

Terminal	CTL unit	CRT	PRT
30 day lease	$230	$153	$230
1 year	(1)	(1)	(1)
2 year	190	127	190
4 year	170	115	170

[1] Upon availability.

[FR Doc. 86-3577 Filed 2-19-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22890; Filed No. SR-MSTC-86-1]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Company Relating to the Fee Schedule for 1986

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 30, 1986 the Midwest Securities Trust Company 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

Attached to the filing as Exhibit A is the Midwest Securities Trust Company's Fee Schedule for 1986.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The MSTC Board of Directors annually reviews MSTC's fee schedules to insure that service fees fairly cover the cost of providing services. In order to keep a proper balance between fees and the costs of providing clearing and depository services, MSTC is proposing a revised fee schedule for 1986. Where MSTC has experienced increased costs associated with manual processing, such as physical movements or deposits, service fees have been increased accordingly. When costs associated with automated services decreased on a unit or transaction basis, such as Depository Delivery Instructions, fees have been reduced to reflect costs recouped through increased volume.

The proposed fee schedule is consistent with section 17A of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among MSTC's Participants.

(B) The Midwest Securities Trust Company Does Not Believe That the Proposed Fee Schedule Will Impose Burdens 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 foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such 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 Securities Exchange Act of 1934.

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 & Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 13, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 11, 1986.

John Wheeler,

Secretary.

Exhibit A—Midwest Securities Trust Company Schedule of Charges

	1985	1986
Account maintenance:		
Participant account maintenance fee (local and out of town accounts).	$150.00/mo	$160.00/mo.
Corporate equity/debt issue service.	100.00/mo	105.00/mo.
Municipal issues service.	100.00/mo	105.00/mo.
Pledgee bank account maintenance fee.	125.00/mo	135.00/mo.
CNS Inter-Activity Movements (IAL, IAS): (Book-entry settlement from or to MCC).	0.90/item	0.88/item.
Depository delivery instruction (DDI):		
Inter-participant delivery.	0.75/del	0.72/del.
Inter-participant receipt.	0.75/receipt	0.72/rec.
Intra-account delivery.	0.75/del	0.72/del.
Third Party DDI (exclusive participants)	0.75/del. or receipt.	0.72/del. or rec.
Third party add-ons (third party DDI processed after 10:00 a.m. CST cut-off).	25.00/item surcharge.	27.00/item surcharge.
Certificate deposits:		
7:30 a.m.–11:00 a.m. CST.	0.94/item	1.00/item.
11:00 a.m.–11:30 a.m. CST.	7.59/item	10.00/item.
11:30 a.m.–4:00 p.m. CST (next day credit).	0.79/item	.85/item.
Depository input satellite (DIS): Deposit charge (exclusive of DIS bank charge, if applicable).	0.94/item	1.00/item.
Safekeeping:		
Equity shares and registered corporate/municipal bonds.		No charge.
Safekeeping cap per month.	$3,000/mo	$4,000/mo.
Each issue with free or pledge position (corporate equities/bonds or registered municipal bonds).	0.57/pos/mo	0.58/pos/mo.
Street withdrawals: Withdrawal by street request.	5.00/request	6.00/request.
Reorganizations and redemptions:		
Mandatory reorganizations.	25.00/symbol	26.50/symbol.
Non-mandatory reorganizations.	25.00/processing authorization.	26.50/proc. authorization.
Execution of liability notice to short position.	25.00/item	26.50/item.
Pledge loan program:		
Pledge movement (to both pledgee bank and broker/dealer).	0.75/item	0.72/item.
Release movement (to both pledgee bank and broker/dealer).	0.75/item	0.72/item.
Institutional pledge account:		
Pledge account ("X" account symbol).	50.00/mo	50.00/mo.
Pledge	0.75/mvmt	0.72/mvmt.
Release	0.75/mvmt	0.72/mvmt.
Option pledge program:		
Broker pledge account ("X" account symbol).	50.00/mo	50.00/mo.
Pledge	0.75 mvmt	0.72/mvmt.
Release	0.75/mvmt	0.72/mvmt.
Microfilm services for research records:		
Current	$0.75/pg	$0.75/pg.
More than one year-old.	1.50/pg	2.50/pg.
Overnight safekeeping: Overnight safekeeping.	5.00/night	5.00/item, .50/cert./night.
Reports produced at N.Y. Center (Activity, net position and purchase and sales reports):		
Regular account—New York printing only.	50.00/mo	50.00/mo.
Regular account—New York and Chicago printing.	160.00/mo	175.00/mo.
Participant directory: Directory of eligible securities (reflects the cost of producing the directory).	22.00	40.00.
Bearer municipal bond service fees—Position value fee per thousands of par value:		
$0 to $0.5 billion	.015/mo	.013/mo.
$5 to $1 billion	.01/mo	.0065/mo.
$1 to $5 billion	.006/mo	.00325/mo.
over— $5 billion	.0045/mo	.001625/mo.
Book-entry depository delivery instruction (DDI).	$1.75	$1.80.
Withdrawal	$5.00 and .04/1,000 over $50,000.	$6.00 and .04/1,000 over $50,000.
Interest fee	$1.00 per credit	$1.50 per credit.
MST Communications System:		
Line:		
Leased line 4800—(rebilled at cost).	253.00	335.00/mo.
Long distance line charges.	0.18/mile/mo	No change.
Access fee	280.00/mo	No change.
Additional account access fee.	25.00/mo. symbol.	No change.
Port: port charges for customer providing own line.	N/A	15.00/port.

Equipment is rebilled at cost:

Terminal	CTL unit	CRT	PRT
30 day lease	$230	$153	$230
1 year	(1)	(1)	(1)
2 year	190	127	190
4 year	170	115	170

[1] Upon availability.

[FR Doc. 86-3578 Filed 2-19-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Small Business Computer Security and Education Advisory Council; Public Meeting

The U.S. Small Business Administration will hold a public meeting on Thursday and Friday, March 6 and 7, 1986, from 9:00 A.M. to 5:00 P.M.

The meeting will be held in a Conference Room Level Two at the Georgetown Marbury House Hotel, 3000 "M" Street, N.W., Washington, DC 20007. The purpose of the meeting is to discuss such matters as may be presented by Advisory Council Members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John J. Sweeney, SBA Member, U.S. Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416; telephone number: (202) 653–7875.

Jean M. Nowak,

Director.

[FR Doc. 86–3650 Filed 2–19–86; 8:45 am]

BILLING CODE 8025–01–M

Little Rock Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VI, located in the geographical area of Little Rock, Arkansas, will hold a public meeting at 11:30 a.m., on Wednesday, February 26, 1986, at the Legacy Hotel, 625 West Capitol Avenue, Little Rock, Arkansas, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Lavan D. Alexander, Acting District Director, U.S. Small Business Administration, 320 West Capitol, Suite 601, Little Rock, Arkansas 72201, (501) 378–5871.

Jean M. Nowak,

Director, Office of Advisory Councils.

February 10, 1986.

[FR Doc. 86–3649 Filed 2–19–86; 8:45 am]

BILLING CODE 8025–01–M

El Paso Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VI, located in the geographical area of El Paso, Texas, will hold a public meeting 10:00 a.m. thru 12:00 a.m., on Friday, February 21, 1986, at the District Office Conference room, 10737 Gateway West, Suite 320, El Paso, Texas 79935, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Henry Zuniga, District Director, U.S. Small Business Administration, 10737 Gateway Boulevard West, Suite 320, El Paso, Texas 79935—915–541–7586.

Jean M. Nowak,

Director, Office of Advisory Councils.

February 10, 1986.

[FR Doc. 86–3648 Filed 2–19–86; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

[Docket 42425]

Southwest Airlines Co. Enforcement Proceeding; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding, earlier scheduled to commence on February 13, 1986, has been postponed, and will commence on April 14, 1986 at 9:30 a.m. (local time) in Room 5332, Nassif Bldg., 400 7th Street, SW., Washington, DC, before the undersigned Chief Administrative Law Judge.

Dated at Washington, DC, February 12, 1986.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 86–3615 Filed 2–19–86; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirement Submitted to OMB for Review

Dated: February 14, 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.

Internal Revenue Service

OMB Number: 1545–0279
Form Number: Letter 124(c)
Type of Review: Reinstatement
Title: Employer Requested to Clarify Discrepancy Between Employee's Records and Form W–2 Carrier Certification and Release Order

OMB Number: 1545–0309
Form Number: Form 5422
Type of Review: Extension
Title: Visitor Register

OMB Number: 1545–0649
Form Number: Form 6420 and 6421
Type of Review: Reinstatement
Title: Sales Taxes: Items Taxed and Not Taxed (Form 6420) and State Sales Tax Checksheet (Form 6420)

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. 86–3689 Filed 2–19–86; 8:45 am]

BILLING CODE 4810–25–M

Office of the Secretary

[Amdt. to Dept. Circ.—Public Debt Series—No. 21–85]

10–3/4% Treasury Bonds of 2005

Washington, February 13, 1986.

Department of the Treasury Circular, Public Debt Series—No. 21–85, dated June 19, 1985, as supplemented, descriptive of 10–3/4% Treasury Bonds of 2005, hereafter referred to as Bonds, is hereby amended effective February 18, 1986.

The following Section and Subsection in the original circular dated June 19, 1985, are hereby redesignated:

from 6. to 7.
from 6.1 to 7.1.
from 6.2 to 7.2.

Subsections 2.6. and 6.3. in the original circular are replaced by the Subsections 2.6 and 7.3 below and, in addition, the following Sections and Subsections are now included. The other terms and conditions remain unchanged.

2. Description of Securities

2.6. A book-entry Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in Section 6 of this circular. Subsection 2.1. through 2.5. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a book-entry Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Bond are: each future semiannual interest payment (hereafter referred to as an Interest Component) and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2. In order for a book-entry Bond to be separated into the components described in Subsection 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering is $800,000.

6.3. Only Bonds in book-entry form may be separated into their components. Such separation may be effected at any time from the effective date of the amendment to this circular until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the book-entry Bonds. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.4. The Principal Component will be payable on August 15, 2005.

6.5 Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.6. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.7. Once a book-entry Bond has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.8. Interest Components and Principal Components may be held only in book-entry form.

6.9. Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Bond will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first disposition occurs. Both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.10. Interest Component 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 regulation governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachment A is incoporated as part of this circular.

The foregoing amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A

CUSIP Numbers and Designations for the Principal Component and Interest Components of 10¾ Percent Treasury Bonds of Aug. 15, 2005, CUSIP No. 912810 DR 6

[The Principal Component is designated 10¾ Percent Treasury Principal (TPRN) 2005 due Aug. 15, 2005, CUSIP No. 912803 AG 8]

Designation	CUSIP No. 912833
INTEREST COMPONENTS	
Treasury interest (TINT) 2005 due:	
Aug. 15, 1986	AY 6
Feb. 15, 1987	AZ 3
Aug. 15, 1987	BA 7
Feb. 15, 1988	BB 5
Aug. 15, 1988	BC 3
Feb. 15, 1989	BD 1
Aug. 15, 1989	BE 9
Feb. 15, 1990	BF 6
Aug. 15, 1990	BG 4
Feb. 15, 1991	BH 2
Aug. 15, 1991	BJ 8
Feb. 15, 1992	BK 5
Aug. 15, 1992	BL 3

CUSIP Numbers and Designations for the Principal Component and Interest Components of 10¾ Percent Treasury Bonds of Aug. 15, 2005, CUSIP No. 912810 DR 6—Continued

[The Principal Component is designated 10¾ Percent Treasury Principal (TPRN) 2005 due Aug. 15, 2005, CUSIP No. 912803 AG 8]

Designation	CUSIP No. 912833
Feb. 15, 1993	BM 1
Aug. 15, 1993	BN 9
Feb. 15, 1994	BP 4
Aug. 15, 1994	BQ 2
Feb. 15, 1995	BR 0
Aug. 15, 1995	BS 6
Feb. 15, 1996	BT 6
Aug. 15, 1996	Bu 3
Feb. 15, 1997	BV 1
Aug. 15, 1997	BW 9
Feb. 15, 1998	BX 7
Aug. 15, 1998	BY 5
Feb. 15, 1999	BZ 2
Aug. 15, 1999	CA 6
Feb. 15, 2000	CB 4
Aug. 15, 2000	CC 2
Feb. 15, 2001	CD 0
Aug. 15, 2001	CE 8
Feb. 15, 2002	CF 5
Aug. 15, 2002	CG 3
Feb. 15, 2003	CH 1
Aug. 15, 2003	CJ 7
Feb. 15, 2004	CK 4
Aug. 15, 2004	CL 2
Feb. 15, 2005	CM 0
Aug. 15, 2005	CN 8

[FR Doc. 88-3686 Filed 2-19-86; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Medical Care Reimbursement Rates for Fiscal Year 1986

In accordance with provisions of OMB Circular A-11, § 13.5(a), revised reimbursement rates have been established by the Veterans Administration for inpatient and outpatient medical care furnished to beneficiaries of other Federal Agencies during Fiscal Year 1986. These rates will be charged for such medical care provided at health care facilities under the direct jurisdiction of the Administrator on and after December 1, 1985:

Medicine	$340
Spinal cord injury	345
Surgery	360
Psychiatry	281
Drug and alcohol	162
Nursing home	119
Outpatient	64
Pharmacy-prescription refill	11
Hemodialysis:	
Hospital component	118
Physician component	12

The hospital component for hemodialysis will be charged in addition to the inpatient per diem rate except

when billing Medicare for maintenance dialysis, in which case the physician component will be charged in addition to the hospital component.

If other than maintenance dialysis care is provided a Medicare beneficiary treated as a humanitarian service in an emergency, an additional charge for an outpatient visit may be made by the VA. Prescription refill charges in lieu of the outpatient visit rate will be charged when the patient receives no service other than the pharmacy outpatient service. These charges apply if the patient receives the prescription refills in person or by mail.

When medical services for beneficiaries of other Federal Agencies are obtained by the VA from private sources, the charges to the other Federal Agencies will be the actual amounts paid by the VA for such medical services.

Inpatient charges to other Federal Agencies will be at the current interagency per diem rate as set forth above for the type of bed section or discrete treatment unit providing the care.

Dated: February 12, 1986.

Everett Alvarez, Jr.,

Acting Administrator.

[FR Doc. 86-3645 Filed 2-19-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 34
Thursday, February 20, 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

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, February 24, 1986, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Countrywide Thrift and Loan, an operating noninsured industrial bank located at 155 N. Lake Avenue, Pasadena, California.

Jefferson Industrial Bank, an operating noninsured industrial bank located at 3520 North Highway 74, Evergreen, Colorado.

Applications for consent to purchase assets and assume liabilities:

First National Bank of Columbiana, Columbiana, Alabama, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Alabaster and Columbiana Branches of First Southern Federal Savings and Loan Association, Mobile, Alabama, a non-FDIC-insured institution.

NCNB National Bank of North Carolina, Charlotte, North Carolina, for consent to purchase certain assets of and assume the liability to pay deposits made in seven branches of First American Savings Bank, F.S.B., Greensboro, North Carolina, a non-FDIC-insured institution.

First Interstate Bank of Washington, National Association, Seattle, Washington, for consent to purchase certain assets of and assume the liability to pay deposits made in the Vancouver (1800 Main Street) branch of Central Evergreen Federal Savings and Loan Association, Chehalis, Washington, a non-FDIC-insured institution.

Request for waiver of a condition imposed in approval of application for consent to acquire assets and assume liabilities and to establish one branch:

Bank of A. Levy, Oxnard, California.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,356–L (Amendment)
United American Bank in Knoxville, Knoxville, Tennessee and
United Southern Bank of Nashville, Nashville, Tennessee and
First Peoples Bank of Washington County, Johnson City, Tennessee and
City and County Bank of Knox County, Knoxville, Tennessee and
City and County Bank of Anderson County, Lake City, Tennessee and
City and County Bank of Roane County, Kingston, Tennessee and
United American Bank in Hamilton County, Chattanooga, Tennessee and
City and County Bank of Jefferson County, White Pine, Tennessee
Case No. 46,432–L
United American Bank in Knoxville, Knoxville, Tennessee and
City and County Bank of Jefferson County, White Pine, Tennessee and
City and County Bank of Knox County, Knoxville, Tennessee
Case No. 46,433–L
The First National Bank of Woodbine, Woodbine, Iowa

Memorandum regarding purchase agreements.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Summary Audit Report re: South Coast Bank, Costa Mesa, California, AP–455 (Memo dated January 7, 1986)
Summary Audit Report re: First Enterprise Bank, Oakland, California, SR–599 (Memo dated January 21, 1986)
Summary Audit Report re: Farmers Savings Bank, Massena, Iowa, AP–460 (Memo dated January 28, 1986)
Summary Audit Report re: Peoples State Bank, Odebolt, Iowa, AP–458 (Memo dated January 21, 1986)
Summary Audit Report re: Story County State Bank, Story City, Iowa, AP–462 (Memo dated January 24, 1986)
Summary Audit Report re: The Bank of Commerce, Chanute, Kansas, AP–459 (Memo dated January 27, 1986)
Summary Audit Report re: The Mississippi Bank, Jackson, Mississippi, AP–386 (Memo dated January 29, 1986)
Summary Audit Report re: Farmers State Bank, St. Joseph Missouri, St. Joseph, Missouri, AP–461 (Memo dated January 28, 1986)
Summary Audit Report re: State Bank of Alexandria, Alexandria, Nebraska, SR–553 (Memo dated January 6, 1986)
Summary Audit Report re: First State Bank of Elgin, Oregon, Elgin, Oregon, AP–454 (Memo dated January 7, 1986)
Summary Audit Report re: The Peoples National Bank of Lampasas, Lampasas, Texas, AP–456 (Memo dated January 13, 1986)
Summary Audit Report re: Chicago Regional Office, Cost Center—3200 (Memo dated January 17, 1986)
Summary Audit Report re: Midland Consolidated Office, Cost Center—3440 (Memo dated January 17, 1986)

Reports of the Director, Division of Liquidation:

Memorandum re: Loan Sales—Reports Due Under Delegated Authority
Memorandum re: Quarterly Report for Actions Approved Under Delegated Authority as of September 30, 1985.

Discussion Agenda:

Memorandum and resolution re: Notice of an extension to September 8, 1986 of the time which the Corporation may take under its internal policy statement for the consideration, adoption and publication of a final amendment to Part 332 of the Corporation's rules and regulations, entitled "Powers Inconsistent with Purposes of Federal Deposit Insurance Law," which amendment, as proposed, would, among other things, prohibit insured banks, subject to certain exceptions, from directly engaging in real estate development and insurance underwriting activities and establish

certain restrictions on the indirect conduct of such activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 14, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–3773 Filed 2–18–86; 12:48 pm]

BILLING CODE 6714–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, February 24, 1986, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for Federal deposit insurance:

Lewis County Savings and Loan Company, an operating noninsured industrial bank located at 119 East Second Street, Weston, West Virginia.

Applications for consent to transfer assets in consideration of the assumption of deposit liabilities:

Valley National Bank, The Household Bank, Salinas, California, for consent to transfer certain assets to The Household Bank, f.s.b., Westminster, California, a non-FDIC-insured institution, in consideration of the assumption of the liability to pay deposits made in Valley National Bank, The Household Bank.

Household Aurora Industrial Bank, Aurora, Colorado; Household Weld County Industrial Bank, Greeley, Colorado; and Household Longmont Industrial Bank, Longmont, Colorado, for consent to transfer certain assets to The Household Bank, f.s.b., Westminster, California, a non-FDIC-insured institution, in consideration of the assumption of the liability to pay deposits made in Household Aurora Industrial Bank, Household Weld County Industrial Bank, and Household Longmont Industrial Bank.

Memorandum regarding the Corporation's assistance agreements with insured banks.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 14, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–3774 Filed 2–18–86; 12:49 pm]

BILLING CODE 6714–01–M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 25, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, February 27, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings
Correction and Approval of Minutes
Draft AO 1986–4 Emmett W. Hines, Jr., Armstrong World Industries
Draft AO 1986–5 Donald J. Messaglia, The Barnes for Congress Committee
1986 Legislative Recommendations
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–376–3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 86–3839 Filed 2–18–86; 3:29 pm]

BILLING CODE 6715–01–M

4

FEDERAL MINE SAFETY AND HEALTH COMMISSION

February 14, 1986.

TIME AND DATE: 2:00 p.m., Wednesday, February 12, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS CONSIDERED: In addition to the already published items heard, the Commission also discussed the following:

2. Robert Simpson v. Kenta Energy, Inc., and Roy Dan Jackson, Docket No. KENT 83–155–D, (Consideration of a procedural motion.)

3. Pyro Mining Company, Docket No. KENT 83–212, (Consideration of a remand from the United State Court of Appeals for the Sixth Circuit.)

It was determined by a unanimous vote of Commissioners that these items be included in the meeting and that no earlier announcement of the additions was possible. 5 U.S.C. 552(b)(e)(1).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86–3772 Filed 2–18–86; 12:47 pm]

BILLING CODE 6735–01–M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11 a.m., Monday, February 24, 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 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–3704 Filed 2–18–86; 8:54 am]

BILLING CODE 6210–01–M

6

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [51 FR 5009 February 10, 1986].

STATUS: Close/open meetings.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday, February 3, 1986.

CHANGE IN THE MEETING: Additional meeting/deletion.

The following item was considered at a closed meeting held on Monday, February 10, 1986, at 3:00 p.m.

Settlement of injunctive action.

The following items were not considered at an open meeting scheduled for Thursday, February 13, 1986, at 10:00 a.m.

1. Consideration of whether to withdraw Temporary Exemptive Rule 206A–1(T) under the Investment Advisers Act of 1940 for certain broker-dealers which, by its terms, expired. For further information, please contact Stephanie M. Monaco at (202) 272–2031.
2. Consideration of whether to propose for public comment Rule 202(a)(1)–1 under the Investment Advisers Act of 1940 which would deem a transaction not resulting in a change of actual control or management of an investment adviser not to be an "assignment" requiring approval of the adviser's clients.

For further information, please contact Stepanie M. Monaco at (202) 272–2031.

Commissioner Cox, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kathryn Natale at (202) 272–3195.

Dated: February 13, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–3696 Filed 2–14–86; 4:15 pm]

BILLING CODE 8010–01–M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 17, 1986.

Open meetings will be held on Wednesday, February 19, 1986, at 10:00 a.m. and on Thursday, February 20, 1986, at 10:00 a.m., in Room 1C30, followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4),, (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at closed meeting.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, February 19, 1986, at 10:00 a.m., will be:

The Commission will meet with representatives of the legal, financial, and business communities to discuss issues of mutual interest and concern, including, but not limited to, market rumors, trading halts, and the disclosure obligations of issuers under the securities laws and exchange listing agreements. For further information, please contact Alan L. Dye at (202) 272–2014.

The subject matter of the open meeting scheduled for Thursday, February 20, 1986, at 10:00 a.m., will be:

1. Consideration of whether to authorize the Division of Investment Management to seek the views of the North American Securities Administrator Association on certain draft rule proposals and draft legislation affecting the Commission's administration of the Investment Advisers Act of 1940 ("Act"). The draft rule proposals would exempt from federal registration certain classes of small investment advisory businesses in states that regulate advisers. The draft legislation would (i) clarify the Act's application to publishers, (ii) specifically authorize the Commission to regulate advertising and custody, (iii) impose new fees on registrants, (iv) grant explicit authority to prescribe the form of filings and records made pursuant to the Act and (v) facilitate sharing of adviser inspection and investigation information with state and federal law enforcement officials. For further information, please contact Carol H.I. Martin at (202) 272–3031.
2. Consideration of whether to propose for public comment Rule 202(a)(1)–1 under the Investment Advisers Act of 1940 which would deem a transaction not resulting in a change of actual control or management of an investment adviser not to be an "assignment" requiring approval of the adviser's clients. For further information, please contact Stepanie M. Monaco at (202) 272–2031.
3. Consideration of a proposed rule change submitted by the National Association of Securities Dealers ("NASD") to establish a charge of $79.00 per month per subscriber terminal receiving full quotation information in NASDAQ securities through vendors other than the NASD. For further information, please contact William W. Uchimoto at (202) 272–2409.

The subject matter of the closed meeting scheduled for Thursday, February 20, 1986 following the 10:00 a.m. open meeting, will be:

Formal order of investigation.
Settlement of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administration proceeding of an enforcement nature.
Institution of injunctive actions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ronald A. Schy at (202) 272–2468.

Dated: February 11, 1986.

John Wheeler,

Secretary.

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Part II

Environmental Protection Agency

40 CFR Part 251

Guideline for Federal Procurement of Asphalt Materials Containing Ground Tire Rubber for Construction and Rehabilitation of Paved Surfaces; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 251

[SWH-FRL 2939-8]

Guideline for Federal Procurement of Asphalt Materials Containing Ground Tire Rubber for Construction and Rehabilitation of Paved Surfaces

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing a guideline for Federal procurement of asphalt materials containing ground tire rubber for construction and rehabilitation of paved surfaces. The guideline implements section 6002 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA). Section 6002 states that if an agency uses appropriated Federal funds to purchase certain designated items, such items must contain the highest percentage of recovered materials practicable. EPA is required to designate items subject to the requirements of section 6002 and to issue guidelines to assist procuring agencies in complying with these requirements.

DATE: EPA will accept public comments on this proposed guideline until April 21, 1986.

ADDRESS: Comments on this proposed guideline should be mailed to the Docket Clerk [Docket No. 6002, Asphalt-Rubber Procurement Guideline], Office of Solid Waste, WH-565A, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments received by EPA may be inspected in Room S-212, U.S. EPA, 401 M Street SW., Washington, DC from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free, at (800) 424-9346 or at (202) 382-3000. For technical information, contact William Sanjour, Office of Solid Waste, WH-563, U.S. EPA, 401 M Street SW., Washington, DC 20460, telephone: (202) 382-4502.

SUPPLEMENTARY INFORMATION:

I. Authority

This guideline is proposed under the authority of sections 2002(a) and 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a) and 6962.

II. Introduction

Purpose and Scope

The Environmental Protection Agency (EPA) today is proposing the third of a series of guidelines designed to encourage the use of products containing materials recovered from solid waste. Section 6002 of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA" or "Act"), 42 U.S.C. 6962, states that if a Federal, State, or local procuring agency uses appropriated Federal funds to purchase certain designated items, such items must be composed of the highest percentage of recovered materials practicable. EPA is required to designate these items and to prepare guidelines to assist procuring agencies in complying with the requirements of section 6002.

EPA issued the first of these guidelines, for cement and concrete containing fly ash, on January 28, 1983 (48 FR 4230). A second guideline, for paper and paper products containing recovered materials, was proposed on April 9, 1985 (50 FR 14076). This proposed guideline applies to procurement of certain asphalt materials containing ground scrap tire rubber used for construction and rehabilitation of paved surfaces.

Requirements of Section 6002

Section 6002 of the Act, titled Federal Procurement, directs all procuring agencies which use appropriated Federal funds to procure items containing the highest percentage of recovered materials practicable, provide that reasonable levels of competition, cost, availability, and technical performance are maintained. This requirement applies only to those items (or products) which are designated by EPA under section 6002(e). Further, the requirement only applies when the purchase price of the item exceeds $10,000 or when the cost of such items purchased during the preceding year exceeded $10,000.

Federal procuring agencies responsible for drafting or reviewing specifications are required to review and revise their specifications for items designated by EPA in order to eliminate any unfair discrimination against the use of recovered materials. They must remove requirements that items be manufactured from virgin materials and remove unreasonable prohibitions against the use of recovered materials.

Vendors are required to estimate the percentage of recovered materials to be utilized for the performance of the contract and to certify that it is at least the amount called for by the specifications or other contractual requirements.

Section 501 of the Hazardous and Solid Waste Amendments of 1984 (HSWA) added paragraph (i) to section 6002 of RCRA. This new provision requires procuring agencies to develop an affirmative procurement program for procuring items designated by EPA. The program, which must be consistent with Federal procurement requirements, must contain at least four elements:

(1) A recovered materials preference program;

(2) An agency promotion program;

(3) A program for requiring estimates, certification, and verification; and

(4) Annual review and monitoring of the effectiveness of the procurement program.

Section 6002 gives the Environmental Protection Agency responsibility for promulgating guidelines to assist procuring agencies in carrying out these requirements. The EPA guidelines must designate those products which can be produced with recovered materials and whose procurement by procuring agencies will fulfill RCRA objectives. The EPA guidelines must also provide specific recommendations with respect to the procurement of products containing recovered materials.

Section 6002 is aimed at reducing the quantity of materials in the solid waste stream. Since Federal procurement of products made from recovered materials can demonstrate their technical and economic viability, it will promote usage of these materials by Federal, State, and local agencies, and thereby encourage their removal from the solid waste stream.

Rationale for Selecting Asphalt Materials Containing Ground Tire Rubber for a Procurement Guideline

In the preamble to the fly ash guideline, EPA established criteria for the selection of procurement items for which guidelines will be prepared. However, section 6002(e) of RCRA, as amended by HSWA, specifically directs the EPA Administrator to issue procurement guidelines for tires. The Congressional conference committee report on HSWA specifies that the term "tires" includes asphalt materials containing recycled rubber. [Cong. Rec. H 11138 (Oct. 3, 1984)]. Since Congress already has designated this product as an appropriate subject for a procurement guideline, it is not necessary for EPA to demonstrate in this preamble that it satisfies the EPA criteria.

Guidelines for Other Uses of Scrap Tires

The Congressional conference committee report also states that the term "tires" in section 6002(e) includes the use of retreaded tires. In addition, EPA is directed to investigate other uses of scrap tires such as in construction of artificial reefs. [Cong. Rec. H11138 (Oct. 3, 1984)].

EPA is gathering information on retread tire procurement programs in order to determine whether a Federal guideline is advisable. In addition, EPA has researched use of scrap tires in construction of artificial reefs and has determined that no Federal procurement is involved. Therefore, EPA will not issue a guideline for this item; however, EPA encourages state and local governments to continue using scrap tires in such an innovative manner.

III. Background Information on Using Ground Tire Rubber in Asphalt Materials

Scrap automotive and truck tires contribute approximately 240 million units (about 2 million tons) of solid waste to be disposed of annually. Some of these tires can be removed from the solid waste stream by recycling the rubber for use in other applications. One such application is the use of ground tire rubber in asphalt materials for construction and maintenance of paved surfaces.

Asphalt cement, cutback asphalt, and emulsified asphalts are the most common asphalt products used by the paving industry. They are used in a variety of applications. Several of these applications can incorporate recycled rubber, including seal coats (stress absorbing membranes), stress absorbing membrane interlayers, asphalt concrete, crack and joint sealants, and waterproof pavement underlayers.

While the tonnage of ground tire rubber used as a component of asphalt materials is not precisely known, it is known that asphalt materials containing ground tire rubber have been used in projects in the United States since the mid 1960's. For example, rubber filled asphalt concrete has been used in the United States for six years. Rubber modified asphalt concrete has been used in Europe for at least 15 years and in the United States for about 6 years. It is estimated that at a minimum, 39 states, Canada, Australia, and African and European countries have used some form of recycled rubber in asphalt mixtures.

Seal Coats (Stress Absorbing Membranes)

Conventional seal coats (also known as stress absorbing membranes) consist of spraying a layer of asphalt and spreading aggregate chips onto a road surface. The road surface can be an old pavement surface or a prepared base course. The treatment is used widely to seal existing surfaces to prevent water intrusion into the underlying system and to provide a skid resistant surface. Seal coats have been used on all types of pavements, ranging from the lowest volume streets and roads to higher capacity highways to commercial and military airport runways and paved surfaces.

Asphalt materials containing ground tire rubber have been used as a seal coat (stress absorbing membrane). They have been demonstrated to be effective in preventing certain types of pavement cracking by placing on the surface a membrane which is waterproof, elastic, stress-absorbing, and strain-absorbing. The membrane also reduces the susceptibility of the pavement to oxidation and temperature changes.

Stress Absorbing Membrane Interlayers

Stress absorbing membrane interlayers (SAMIs) are intended to reduce reflection cracking of asphalt overlays over existing pavement surfaces. Reflection cracking is a form of distress that occurs when cracks in the existing surface (asphalt or Portland cement concrete) occur in a recently placed overlay layer of asphalt concrete. Interlayers are placed between the existing surface and the new overlay to reduce and to retard this reflection cracking.[1]

Asphalt materials containing ground tire rubber have been used as an interlayer between existing pavement surfaces and new overlays in both highways and airfield pavements. The material has the same composition as that used for seal coats.

Asphalt Concrete

Ground tire rubber can be used either as a binder or as a filler in asphalt concrete.

(a) *Binder for Asphalt Concrete.* Pre-treated asphalt rubber is used as a binder for asphalt concrete, both dense and open-graded. The more viscous product creates thicker films that allow an increase in binder content of 15 to 20 percent above the amount of conventional asphalt binders. It is not necessary to modify the aggregate gradation.

(b) *Filler for Asphalt Concrete.* Ground tire rubber can also be used as an aggregate in asphalt concrete. This application generally uses 3 percent ground tire rubber by weight of the total mix (30 to 35 percent by weight of asphalt and rubber). The rubber replaces and acts as aggregate in the mix. This rubber is incorporated with the mineral aggregates and asphalt at the time of mixing these components at any conventional plant. This process is commonly known as rubber modified asphalt.

Sealants

Sealants are used to fill and to seal cracks and joints in paved surfaces. Sealing prevents intrusion of water and foreign material and extrusion of fines and subbase, thereby increasing pavement life and reducing maintenance costs. Sealants are used on both asphalt concrete and Portland cement concrete pavements.

Asphalt materials containing ground tire rubber are widely used as a crack and joint sealant. Ground tire rubber is added to hot asphalt cement to produce a blend. Fifteen or more percent rubber by weight is used. The blend is usually produced from a master batch of concentrated materials manufactured in a central location and sold to users. This concentrate is heated at the job site prior to filling cracks or joints. The blend can be applied by contractors or by highway agency personnel.

Waterproof Pavement Underlayers

A hot applied membrane of asphalt containing ground tire rubber may be spray applied directly to the compacted subgrade soil under a pavement and/or shoulders.The resultant waterproof membrane prevents water intrusion from the top or sides into the soil, thus protecting the strength of the total pavement structure.

Other Uses

Ground tire rubber can be used for other applications, as well, including geomembranes for pond liners, flat deck roofing materials, bridge deck membranes, and certain athletic and safety uses.

Limitations

The initial purchase price of asphalt materials containing ground tire rubber may be higher than conventional asphalt. However, on a life-cycle cost basis, these materials may be more economical than conventional asphalt materials. There is evidence that (1) they are more durable and (2) pavements containing ground tire rubber require less maintenance than conventional pavements. For example,

life-cycle cost evaluations done by the City of Phoenix, Arizona have proven asphalt rubber systems to be cost effective.[2]

In addition, ground tire rubber cannot be used in all asphalt paving applications, nor can all ground tire rubber be used with all asphalts for given applications where asphalt rubber or rubber filled asphalt concrete has been found effective. Some asphalts and certain recycled rubbers are not compatible from a physio-chemical point of view. Reasons for this are not fully understood, but experience has shown this to be the case often enough that a determination of compatibility is required for each use. Presently, suppliers of asphalt materials containing recycled rubber make these compatibility determinations.

IV. Discussion of Guideline

This section of the preamble summarizes and explains the basis for each section of the guideline.

Purpose

The purpose of this proposed guideline is to increase the use of ground tire rubber in asphalt materials which are purchased with Federal funds for use in highway construction and maintenance. Ground tire rubber is produced by recycling used automotive and truck tires that would ordinarily be disposed of by placement in landfills or by other disposal procedures. Increased use in asphalt materials should help to remove tires from the solid waste stream. At the same time, such use will assist in conserving both energy and natural resources used in constructing and maintaining pavement systems. Cost savings may be possible if the product produced is superior to conventional asphalt concrete products.

This proposed guideline is intended to foster the use of recycled tire rubber in federally-funded construction. Increased demand should improve the marketability of ground tire rubber and promote wider acceptance of it as a component in asphalt materials used in pavement construction and maintenance. This, together with the possible cost savings from reduced maintenance when asphalt materials containing ground tire rubber are used, may result in its more widespread use in non-federally funded construction as well.

Although the guidelines contain recommendations rather than requirements, EPA is of the opinion that compliance with the guidelines constitutes compliance with the statute. However, there may be alternative methods of complying with the statute not specifically addressed by the guidelines.

Scope

The scope of this guideline is limited to the use of ground tire rubber in certain asphalt materials used in construction and rehabilitation of paved surfaces. The guideline identifies five uses of asphalt materials containing ground tire rubber: joint and crack sealants, seal coats (stress absorbing membranes), stress absorbing membrane interlayers, asphalt concrete (both rubber binders and rubber modified), and waterproof pavement underlayers.

Applicability

The requirements of section 6002 apply, for the most part, to procuring agencies. The term "procuring agency" is defined by the Act as "any Federal agency, or any State agency, or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract." The requirements of section 6002 apply when a procuring agency's purchases of an item exceed $10,000, or when the cost of functionally equivalent purchases in the preceding fiscal year exceeded $10,000.

(1) Procuring Agency

(a) *Direct Purchases.* With regard to direct purchases, there are several situations to which the Agency believes this guideline would apply. Although the language on applicability in section 6002 leaves room for interpretation, the Agency believes the recommendations here best describe the intent and practical applications of section 6002.

The first is where a Federal agency or other authority using Federal funds purchases ground tire rubber, to be mixed with asphalt. The agency may use this material, or it may supply these materials to other persons, or the materials may be used by persons performing construction services for the agency. An example of this occurs when the Department of Defense, Army, purchases ground tire rubber for use on a construction job, or its general contractor or subcontractor purchases these materials for use on such a job. The guideline would apply in each of these situations.

A second case occurs when pre-mixed asphalt materials containing ground tire rubber are purchased directly by a Federal agency. The same scenarios applied to direct purchases of ground tire rubber apply here. If a Federal agency purchases asphalt rubber materials for its own use or, more likely, if a person under contract to or in support of a Federal agency purchases these materials, then the provisions of this guideline would apply.

(b) *Indirect Purchases.* Indirect purchases of asphalt materials by Federal or other procuring agencies also would be subject to this guideline. This is where the coverage of the term "procuring agency" becomes critical. Foremost among indirect consumers of asphalt materials is the Department of Transportation (including the Federal Highway Administration, the Federal Aviation Administration, and the Urban Mass Transit Administration). All these agencies are involved in the Federal funding of construction programs for or through state and local government authorities.

Any purchase of at least $10,000 worth of asphalt materials by States and localities or their contractors, subcontractors, grantees, or other persons which is funded by grants, loans, funds, or similar forms of disbursement of monies from Federal agencies would also be subject to the provisions of this guideline.

(2) $10,000 Threshold

Section 6002 and this guideline only apply when the purchase price of an item exceeds $10,000 or when the quantity of such items purchased during the preceding year exceeded $10,000. Clearly, the guideline applies when a procuring agency directly purchases more than $10,000 worth of asphalt paving materials for a designated item during the course of any fiscal year. This requirement is more difficult to interpret, however, when a procuring agency purchases asphalt paving materials "services," which would not only involve the supply of the product but also placement, finishing, etc. Even more complex is the common case where a contractor is assigned all construction activities for a particular agency project, including subcontracting authority for paving work. In such cases, the actual cost of the paving materials may not be readily determinable.

EPA leaves it to the discretion of the procuring agency as to the appropriate method for identifying the cost of asphalt materials for purposes of determining the applicability of RCRA Section 6002 and this guideline. EPA urges agencies to keep in mind the intent of RCRA, i.e., increased use of recovered materials, in developing their approach to determining RCRA's applicability. Imposition of new paperwork or estimation procedures for this purpose should be avoided.

Definitions

Most of the definitions used in this guideline are the same definitions used in RCRA and therefore do not require further explanation. Other definitions, such as "asphalt materials containing ground tire rubber," incorporate standard industry definitions.

The guideline recommends that procuring agencies use asphalt materials containing ground tire rubber whenever such use would be "technically appropriate and economically feasible." The proposed guideline defines the term "technically appropriate and economically feasible" by five criteria: (1) There is an American Society for Testing and Materials (ASTM) or American Association of State Highway and Transportation Officials (AASHTO) specification for a designated application of asphalt materials containing ground tire rubber, (2) the materials meet the specification, (3) the materials will be reasonably available to the procuring agency within a reasonable period of time, (4) the materials are available at a reasonable price, and (5) a satisfactory level of competition will be maintained. As discussed later in this preamble, these criteria are limitations on the requirement to procure asphalt materials containing ground tire rubber. Therefore, if these limitations are satisfied, it should be technically appropriate and economically feasible to use asphalt materials containing ground tire rubber.

Specifications

Section 6002(d) of the Act requires revision of all specifications for procurement items designated under Section 6002 for which Federal agencies have drafting and review responsibility so that they no longer exclude the use of recycled materials (in this case, ground tire rubber) or require use of virgin materials, and so that they incorporate the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the items.

While this requirement applies nominally only to Federal agencies, EPA believes that the elimination of specifications which unreasonably discriminate against the use of ground tire rubber is implicitly required by the affirmative procurement provisions of sections 6002(c) and (i) as well. A procuring agency could not realistically fulfill its section 6002(c) and (i) obligation to procure items composed of the highest percentage of recovered materials practicable if, in procuring asphalt paving materials, it relied upon specifications which unreasonably discriminated against ground tire rubber use. Accordingly, EPA construes the specifications requirement to apply to all procuring agencies.

EPA recommends that the specifications identify the pavement construction and rehabilitation uses for which asphalt materials containing ground tire rubber are appropriate. Thereafter, the contract specifications for individual construction/rehabilitation projects must allow these materials to be used as long as such use is technically appropriate and economically feasible.

Procuring agencies are reminded that section 6002(d) of RCRA requires all Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies to revise such specifications no later than eighteen (18) months after the enactment of HSWA (i.e., by May 8, 1986).

Federal specifications and national consensus standards (i.e., ASTM or AASHTO standards) currently exist for the use of asphalt paving materials in general and for asphalt crack and joint sealants containing ground tire rubber. However there are currently no consensus standards for the other designated uses of asphalt containing ground tire rubber, namely: stress absorbing membranes, stress absorbing membrane interlayers, waterproof pavement underlayers, and asphalt concrete. Although national consensus standards have not yet been written for these other uses, there are many state specifications for them. These are included as Appendix A to this guideline. Procuring agencies should find it helpful to make maximum use of these specifications.

Affirmative Procurement Program

RCRA section 6002(i) requires procuring agencies to adopt an affirmative procurement program to ensure that designated procurement items containing recovered materials are purchased to the maximum extent practicable. The program must be developed within one year after the promulgation of this guideline and must contain four elements: (1) A preference program; (2) a promotion program; (3) procedures for estimation, certification, and verification; and (4) procedures for annual review and monitoring of the program's effectiveness.

(1) Preference Program

Under section 6002(i), procuring agencies have three options for implementing the preference program. They can employ a case-by-case approach, adopt minimum content standards, or choose a substantially equivalent alternative.

(a) *Case-by-case Approach.* The case-by-case approach applies to contract awards. Under this approach, vendors of items not containing recovered materials compete with vendors of items that do contain recovered materials. The contract is awarded to the lowest priced responsible bidder. In the case of identical bids, the contract is awarded to the responsible bidder offering to provide the highest percentage of recovered materials.

EPA believes that the case-by-case approach is inappropriate for procurement of asphalt materials containing ground tire rubber. Decisions to use these materials are made by the project engineer prior to issuance of the bid solicitation. Asphalt materials containing ground tire rubber may be the preferred material for the job, in which case the bid solicitation will not include other materials. In addition, the amount of ground tire rubber is limited to a specified amount or range (such as 18–20 percent by weight) suitable for the planned application, so a procurement approach that awards the contract to the vendor offering "the highest percentage of recovered materal" is inappropriate.

(b) *Minimum content standards.* Minimum content standards are specifications which identify the amount of recovered material which a procurement item should contain. It is not possible for EPA to establish minimum ground tire rubber content standards because there is no technical basis for doing so. As before, decisions to use these materials are made by the project engineer prior to issuance of the bid solicitation. For an individual construction or paving project this decision depends on a number of factors, including the costs of the materials and the compatibility of the asphalt and the ground tire rubber. If asphalt rubber is specified in a solicitation a minimum content may also be specified, but EPA knows of no way to make that determination in advance.

(c) *Substantially equivalent approach.* The affirmative procurement program which EPA is recommending in this guideline is one in which procuring agencies require the use of asphalt materials containing ground tire rubber in projects when such use would be technically appropriate and economically feasible. Under the case-by-case approach, the decision to procure these materials is made after bids are received, whereas under the proposed approach, the decision is made prior to issuance of the bid solicitation.

The bid solicitation or specifications would specifically require asphalt materials containing ground tire rubber.

Asphalt materials containing ground tire rubber currently are used for a limited number of applications, such as those designated by this guideline. Therefore, when preparing the specifications for individual projects, procuring agencies (i.e., project engineers) should determine whether use of asphalt materials containing ground tire rubber is technically appropriate and economically feasible. Such determinations normally will be made by consulting the agency's specifications, which will identify the uses for which asphalt materials containing ground tire rubber are appropriate. If the use is technically appropriate and economically feasible, the contract specifications for the project must specify that asphalt materials containing ground tire rubber will be used.

The recommended procedure is consistent with existing procurement practices. Before a bid solicitation is announced, the project engineer prepares the contract specifications, which contain such items as design, performance, and material requirements for that project. The materials requirements are very specific, identifying alternate materials only when appropriate.

EPA notes that, for the uses designated by this guideline, asphalt materials containing ground tire rubber may be the only appropriate material. The contract specifications therefore may identify only that material, rather than both asphalt concrete and asphalt materials containing ground tire rubber. If both products are equally technically appropriate and economically feasible, then preference must be given to asphalt materials containing ground tire rubber.

Contract awards should be made in accordance with normal bid evaluation procedures—i.e., to the lowest priced responsive, responsible bidder.

The procurement approach recommended by the proposed guideline is subject to five limitations. Four of these limitations appear in section 6002(c) of RCRA. They are (1) maintenance of a satisfactory level of competition, (2) availability within a reasonable period of time, (3) ability to meet the contract specification, and (4) availability at a reasonable price. These limitations are discussed in Section V of this preamble.

The fifth limitation, imposed by this guideline, is the availability of AASHTO and/or ASTM material and construction specifications. A procuring agency can decide not to procure asphalt materials containing ground tire rubber if there are no AASHTO and/or ASTM specifications for the planned application of the materials. The AASHTO and ASTM specifications, which contain acceptance criteria for the materials, usually are adopted by state highway and transportation agencies or used by these agencies as models during specification development. Currently, AASHTO and ASTM have developed specifications only for asphalt rubber materials used as crack and joint sealants. As AASHTO and ASTM specifications are issued for the other items designated by this guideline, procuring agencies must expand their procurement programs to include those items as well.

There are many state specifications for the other uses of asphalt materials containing ground tire rubber designated by this guideline. (See Appendix A.) EPA encourages procuring agencies to use these materials in the other applications, making use of the state specifications and the studies/reports in Appendix B to the proposed guideline to the maximum extent practicable.

(2) Promotion Program

The second requirement of the affirmative procurement program is a promotional effort by procuring agencies. The proposed guideline recommends several methods for procuring agencies to use for disseminating information about their preference programs, such as placing statements in bid solicitations and discussing the program at bidders' conferences.

(3) Estimates, Certification, and Verification

The third requirement of the affirmative procurement program set forth in section 6002(i) concerns estimates, certification, and verification. The procuring agency must require contractors to estimate the total percentage of recovered material used in the performance of the contract and to certify the minimum recovered material content actually used. In addition, the procuring agency must use reasonable verification procedures for estimates and certification. Section 6002(c)(3) contains similar provisions, providing that contracting officers must require vendors to certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by applicable specifications or other contractual arrangements. Vendors also must estimate the percentage of recovered materials used in the performance of the contract.

EPA believes that the requirements for estimates and certification in sections 6002(i) and 6002(c)(3) are the same; procuring agencies need use only one set of procedures to satisfy these provisions. (See 50 FR 14076, April 9, 1985.) Further, since procuring agencies already use certification procedures as part of their normal procurement procedures, EPA believes that new procedures will not be required to satisfy the RCRA requirements.

(a) *Estimates.* As required by section 6002, the proposed guideline specifies that procuring agencies must require vendors to estimate the percentage of ground tire rubber used in the performance of a contract.

(b) *Certification.* The proposed guideline specifies that procuring agencies must require vendors to certify that the percentage of ground tire rubber included in the asphalt material supplied under the contract meets the contract specification. Rather than requiring these agencies to develop new certification forms and procedures, EPA is recommending simply that existing mechanisms be used for certification of rubber content. For example, certification normally may be done on a per project or per shipment basis. Either type of certification procedure meets the section 6002 requirements.

(c) *Verification.* The proposed guideline recommends that procuring agencies use their normal verification procedures for verifying estimates and certifications. Procuring agencies normally verify that the materials supplied meet the contract specifications by testing materials and/or requiring vendors to establish quality assurance programs.

EPA notes that test methods for verifying that asphalt meets the contract specifications are available. However, these methods are inappropriate for testing asphalt materials containing ground tire rubber. Certain properties of rubber-containing asphalt materials can be tested, but there are no equipment, test methods, and acceptance criteria for testing the rubber/ asphalt mixture as a whole. Rubber and asphalt undergo changes when mixed together and form a new material. Molecular bonding occurs, so that it becomes physically and chemically impossible to separate the rubber from the asphalt. Thus, analytical verification of rubber content is not possible.[3]

Procuring agencies therefore should rely on other methods of verification. In particular, procuring agencies should require vendors to establish and to follow quality assurance/quality control procedures because it is the vendor's

responsibility to supply a product that meets the contract specifications. The vendors are responsible for ensuring that the ground tire rubber is tested to determine that it meets the specifications.

(4) Annual Review and Monitoring

The fourth requirement of the affirmative procurement program is an annual review and monitoring of the effectiveness of the program. The review should include an assessment of the effectiveness of the agency promotion program and an assessment of remaining barriers to procurement of asphalt materials containing ground tire rubber.

V. Recommendations as to Price, Competition, Availability, and Performance

Section 6002(c)(1) provides that the affirmative procurement requirement is subject to four limitations. First, the price of the item must not be unreasonable. Second, a satisfactory level of competition must be maintained. Third, the item must be reasonably available. Fourth, the item must meet the specifications established by the procuring agency.

Price

Section 6002 provides that a procuring agency can decide not to purchase asphalt materials containing ground tire rubber if the price is "unreasonable." This guideline leaves the determination of reasonable price to the discretion of the procuring agency. The procedures contained in applicable provisions of Federal procurement law should be used. However, the Agency cautions against determining reasonableness of price by comparing spot prices for relatively small quantities of asphalt paving materials containing ground tire rubber with competitive bids for volume purchases of conventional paving materials without ground tire rubber.

The costs of asphalt materials containing ground tire rubber initially are higher than the costs of conventional asphalts. However, these materials have a longer life than conventional asphalts and, therefore, have a lower life cycle costs.[4] Therefore, EPA recommends that procuring agencies use life-cycle cost analyses (see Reference 1) containing ground tire rubber.

Competition

The primary purpose of competition is to secure the lowest price for a given product. Federal procurement procedures state that adequate competition is usually presumed to exist if: (i) At least two responsible offerors (ii) who can satisfy the Government's requirement (iii) independently compete for a contract to be awarded (iv) by submitting priced offers responsive to the expressed requirements of solicitation. In addition, the prices should be examined for reasonableness.

Availability and Delays

The Agency does not believe that procuring agencies should have to tolerate any unreasonable delays in obtaining asphalt materials which contain ground tire rubber, other than delays which may be typically associated with asphalt paving projects. As specifications and purchasing practices are revised to allow for the use of ground tire rubber, this material should become more widely available both geographically and in terms of the number of businesses willing and able to supply it. However, if the material is unavailable, procuring agencies are not required to purchase it.

Central tire collection and grinding plants are located throughout the United States. These plants currently produce ground tire rubber in several types and grades adequate for use in some types of pavement construction and maintenance operations. Therefore, EPA does not expect availability to be a problem.

Performance

The issue of reasonable performance is addressed in this preamble under the subsections on "Background Information on Using Ground Tire Rubber in Asphalt" and "Specifications." Additional technical performance information is contained in the "References" section of this guideline.

VI. Regulatory Analysis

Effects

(1) *Environmental Effects.* The proposed guideline will have a positive impact on the environment. More than 500 tires are consumed to produce rubber for a one-lane, one-mile stretch of road. By encouraging the use of ground tire rubber, the guideline should result in a decrease in the number of tires going to landfills or to tire stockpiles.

In addition, the increased use of rubber in asphalt materials will result in reduced generation of solid wastes, air pollutants, and water pollutants. These pollutants are generated during the production of asphalt and the aggregates used in asphalt concrete pavements. To the extent that ground tire rubber replaces the asphalt or the aggregate, these pollutants will be reduced.

(2) *Energy Impacts.* The production of conventional asphalt requires energy-intensive processes such as crude oil production and transportation and asphalt cement production. When asphalt materials contain ground tire rubber, some of the asphalt is replaced with ground rubber, which is less energy-intensive to produce; asphalt rubber production requires only two-thirds of the energy for conventional asphalt concrete production. Thus, increased usage of asphalt materials containing ground tire rubber will result in an energy savings.

Executive Order 12291.

Under Executive Order 12291, EPA must determine whether a regulation is major or nonmajor. The proposed guideline is not a major rule because it is unlikely 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.

Use of asphalt materials containing ground tire rubber for construction and rehabilitation of paved surfaces has not been widespread. While ¾ of the states have used it to some extent as a crack and joint sealant, it has not yet gained universal acceptance in SAMs, SAMIs, waterproof underlayers, or asphalt concrete binder or filler. Even when it is used, it is used as a thin (¼"–2") membrane under or over a thick (3"–18") asphalt concrete or Portland cement concrete pavement. Thus, its use represents a small percentage of the materials used in a pavement system.

The price per ton of asphalt materials containing ground tire rubber is currently somewhat higher than the price of conventional asphalt concrete systems. However, because the life of an asphalt rubber product is greater than an asphalt concrete product, there will not be an increase in costs, on a life cycle cost basis, to procuring agencies.

There may be an increase in employment investment in the rubber grinding industry as a result of the proposed guideline. No adverse effects on the asphalt or aggregate producing industries are expected because the amount of asphalt or aggregate replaced by rubber would be small.

EPA has prepared a background document supporting the above analysis. This document may be

examined at the RCRA Docket Office, during the times identified above under the heading "Address."

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency publishes 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, small governmental jurisdictions), unless the Administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Primarily because of the $10,000 threshold, EPA does not expect a substantial number of small entities to be affected. The Agency also believes that the flexible approach to procurement of asphalt materials containing ground tire rubber provided in the proposed guideline will not impose a significant regulatory or economic burden on small procuring agencies, manufacturers, or vendors. Detailed information on this assessment can be found in the RCRA docket for this guideline.

For the above reasons, I hereby certify that this proposed guideline would not have a signficant economic impact on a substantial number of small entities. This guideline does not, therefore, require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 251

Asphalt rubber, Government procurement, Recycling, Resource recovery.

Dated: February 8, 1985.

Lee M. Thomas,

Administrator.

[1] Monismith, C.L. and Coetzee, N.F., "Analytical Study of Reflection Cracking in Asphalt Concrete Overlay by Use of Rubber Asphalt Interlayer," *TRB Record* #700, pp. 100–108.

[2] Schnormeier, R.H., "Eleven-Year Pavement Condition History of Asphalt Rubber Seals in Phoenix, Arizona."

Schnormeier, R.H., "Use of Asphalt-Rubber on Low-Cost, Low-Volume Streets: A Review After 13 Years," *Transportation* Research Record #898, pp. 344–346.

Schnormeier, R.H., "The Fifteen Year Pavement Condition of Asphalt Rubber Membranes in Phoenix, Arizona."

[3] While there is no nationally accepted method for testing rubber content, test methods are under development. For example, methods for testing rubber content have recently been verified by Western Technologies, Inc., in a study commissioned by the industry and the Arizona Department of Transportation. There are five phases to the entire evaluation, the first three have been completed, and phase III addresses the rubber content problem. (Western Technologies, Inc., "Evaluation of McDonald Compression/Recovery Test, Phase III," April 1985.)

[4] Blais, Ernest J., "Value Engineering Study of Crack and Joint Sealing," Report No. FHWA-TS-84-221, p. 7 (US DOT, December 1984).

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations by adding a new Part 251 reading as follows:

PART 251—GUIDELINE FOR FEDERAL PROCUREMENT OF ASPHALT MATERIALS CONTAINING GROUND TIRE RUBBER FOR CONSTRUCTION AND REHABILITATION OF PAVED SURFACES

Subpart A—Purpose, Applicability, and Definitions

Sec.

Subpart B—Specifications

Subpart C—Affirmative Procurement Program

Subpart D—Certification, Estimates, and Verification

Authority: Secs. 2002(a) and 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a) and 6962.

Subpart A—Purpose, Applicability, and Definitions

§ 251.01 Purpose.

(a) The purpose of the guideline is to assist procuring agencies in the procurement of asphalt materials which contain rubber from scrap tires in accordance with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended ("RCRA" or "Act"), 42 U.S.C. 6962.

(b) This guideline contains recommendations for implementing section 6002 requirements, including revisions of specifications and the establishment of an affirmative program for the procurement of asphalt materials containing ground tire rubber. The guideline also makes recommendations for certification and verification procedures.

(c) The agency believes that adherence to the practices recommended in the guideline constitutes compliance with section 6002 of RCRA, as it relates to the purchase of asphalt materials containing ground tire rubber.

§ 251.02 Designation.

EPA hereby designates asphalt materials used for joint and crack sealants, seal coats (stress absorbing membranes), stress absorbing membrane interlayers, asphalt concrete, and waterproof pavement underlayers as product areas for which affirmative procurement actions are required on the part of procuring agencies under the requirements of section 6002 of RCRA.

§ 251.03 Applicability.

(a) This guideline applies to all procuring agencies and to all procurement actions involving purchase of the items listed in § 251.02 where the procuring agency purchases, in total, $10,000 or more worth of these items during the course of a fiscal year, or where the quantity of such items purchased during the preceding fiscal year was $10,000 or more. EPA leaves the precise method of calculating or estimating the applicability of this provision to specific construction activities of a procuring agency to the discretion of that agency.

(b) Procurement actions covered by this guideline include all purchases made directly by a procuring agency or by any person directly in support of work being performed for a procuring agency, as in the case of general construction contractors and/or subcontractors.

(c) Such procurement actions also include any purchases made "indirectly" by a procuring agency, as in the case of purchases resulting from grants, loans, funds, and similar forms of disbursements of monies which the procuring agency intended to be used for the procurement of the items listed in § 251.02.

(d) The guideline does not apply to purchases which are unrelated to or incidental to Federal funding, i.e., not the direct result of a Federal contract, grant, loan, funds disbursement, or agreement with a procuring agency.

§ 251.04 Definitions.

As used in this guideline:

(a) "Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the

Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 *et seq.*

(b) "Federal agency" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

(c) "Asphalt materials containing ground tire rubber" means asphalt material mixed with recycled rubber from scrap automobile, truck, or bus tires. (Solid tires; forklift, aircraft, earthmoving equipment, and other nonautomotive tires; and nontire rubber sources are excluded.) The term includes asphalt rubber (asphalt and rubber that is pre-blended and reacted) and rubber modified asphalt (gap graded mineral aggregate filled with rubber granules).

(d) "Person" means an individual, trust, firm, joint stock company, Federal agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

(e) "Procurement item" means any device, goods, substance, material, product, or other item whether real or personal property which is the subject of any purchase, barter, or other exchange made to procure such item.

(f) "Procuring agency" means any Federal agency, or any State agency, or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract.

(g) "Specification" means a clear and accurate description of the technical requirement for materials, products, or services, and/or their performance, which specifies the minimum requirement for quality and construction of materials, equipment, and/or performance necessary for an acceptable product. In general, specifications are in the form of written descriptions, drawings, prints, commercial designations, industry standards, and other descriptive references.

(h) "Technically appropriate and economically feasible" means that (1) there is an American Society for Testing and Materials (ASTM) or American Association of State Highway and Transportation Officials (AASHTO) specification for a designated application of asphalt materials containing ground tire rubber, (2) the materials meet the specification(s), (3) the materials will be reasonably available to the procuring agency within a reasonable period of time, (4) the materials are available at a reasonable price, and (5) a satisfactory level of competition will be maintained.

Subpart B—Specifications

§ 251.10 Revisions.

(a) By May 9, 1986, each Federal agency must assure that its specifications do not unfairly discriminate against the use of ground tire rubber in asphalt materials. Procuring agencies must review and revise specifications, standards, or procedures which currently prohibit using ground tire rubber in asphalt materials or which require that asphalt materials be manufactured from virgin materials to eliminate these restrictions. Procuring agencies also must revise their specifications for the items designated in § 251.02 to require the use of asphalt materials containing ground tire rubber to the maximum extent possible without jeopardizing the intended end use of these items.

(b) Procuring agencies which use reference specifications which are maintained by national organizations, such as AASHTO and ASTM, must review and modify them, if necessary, to remove and discrimination against the use of ground tire rubber in asphalt materials.

§ 251.11 Reference specifications.

Each procuring agency should make use of voluntary consensus standards and state and Federal material specifications for asphalt materials which contain ground tire rubber. A list of current state specifications is provided in Appendix A. The voluntary consensus standards applicable to asphalt-rubber that currently are available are:

(a) *Joint sealers.*

(1) AASHTO M–173—"Concrete Joint-Sealer, Hot-Poured Elastic Type."

(2) ASTM D–3405—"Joint Sealants, Hot-Poured for Concrete and Asphalt Pavements."

(3) ASTM D–1190—"Concrete Joint-Sealer, Hot-Poured Elastic Type."

§ 251.12 References.

Information on using ground tire rubber in asphalt materials is contained in Appendix B. These sources should be consulted in the design and evaluation of the proper blend of ingredients for a given material for a specific use. These sources include an extensive bibliography on the use of ground tire rubber in asphalt materials.

Subpart C—Affirmative Procurement Program

§ 251.20 General.

Within one year after the date of publication of this guideline as a final rule, procuring agencies must develop an affirmative procurement program which will assure that asphalt materials containing ground tire rubber will be purchased to the maximum extent practicable. The affirmative procurement programs must be consistent with applicable provisions of Federal procurement law. This subpart and Subpart D contain EPA's recommendations regarding this affirmative procurement program.

§ 251.21 Preference Program.

(a) EPA recommends the following affirmative procurement program: that procuring agencies require the use of asphalt materials containing the maximum amount of ground tire rubber possible in paved surface construction and rehabilitation projects whenever such use would be technically appropriate and economically feasible.

(b) Award should be made in accordance with an agency's customary award procedures, typically to the lowest priced responsive, responsible bidder.

(c)(1) The recommendations in paragraph (a) are subject to the following limitations provided in section 6002(c)(1) of RCRA:

(i) Maintenance of a satisfactory level of competition.

(ii) Availability within a reasonable period of time.

(iii) Ability to meet the contract specifications.

(iv) Availability at a reasonable price.

(2) In addition, the recommendations in paragraph (a) are subject to the availability of AASHTO and/or ASTM material and construction specifications for asphalt materials containing ground tire rubber.

(d) Procuring agencies should make determinations regarding competition, availability, and price in accordance with applicable procurement law, including appropriate provisions of Title 23 of the Code of Federal Regulations.

§ 251.22 Promotion program.

EPA recommends that procuring agencies use the following methods, at a minimum, to promote their preference programs:

(a) Describe the preference program in asphalt or construction solicitations.

(b) Discuss the preference program at bidders' conferences.

§ 251.23 Annual review and monitoring.

(a) Each procuring agency must conduct an annual review and monitoring of the effectiveness of its affirmative procurement program.

(b) EPA recommends that the annual review include the following items:

(1) An assessment of the effectiveness of the program.

(2) An assessment of barriers to purchase of asphalt materials containing ground tire rubber to determine whether they are internal (e.g., resistance to use) or external (e.g., unavailable, technically inappropriate or economically infeasible).

Subpart D—Certification, Estimates, and Verification

§ 251.30 Recommendations for measurement.

(a) The procuring agency must require the vendor to:

(1) Certify that the percentage of ground tire rubber included in the asphalt material supplied under the contract is in accordance with the amount required by specifications referenced in the solicitation or contract. The vendor's certification of ground tire rubber content should not require separate reporting forms, but should make use of existing mechanisms.

(2) Estimate the total percentage of ground tire rubber used in the performance of the contract.

§ 251.31 Recommendations for verification.

The affirmative procurement program must contain reasonable verification procedures for estimates and certifications. Procuring agencies should use their normal procedures for verifying that asphalt materials containing ground tire rubber meet the contract specifications, such as requiring vendors to ensure that the rubber is tested to determine that it meets the specifications. In the case of rubber modified asphalt, the rubber content is an integral part of the user-owner's published key design and the percentage must be met by the contractor receiving the bid.

Appendix A—State specifications

Texas Department of Highways and Public Transportation Special Specification, Item 3288, Hot Asphalt-Rubber Seal Coat.

Arizona Department of Transportation, Highways Division, Special Provisions for Project FR-026-1 (20), Addendum (2).

Arizona Department of Transportation, Special Provisions for Projects IR-40-3(55) and IR-40-3(60), Item 4060053-Asphaltic Concrete (Modified) (Asphalt-Rubber).

Arizona Department of Transportation, Highways Divisions, Special Provisions for Projects F-044-1-913, RSR-594(1) P, and S-390-903.

Maricopa Association of Governments, Arizona, Section 335-Hot Asphalt Rubber Seal.

Oregon Department of Transportation, Specification M 106-85, Asphalt-Rubber Bridge Deck Membrane.

Washington Department of Transportation, Specification M 106-85, Asphalt-Rubber Bridge Deck Membrane.

Appendix B—References

EPA recommends that these documents be used by procuring agencies and those persons wishing to familiarize themselves with issues related to use of asphalt materials containing ground tire rubber.

1. Blais, Ernest J., "Value Engineering Study of Crack and Joint Sealing," Federal Highway Administration Report No. FHWA-TS-84-221, US DOT, Washington, DC, December 1984.

2. Rutherford, Norman, F., "Pavement and Shoulder Maintenance Performance Guides," Federal Highway Administration Report No. FHWA-TS-84-208, US DOT, Washington, DC, August 1984.

3. Rostler, F. S., "An Annotated Bibliography on the Use of Rubber in Asphalt Pavements," Federal Highway Administration Report Number FHWA-RD-72-1, U.S. D.O.T., Washington, D.C. May 1971.

4. Stephens, J. E., and Mokrzewski, S. 7A., "The Effect of Reclaimed Rubber on Bituminous Paving Mixtures," School of Engineering Report CE 74-75, University of Connecticut, Stoors, Connecticut, March 1974.

5. Olsen, R. E., "Rubber-Asphalt Binder for Seal Coat Construction," Implementation Package 73-1, FHWA, 1973.

6. "National Seminar on Asphalt-Rubber," October 1981, San Antonio, Texas, Summary Report, FHWA, D.O.T., Washington, D.C. October 1981.

7. Way, G. R., "Prevention of Reflective Cracking at Minnetonka East (1979 Addendum Report)," Report ADOT-RS015(13), Arizona DOT, August 1979.

8. Shuler, T. S., Pavlovich, R. D., Epps, J. A., and Adams, C. K., "Investigation of Materials and Structural Properties of Asphalt Rubber Paving Mixtures", FHWA Project DTFH61-82-C0074, Federal Highway Administration, Washington, D.C., March 1985.

9. Shuler, T. S., Gallaway, B. M., and Epps, J. A., "Evaluation of Asphalt-Rubber Membrane Field Performance," Texas Transportation Research Report 287-2, May 1982.

10. Oliver, J. W. H., "A Critical Review of the Use of Rubbers and Polymers in Bitumen Bound Paving Materials," Interim Report AIR-1037-1, Australian Research Board, 1977.

11. Pavlovich, R. D., Shuler, T. S., and Rosner, J. C., "Chemical and Physical Properties of Asphalt-Rubber," Report ADOT-RS-15(133), Arizona DOT, November 1979.

12. Green, E. and Tolonen, W. J., "Chemical and Physical Properties of Asphalt-Rubber Mixtures," Report ADOT-RS-14(162), ADOT, July 1977.

13. Shuler, T.S. and Hamberg, D.J., "A Rational Investigation of Asphalt-Rubber Properties," University of New Mexico Engineering Research Institute, August 1980.

14. Jimenez, R.A., "Testing Methods for Asphalt-Rubber," Report ADOT-RS-15(164), ADOT, January 1978

15. Shuler, T.S., Adams, C.K., and Lamborn, M., "Asphalt-Rubber Binder Laboratory Performance," Texas Transportation Institute Research Report 347-1, March 1985.

16. Stokely, James A., and McDonald, C.H., "Hot Rubber-Asphalt Seal Costs to Cure Cracking Streets," July 1972.

17. McDonald, C.H., "Rubberized Asphalt Pavements," presented at the 58th Annual Meeting of the American Association of State Highway Officials, November 27 to December 1, 1972, Phoenix, AZ.

18. McDonald, C.H., "Practical Aspects of the Use of Asphalt-Rubber Compositions in the Prevention of Reflective Cracking," presented for publication in Public Roads, a research publication of the Federal Highway Administration, U.S. Department of Transportation, Washington, DC.

19. Morris, Gene and McDonald, C.H., "Asphalt-Rubber Stress Absorbing Membranes, Field Performance and State of Art," TRB Record #595.

20. McDonald C.H., "Correction of Fatigue Failure in Bituminous Paving as Related to Large Airports," presented at the Airfield Pavement Symposium on Airfield Pavement Maintenance at the Naval Air Station, Alameda, California, September 18 to 22, 1972.

21. McDonald C.H., "Bituminous Paving as Related to Large Commercial Airports in the Urban Environment," presented at 50th Annual Meeting of the Highway Research Board, National Academy of Sciences, January 18 to 22, 1971.

22. McCullagh Frank, and Foppe, Larry, "A Five Year Evaluation of Arizona's Three Layer System on the Durango Curve," for presentation at the 1985 Annual Meeting of Association of Asphalt Paving Technologists.

23. Chen, Nan Jim, DiVito, Joseph A., and Morris, Gene, "Finite Element Analysis of Arizona's Three-layer Overlay System of Rigid Pavements to Prevent Reflective Cracking," for presentation at the 1982 Annual Meeting of Association of Asphalt Paving Technologists, February 1982.

24. Vallerga, B. A. and Bagley, J.R., "Design of Asphalt-Rubber Single Surface Treatments with Multi-layered Aggregated Structure," presented at ASTM Symposium, "What's New in Asphalt Paving," San Diego, California on December 12, 1979.

25. Demonstration Project No. 37, "Discarded Tires in Highway Construction," Pennsylvania Demonstration Projects Program, Technology, Transfer, FHWA-DP-37-12, August 1980.

26. Schnormeier, Russell, "Asphalt-Rubber Approach to Low Cost, Low Volume Streets," Transportation Research Record #898, July 1983.

27. Morris, Gene, Chen, Nan Jim, and DiVito, Joseph, "Application of Asphalt Rubber on New Highway Pavement Construction," presented at the 61st Annual Meeting of the TRB, Washington, DC.

28. Green, E.L. and Tolonen, William J., "The Chemical and Physical Properties of

Asphalt-Rubber Mixtures," ADOT-RS-14. Arizona DOT in cooperation with US DOT.

29. Schnormeier, Russell H., "Eleven Year Pavement Condition History of Asphalt-Rubber Seals in Phoenix, Arizona".

30. Jensen, Ronald W., and Shine, Richard E., "Asphalt-Rubber Development and Application," APWA Reporter, January 1981.

31. Allen, Harvey S., "Methods and Materials for Reducing Crack Reflectance," FHWA/MN/RD-84/09, January 1985.

32. Boone, R.B., "Technical Memorandum, Evaluation of Rubber Asphalt Binder for Seal Coating Asphaltic Concrete—March 1974-June 1976," August 1976.

33. Esch, David C., "Asphalt Pavements Modified With Coarse Rubber Particles—Design, Construction, and Ice Control Observations," Report No. FHWA-AK-RD-85-07, Alaska Department of Transportation, August 1984.

34. Piggot, M.R., and Woodhams, R.T., "Recycling of Rubber Tires in Asphalt Paving Materials," Environment Canada Contract Serial No. OSU78-00103, March 1979.

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S. 1831/Pub. L. 99-247

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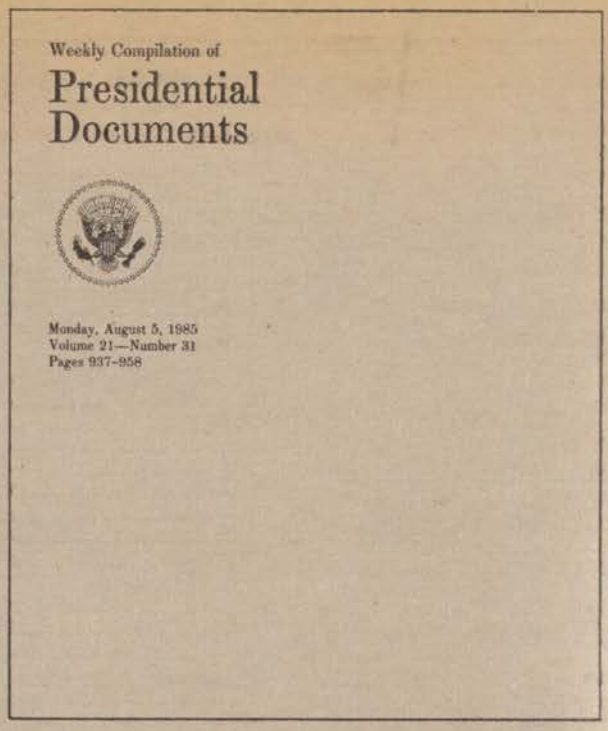

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