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Friday
February 28, 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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How To Cite This Publication: Use the volume number and the page number. Example: 51 FR 12345.

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

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

WHO: The Office of the Federal Register.

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

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

ST. LOUIS, MO

WHEN: March 11; 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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Presidential Documents

Title 3—

The President

Executive Order 12552 of February 25, 1986

Productivity Improvement Program for the Federal Government

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Budget and Accounting Act of 1921, as amended, and in order to establish a comprehensive program for the improvement of productivity throughout all Executive departments and agencies, it is hereby ordered as follows:

Section 1. There is hereby established a government-wide program to improve the quality, timeliness, and efficiency of services provided by the Federal government. The goal of the program shall be to improve the quality and timeliness of service to the public, and to achieve a 20 percent productivity increase in appropriate functions by 1992. Each Executive department and agency will be responsible for contributing to the achievement of this goal.

Sec. 2. As used in this Order, the term:

(a) "Productivity" means the efficiency with which resources are used to produce a government service or product at specified levels of quality and timeliness;

(b) "Services" means those functions and activities performed by the Federal government to achieve program objectives;

(c) "Common agency functions" means those functions which are found in more than one agency, such as awarding grants or loans to individuals or institutions, providing direct benefit payments, processing claims, or furnishing health care;

(d) "Common government functions" means those functions that are common to every agency, such as administrative services;

(e) "Measurement system" means both the specific measures used to determine whether standards of quality, timeliness, and efficiency of services are being met, and the procedures for the collection and reporting of data resulting from application of productivity measures;

(f) "Organizational performance standard" means a statement which quantifies and describes the desired level of quality, timeliness, and efficiency of services to be provided by an organization;

(g) "Management review" means the review by the Director of the Office of Management and Budget, as part of the budget process, of agency accomplishments and plans for management and productivity improvements.

Sec. 3. The head of each Executive department and agency shall:

(a) Use the agency's planning process to review current functions, develop agency goals and objectives for improvement in services, and to identify those functions which offer the most significant opportunity for major gains in quality, timeliness, and efficiency.

(b) Develop and submit annually to the Office of Management and Budget a productivity plan. Each plan shall conform to the policy guidance issued by the Director of the Office of Management and Budget, pursuant to Section 5 of this Order, and shall:

(1) set forth the agency's productivity goals and objectives;

(2) target priorities for the year, and expand coverage each subsequent year to additional appropriate functions and programs, with the objective of broadest possible coverage on all appropriate functions by 1992;

(3) describe the proposed actions designed to make the agency's operations and delivery of services more efficient and responsive;

(4) describe the methods, including efficiency reviews and cost comparisons with the private sector, that the agency will use either to improve its own service, or to make use of commercial services available in the private sector when it is economical to do so; and,

(5) describe the measurement systems to be used by the agency to gauge quality, timeliness, and efficiency.

(c) Implement the productivity program after the management review by the Director of the Office of Management and Budget as provided in Section 6.

(d) Assess annually the agency's progress toward achieving objectives and priorities, including documented gains and cost savings. This assessment will form the basis of the agency's report to the Domestic Policy Council as required by Section 4.

(e) Designate a senior official responsible for guiding the agency's productivity improvement program;

(f) Inform agency managers and employees that they are expected to be responsible for improvements in the quality, timeliness, and efficiency of services;

(g) Encourage employee participation in the productivity program through employee training, incentives, recognition, rewards and by taking actions to minimize negative impacts on employees which may occur as a result of the productivity program.

Sec. 4. The head of each Executive department and agency shall report annually to the President through the Domestic Policy Council on accomplishments achieved under the plan.

Sec. 5. The Director of the Office of Management and Budget is authorized to:

(a) Develop and promulgate goals, policies, principles, standards, and guidelines for the effective administration of this Order by Executive departments and agencies;

(b) Identify and propose the elimination of statutory barriers that inhibit opportunities to make improvements in productivity; and

(c) In consultation with the agencies, select and develop organizational performance standards for those common government and common agency functions that are appropriate targets for improvement in quality, timeliness, and efficiency.

Sec. 6. The Director shall review, through the management review process, each agency's productivity plan based upon the requirements and guidance issued pursuant to Section 5 of this Order. Nothing in this subsection shall be construed as displacing agency responsibilities delegated by law.

Sec. 7. The Director of the Office of Management and Budget shall submit to Congress, in conjunction with the President's budget, a report on productivity plans and accomplishments of the agencies and the government as a whole.

Sec. 8. The Director of the Office of Personnel Management shall:

(a) review incentive practices and programs and other personnel policies and practices which relate to the productivity of the Federal work force and make or recommend such changes as will support productivity improvement;

(b) develop programs to minimize negative impacts on employees; such programs should include, among others, continued development of retraining and job placement alternatives; and

(c) develop and implement training programs for Federal employees to assist them in their performance of productivity improvement tasks.

The Director of the Office of Personnel Management will report to the Office of Management and Budget on actions taken pursuant to this Section.

Ronald Reagan

THE WHITE HOUSE,
February 25, 1986.

[FR Doc. 86-4454
Filed 2-26-86; 11:18 am]
Billing code 3195-01-M

Editorial note: For the text of a White House announcement, released February 25, on Executive Order 12552, see the *Weekly Compilation of Presidential Documents* (vol. 22, no. 9).

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 418, 419, 420, 421, 424, 427, 432, and 448

[Docket No. 3166S]

Prevented Planting Endorsement to Barley, Corn, Cotton, ELS Cotton, Grain Sorghum, Oat, Rice, and Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Wheat, Barley, Grain Sorghum, Cotton, Rice, Oat, Corn, and ELS Cotton Crop Insurance Regulations (7 CFR Parts 418, 419, 420, 421, 424, 427, 432, and 448, respectively), effective for the 1986 and succeeding crop years. The intended effect of this rule is to provide for a prevented planting optional endorsement allowing prevented planting insurance coverage in all areas where feed grains, wheat, cotton or rice are produced.

The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: Effective date: February 28, 1986.

Comment date: Written comments, data, and opinions on this interim rule must be submitted not later than April 29, 1986, to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for the regulations affected by this action remain unchanged and are made part of each regulation affected by this rule.

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

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

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

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

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

Merritt W. Sprague, Manager, FCIC, has determined that an emergency situation exists which precludes notice and other public procedure. The Food Security Act of 1985 provides that if the Secretary of Agriculture determines that producers were prevented from planting any portion of the acreage intended for feed grains, wheat, cotton, or rice to such crop or other non-conserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make prevented planting disaster payments to the producers. Such producers will not be eligible for such payments if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act.

The current FCIC prevented planting crop insurance policy is presently offered on an experimental basis in a limited number of counties. The existing program does not cover loss from causes other than excess moisture as required by the Food Security Act of 1985 relative to prevented planting disaster payments. The experience gained to date indicates that the existing pilot program should not be expanded to a nationwide offer as such a program would be unlikely to attract participation except from those producers who perceive themselves to be in a very high risk situation.

The Corporation intends to provide a prevented planting program consistent with the requirements of the Farm Security Act of 1985 in all areas. The Corporation will also maintain the current experimental prevented planting program in those counties where such program is now being offered as a viable alternative for at least this crop year.

FCIC has determined that, because of the late passage of the Food Security Act of 1985, and the need to provide a prevented planting program consistent with the requirements found in the Food Security Act of 1985 relative to prevented planting disaster payments, it would be prudent and cost effective to offer the new prevented planting endorsement to all producers of certain ASCS program crops, and allow those prevented planting program policyholders who are currently insured the option to retain the present program for this crop year only, or to cancel the present policy and apply for the newly available coverage.

FCIC is providing a prevented planting insurance endorsement to crop insurance contracts on the acreage of Agricultural Stabilization and Conservation Service (ASCS) program crops (wheat, barley, corn, grain sorghum, oats, upland cotton, ELS cotton, and rice) when the producers are participating in the ASCS Acreage Reduction or set-aside programs.

The Prevented Planting Crop Insurance endorsement contained herein provides for protection against prevention of planting due to drought, flood, or other natural disaster caused by adverse weather conditions beyond the control of the producer occurring within the insurance period.

To be eligible for protection, the producer must participate in the acreage reduction or set-aside program offered by ASCS and hold a valid crop insurance contract on the qualifying crop. For 1986 only, special provisions apply to permit eligibility for prevented planting coverage even though the sales may be closed for the required qualifying crop insurance contract.

All existing prevented planting crop insurance policies now in effect will be honored through the current crop year. Insurance will be made available under the new 1986 prevented planting crop insurance endorsement contained herein to persons who had such insurance if the policyholders agree to cancel their present policies. A new application for insurance must be signed before the applicable sales closing date to effect a change.

Written comments on this interim rule are solicited by FCIC for 60 days after publication in the Federal Register and any written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250, during regular business hours, Monday through Friday. This rule will be scheduled for review so that any amendment made necessary by comments received may be published as quickly as possible.

List of Subjects in 7 CFR Parts 418, 419, 420, 421, 424, 427, 432, and 448

Crop Insurance, Wheat, Barley, Grain sorghum, Cotton, Rice, Oat, Corn, ELS Cotton.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation hereby amends that Wheat, Barley, Grain Sorghum, Cotton, Rice, Oat, Corn, and ELS Cotton Crop Insurance Regulations (7 CFR Parts 418, 419, 420, 421, 424, 427, 432, and 448, respectively), effective for the 1986 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Parts 418, 419, 420, 421, 424, 427, 432, and 448, continues to read as follows:

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

2. 7 CFR Parts 418, 420, 421, 424, 427, 432, and 448 are amended by adding new §§ 418.8, 420.8, 421.8, 424.8, 427.8, 432.8 and 448.8, and 7 CFR Part 419 is amended by adding a new § 419.9, to read as follows:

§ —.— **Prevented planting endorsement.**

(a) A prevented planting crop insurance endorsement on the qualifying crop will be available to all insureds having a qualifying crop insurance contract under the provisions of this Part and who participate in the ASCS Acreage Reduction Program or set-aside program. This endorsement is not continuous. Application must be made annually for the prevented planting endorsement on or prior to the prevented planting sales closing date established by the actuarial table or the endorsement.

(b) for the 1986 fall crop only (planted in fall of 1985) procedures are established for the purchase of the prevented planting endorsement without the underlying policy of insurance and a special sales closing date has been assigned.

(c) The provisions of the Prevented Planting Crop Insurance Endorsement for the 1986 and succeeding crop years are as follows:

Federal Crop Insurance Corporation

Prevented Planting Crop Insurance Endorsement

(This is an annual election to be made by the insured before the date specified in Section 3.)

Agreement to Insure: We will provide the insurance described in this endorsement in return for the premium and your compliance with all applicable provisions.

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

All provisions of the qualifying crop policy not in conflict with this endorsement are applicable.

1986 Special Provisions

(Applicable to the 1986 crop year only)

A. The sales closing and intended acreage report dates will be April 15, 1986.

B. If the sales closing date for the qualifying crop insurance program is March 31, 1986, or earlier, and the applicant for the prevented planting endorsement is not insured for the qualifying crop, the terms and conditions of the applicable qualifying crop insurance contract shall become a part of the prevented planting endorsement even though no liability or premium will attach for the qualifying crop insurance contract. In this event, the following elections will apply:

(1) The 65% level of coverage; and

(2) The highest available price election.

Further, the intended acreage may not exceed the base acreage for the qualifying crop established by the county ASCS office, less the intended reduction of acreage necessary to comply with ASCS program requirements.

General Terms and Conditions

1. Causes of loss.

a. The insurance provided is against the unavoidable prevention of planting insured acreage to the qualifying crop or other non-conserving crop during the insurance period due to drought, flood, or other natural disaster beyond the control of the producer occurring within the insurance period, unless those causes are excepted, excluded, or limited by the actuarial table.

b. We will not cover any prevention of planting (i) because of the failure to plant insured acreage due to a cause other than those listed in Subsection 1a. or (ii) when most producers in the surrounding area in similar circumstances were able to plant the qualifying crop or other non-conserving crops.

2. Acreage and share insured

a. The acreage insured for each crop year will be the cultivated acreage in the county intended to be planted for harvest to the qualifying crop, in which you have a share, as reported by you or as determined by us, whichever we elect, and for which a premium rate is provided by the actuarial table.

b. The insured share is your share as landlord, owner-operator, or tenant in the insured acreage at the time insurance attaches.

c. Unless otherwise authorized by the actuarial table, we will not insure any acreage intended for planting by you unless you have a valid crop insurance contract for the current crop year on the qualifying crop.

d. You must participate in the ASCS acreage reduction or set-aside program for the qualifying crop for the crop year on at least one farm which is part of the insured unit.

3. Report of acreage and share.

You must report on our form:

a. All the cultivated acreage of the qualifying crop intended for planting in the county in which you have a share; and

b. Your share at the time of reporting.

You must designate separately any acreage that is not insurable. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report.

If you do not submit this report by the reporting date, we may elect to determine the insured acreage and share or we may deny liability on the unit. Any report submitted by you may be revised only upon our approval.

4. Amounts of insurance and coverage levels.

a. The amount of insurance per acre is computed by multiplying the yield guarantee for the qualifying crop times the price election chosen for the qualifying crop times .35.

b. The coverage level is the same as that chosen for the qualifying crop.

5. Annual premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the amount of insurance per acre times the premium rate, times the insured acreage, times your share on the date insurance attaches.

b. Interest will accure at the same rate and terms on any unpaid premium balance as applicable to the qualifying crop insurance contract.

6. Insurance period.

Insurance attaches or is considered to have attached 45 days prior to the sales closing date of the qualifying crop insurance contract for the crop year and ends at the earliest of:

a. Planting of the insured acreage to the qualifying crop or other no-conserving crop; or

b. The prevented planting date.

7. Notice of damage or loss.

a. If you fail to plant the guaranteed acreage and expect to claim an indemnity on the unit, you must give us notice in writing not later than 5 days after the prevented planting date.

b. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 8.

8. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form at the time a claim is or should be filed for the qualifying crop.

b. We will not pay any indemnity unless you:

(1) Establish that any prevention of planting on the unit was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed;

(2) Establish that a production loss was sustained on the qualifying crop when the yield guarantee per acre of that crop is multiplied by the intended acres for planting; and

(3) Furnish all information we require concerning the loss.

c. The indemnity will be determined on the unit by:

(1) Multiplying the insured acreage times the amount of insurance;

(2) Subtracting therefrom the amount obtained by multiplying the planted acreage, plus any acreage intended for planting from which a forage crop is harvested, plus any acreage which could have been planted, times the amount of insurance;

(3) Multiplying this result by your share; and

(4) Subtracting therefrom your share of any production of the qualifying crop which is in excess of the total guaranteed production on all units of the qualifying crop, insured or eligible for insurance, in the county, multiplied by the selected price election.

9. Life of contract: cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. This contract is for one year or until the termination date, whichever occurs first. It may be renewed for each succeeding crop year if you apply and report your intended acreage for planting at least 45 days prior to the sales closing date of the qualifying crop.

c. This contract will not be renewed by us if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due.

d. The termination date is 30 days after the prevented planting date.

10. Contract changes.

We may change any terms and provisions of the contract from year to year. All contract changes will be available at your service office 30 days prior to the sales closing date for this insurance.

11. Meaning of terms

For the purposes of prevented planting crop insurance:

a. "Cultivated acreage intended for planting" means land that was ready or, except for insured causes, could have been made ready for planting, but does not include land:

(1) On which a perennial forage crop is being grown or on which the qualifying crop or other non-conserving crop was planted prior to the prevented planting acreage reporting date; or

(2) Which was not or would not have been planted to comply with any other United States Department of Agriculture or state programs or for any other reason.

b. "Insurable acreage" means the land classified as insurable by us for the qualifying crop and shown as such by the actuarial table.

c. "Non-conserving crop" means any annual crop planted for harvest as food, feed, or fiber.

d. "Planted acreage" means the insured acreage:

(1) Planted to any qualifying crop or non-conserving crop during the insurance period; or

(2) Which could have been planted during the insurance period to a qualifying crop or non-conserving crop normally included in your farming operation.

e. "Prevented planting date" means the latest date established by the crop actuarial tables that we will insure any spring-planted crop in the county, except tobacco. This date coincides with any extended date or final date offered under any late planting agreement option.

f. "Qualifying crop" means the ASCS program crop (wheat, corn, grain sorghum, barley, oats, cotton, or rice) which is also insured.

g. "Unit" means all insurable acreage in the county which you intend for planting to the qualifying crop prior to the prevented planting date for the crop year at the time insurance first attaches under this policy for the crop year. The unit will be determined when the acreage is reported. Errors in reporting such units may be corrected by us when adjusting a loss.

h. "Yield guarantee" means the result of multiplying your average yield for the qualifying crop, as determined by us, by the percentage representing the coverage level chosen by you.

Done in Washington, DC, on February 3, 1986.

Merritt W. Sprague,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-4422 Filed 2-27-86; 8:45 am]

BILLING CODE 3410-08-M

Federal Grain Inspection Service

7 CFR Parts 801 and 802

Official Performance and Procedural Requirements for Grain Weighing and Inspection Equipment and Related Grain Handling Systems

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: In compliance with the requirements for periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) is finalizing with slight modification as a final rule, a proposed rule in which certain changes were proposed to be made to the regulations under the United States Grain Standards Act (Act), as amended, concerning the Official Performance and Procedural Requirements for Grain Weighing and Inspection Equipment and Related Grain Handling Systems. This action amends the regulations by incorporating by reference the applicable requirements of National Bureau of Standards (NBS) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," 1985 edition (Handbook 44) and NBS Handbook 105–1, "Specifications and Tolerances for Field Standard Weights" (Handbook 105–1); clarifying the scope and format of the requirements of the current Parts 801 and 802; and revising the tolerances for scales, near-infrared reflectance (NIR) analyzers, and Kjeldahl analyses, so as to update the regulations to reflect current commercial standards. The changes will condense and reduce the text of the regulations and will simplify the overall language of the regulations to facilitate their use.

EFFECTIVE DATE: March 31, 1986. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Staff, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.C.S. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities.

Final Action

Part 801 of the regulations, *Official Performance Requirements for Grain Inspection Equipment*, prescribes specifications, tolerances, and other technical requirements for official grain inspection equipment and related sample handling systems used in performing official services.

Part 802 of the regulations, *Official Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems*, sets forth certain procedures, specifications, tolerances, and other technical requirements for grain weighing equipment and related grain handling systems used in performing Class X or Class Y weighing services.

The review of the regulations concerning Official Performance and Procedural Requirements for Grain Weighing and Inspection Equipment and Related Grain Handling Systems (7 CFR 801.1–801.12 and 7 CFR 802.0–802.13) included a determination of continued need for and consequences of the regulations. An objective of the review was to ensure that the regulations were serving their intended purpose, the language was clear, and the regulations were consistent with FGIS policy and authority. FGIS has determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. The regulations, particularly Part 802, contained requirements that are also covered in NBS Handbooks 44 and 105–1 and in the FGIS Weighing Handbook. In order to condense and reduce the text of the regulations, thereby eliminating unnecessary duplication, FGIS is incorporating by reference the text of NBS Handbooks 44 and 105–1, with some exceptions. Additionally, certain information deleted from the regulations will continue to appear as provisions set forth in the FGIS Weighing Handbook. This will reduce the text of the regulations as appropriate, and simplify and facilitate the use of the regulations. In the July 22, 1985, **Federal Register** (50 FR 29689), FGIS proposed that certain sections of the regulations be revised. Except for some additional Handbook 44 requirements being incorporated by reference and other miscellaneous changes made for clarity and accuracy, the changes which appear in this final rule are the same as those proposed. This final rule revises these sections as follows:

1. Section 801.2, *Meaning of terms*, by removing the definition for balances because the tolerances for balances were removed from 7 CFR Part 801 so as to consolidate all the tolerances for balances in one Part of the regulations; renumbering the remaining definitions, as appropriate; revising the definition title *Master inspection equipment* to *National standard equipment* and the definition title *Grain divider* to *Divider* to more clearly describe the equipment; adding a definition for *Transfer standard* for clarity; and revising certain definitions by simplifying, clarifying, and removing unnecessary language to promote a better understanding of the requirements.

2. Section 801.3, *Tolerance for balances*, by removing the entire section because these tolerances are incorporated by reference in 7 CFR Part 802.

3. Sections 801.4, *Tolerances for barley pearlers*, 801.5, *Tolerances for dockage testers*, 801.6, *Tolerances for diverter-type mechanical samplers*, 801.7, *Tolerances for moisture meters*, 801.9, *Tolerances for sieve devices*, 801.10, *Tolerances for test weight apparatuses*, and 801.11, *Tolerances for dividers*, by consolidating the footnote references into the body of the text; clarifying the scope of the tolerances by stating, where appropriate, the type of grain and standard used to test the equipment; and redesignating §§ 801.4–801.7 and 801.9–801.11 as §§ 801.3–801.6 and 801.8–801.10, respectively. These revisions will facilitate the use of the regulations.

4. Section 801.7, *Tolerances for moisture meters*, by revising the tolerance title "FGIS/Master standard meters" to "Headquarters standard meters" to indicate more clearly that the National standard meter is the reference standard against which the Headquarters standard meters are tested. The tolerance title was proposed as "FGIS standard meters." In this final rule, the title has been changed to "Headquarters standard meters" to eliminate any confusion and for clarity.

5. Section 801.8, *Tolerances for near-infrared reflectance (NIR) analyzers and Kjeldahl analyses*, by revising for accuracy the tolerances for near-infrared reflectance (NIR) analyzers and Kjeldahl analyses and redesignating as § 801.7. The revised tolerances have been used on a trial basis since May 1982 to improve accuracy. All officially approved NIR analyzers and Kjeldahl laboratories have been tested using the revised tolerances and found to be capable of meeting these established tolerances. This action updates the regulations to reflect current commercial standards.

6. Section 801.10, *Tolerances for test weight apparatuses*, by revising the tolerance titles for the test weight apparatuses to clarify the manner in which these tolerances are to be applied to electronic test weight computer/scales.

7. Section 801.11, *Tolerances for dividers*, by combining the tolerances for dividers and restating the tolerance as a percentage instead of the present weight basis in order to simplify its use and clarify its application. The previous tolerances were only applicable to two-way dividers. In the last two years the Service approved several models of three- and four-way dividers using tolerances based upon a mathematical extrapolation of the previous two-way divider tolerances. The revised tolerances reflect these mathematical extrapolations.

8. Section 801.12, *Related design requirements*, by revising the related design requirements to simplify and clarify the language in order to facilitate their use and redesignating as § 801.11.

9. Sections 802.1, *Meaning of terms*, 802.2, *General requirements*, 802.3, *Design of indicating and recording elements and of recorded representations*, 802.4, *Design of balance, tare, dampening, and arresting mechanisms*, 802.5, *Design of weighing elements*, 802.6, *Design of weighbeams and poises*, 802.7, *Marking requirements*, 802.8, *Installation requirements*, 802.9, *User requirements*, 802.10, *Tolerances and sensitivity requirements*, 802.11, *Weight-indicating and weight-recording devices and representations*, 802.12, *Railroad track scales; additional requirements*, and 802.13, *Test standards and counterpoise weights*, by removing and incorporating by reference the requirements of the 1985 edition of NBS Handbooks 44 and 105–1, with the exception of those

Handbook 44 requirements which do not pertain to or are not practical for FGIS grain scales. As discussed below, comments were received which recommended that additional Handbook 44 provisions be incorporated by reference. This final rule will provide for incorporation by reference of additional portions of Handbook 44, as appropriate. Therefore, all of proposed §§ 802.1 and 802.2 will be removed. Those provisions of Handbook 44 that are not incorporated by reference are specified in § 802.0(b). Proposed § 802.3 is redesignated as § 802.1 by the final rule.

Since the FGIS regulations were approved in 1980, many of the Handbook 44 requirements have been revised and expanded to encompass the requirements necessary for official grain weight certification. FGIS has discussed adopting the applicable requirements of NBS handbook 44 with the FGIS Advisory Committee and grain industry organizations and determined that the requirements in the 1985 edition of Handbook 44 and 105–1, pertaining to the scales under the jurisdiction of FGIS, are substantially the same as the present FGIS regulations. Therefore, FGIS has determined that these regulations should be incorporated by reference into the Code of Federal Regulations in paragraph (a) of revised § 802.0.10. Sections 802.0, *Applicability*, and 802.13(g), *Qualified laboratories*, by simplifying, clarifying, condensing, and removing unnecessary language to facilitate the use of the regulations and redesignating § 802.13(g) as § 802.1. In addition, certain track scale requirements pertaining to obsolete equipment and the requirements for monitoring test weights during movement to and from storage were removed because they are no longer necessary or applicable.

Comments were to be submitted by September 20, 1985. Eighteen organizations, including State and private weights and measures organizations and grain trade groups, commented on the proposed changes to the regulations. Two of the organizations were in favor of the proposed regulations in their entirety. The other commenters were also in favor of the proposed regulations but recommended that additional Handbook 44 requirements and codes be incorporated by reference.

Fifteen commenters recommended that the requirements in Handbook 44 that pertain to grain scales be adopted in their entirety. As proposed, certain requirements of Handbook 44 would not be incorporated by reference. These proposed exceptions related to Handbook 44 requirements that did not pertain to grain scales or were different from FGIS requirements under the Act which generally are more stringent for FGIS program purposes than NBS Handbook 44; e.g., grain hopper scale tolerances, vehicle and trade scale class requirements, and minimum test weight requirements for vehicle and trade scales. Under the proposal, these tolerances and minimum weight requirements would continue to appear in Part 802, as revised.

The comments received on the proposed rule indicated that a number of grain industry trade groups and weights and measures organizations strongly supported adoption of the additional Handbook 44 requirements. In view of the above, FGIS has determined that incorporation by reference of the additional provisions of Handbook 44, specified below, will maintain program integrity even though certain tolerances will become less stringent. This revision will further simplify and facilitate use of the regulations. Nonetheless, those provisions of Handbook 44 that do not pertain to or are not practical for FGIS grain scales are not incorporated by reference. Accordingly, Part 802 has been revised to reflect the incorporation by reference of the Handbook 44 requirements in the notice of proposed rulemaking and these additional Handbook 44 requirements: Scale Code (2.20) sections N.2, N.2.1, T.2.10, T.3.7, T.3.7.1, T.3.8.1–2, and UR.1.1.7; and New Scale Code (2.20) sections N.3, N.3.1, and T.1.3. Incorporation of these additional requirements will revise FGIS requirements in the following manner:

1. The minimum test weight requirement for all scales with a capacity greater than 40,000 pounds, except railway track scales and automatic bulk weighing systems, shall be 12.5 percent of capacity or 10,000 pounds whichever is greater; a change from 10.0 percent of capacity.

2. The minimum test weight requirement for railway track scales shall be 30,000 pounds; a change from 50,000 pounds.

3. The minimum tolerance for railway track scales shall be 30 pounds; a change from 25 pounds.

4. The basic tolerance for vehicle scales shall be that tolerance established for Class IIIL scales; a change from a maintenance tolerance of 0.1 percent and an acceptance tolerance of 0.05 percent.

5. The basic maintenance tolerance for nonautomatic hopper scales, installed prior to January 1, 1986, and all automatic bulk weighing systems, shall be 0.1 percent of applied test load; a change from 0.05 percent.

6. The basic tolerance for railway track scales shall be that tolerance established for Class IIIL scales; a change from a maintenance tolerance of 0.1 percent and an acceptance tolerance of 0.05 percent.

7. For railway track scales, the value of the scale division shall be not greater than 20 pounds for nonautomatic indicating scales and not greater than 100 pounds for automatic indicating scales; a change from 50 pounds for both types.

As a result of the aforementioned changes, the Service is incorporating by reference the General Code, the Scale Codes, the Automatic Bulk Weighing Systems Code, and the Weights Code of the 1985 edition of Handbook 44 in their entirety with the exception of those requirements concerning coupled-in-motion weighing and influence factors. The coupled-in-motion requirements (Scale Code (2.20) sections N.2.1.1, T.3.8.3, and T.3.8.4, and New Scale Code (2.20) sections N.3.1.1, T.1.9, T.N.3.6, and T.N.3.6.1–4) were not adopted because the relative inaccuracy of this type of weighing at this time. The influence factor requirements (New Scale Code (2.20) section T.N.8) were not adopted because NBS has determined that it is not feasible to implement these requirements prior to January 1, 1988.

Two commenters also recommended that the Service adopt the Handbook 44 requirements for moisture meters. The Handbook 44 requirements for moisture meters are not feasible for testing the number and type of moisture meters used for official inspection purposes. In addition, adoption of Handbook 44 requirements for moisture meters would significantly raise program costs for this type activity.

Miscellaneous nonsubstantive changes are made to provisions of Parts 801 and 802 in this final rule for clarity and accuracy. For example, a subparagraph (b) has been added to section 802.1, *Qualified laboratories*, to specifically reference type evaluation laboratories. Section 802.0(a) is rewritten to clarify that portion of Handbook 44 and all of Handbook 105–1 are incorporated by reference. While the FGIS Weighing Handbook is applicable to all scales used for official grain weight and certification, it is not incorporated by reference. In addition, this final rule changes for accuracy, section 801.6(a), as proposed, by deleting tolerances for sample exchanges and section 801.8, as proposed, by changing the reference for

a sieve description from 5/64 x 3/4 inch slotted to 5.5/64 x 3/4 inch slotted.

List of Subjects in 7 CFR Parts 801 and 802

Administrative practice and procedure, Export, Grain, Incorporation by reference.

Accordingly, 7 CFR Parts 801 and 802 are revised as follows:

PART 801—OFFICIAL PERFORMANCE REQUIREMENTS FOR GRAIN INSPECTION EQUIPMENT

Sec.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended, (7 U.S.C. 71 *et seq.*)

§ 801.1 Applicability.

The requirements set forth in this Part 801 describe certain specifications, tolerances, and other technical requirements for official grain inspection equipment and related sample handling systems used in performing inspection services under the Act.

§ 801.2 Meaning of terms.

(a) *Construction.* Words used in the singular form in this part shall be considered to imply the plural and vice versa, as appropriate.

(b) *Definitions.* The definitions of terms listed in the Part 800 shall have the same meaning when the terms are used in this Part 801. For the purposes of this part, the following terms shall have the meanings given for them below.

(1) *Avoirdupois weight.* A unit of weight based on a pound of 16 ounces.

(2) *Barley pearler.* An approved laboratory device used to mechanically dehull kernels of barley or other grain.

(3) *Deviation from standard.* In testing inspection equipment for accuracy, the variation between (i) the individual test result from the equipment that is being tested and (ii) the reference standard or the individual test result from the standard (or National standard) equipment, as applicable.

(4) *Direct comparison method.* An equipment testing procedure wherein transfer standards are tested at the same time and place to compare the performance of two or more units of the same inpsection equipment. One unit of the equipment used in the test shall be standard inspection equipment. (See also sample exchange method).

(5) *Diverter-type mechanical sampler (primary).* An approved device used to obtain representative portions from a flowing stream of grain.

(6) *Diverter-type mechanical sampler (secondary).* An approved device used to subdivide the portions of grain obtained with a diverter-type mechanical sampler (primary).

(7) *Divider.* An approved laboratory device used to mechanically divide a sample of grain into two or more representative portions.

(8) *Dockage tester.* An approved laboratory device used to mechanically separate dockage and/or foreign material from grain.

(9) *Maintenance tolerance.* An allowance established for use in determining whether inspection equipment should be approved for use in performing official inspection services.

(10) *Mean deviation from standard.* In testing inspection equipment for accuracy, the variation between (i) the average fo the test results from the equipment that is being tested and (ii) the reference standard or the average of the test results from the standard (or National standard) equipment, as applicable.

(11) *Metric weight.* A unit of weight based on the kilogram of 1,000 grams.

(12) *Moisture meter.* An approved laboratory device used to indicate directly or through conversion and/or correction tables the moisture content of grain including cereal grains and oil seeds.

(13) *National standard inspection equipment.* A designated approved unit of inspection equipment used as the reference in determining the accuracy of standard inspection equipment.

(14) *Official inspection equipment.* Equipment approved by the Service and used in performing official inspection services.

(15) *Sample exchange method.* An equipment testing procedure wherein transfer standards are tested to compare the performance of two or more units of the same inspection equipment installed at different locations. One unit of the equipment used in the test shall be standard inspection equipment. (See also direct comparison method.)

(16) *Sieves.* Approved laboratory devices with perforations for use in separating particles of various sizes.

(17) *Standard inspection equipment.* An approved unit of inspection equipment that is designated by the Service for use in determining the accuracy of official inspection equipment.

(18) *Test weight.* The avoirdupois weight of the grain or other material in a level-full Winchester bushel.

(19) *Test weight apparatus.* An approved laboratory device used to measure the test weight (density) of a sample of grain.

(20) *Transfer standard.* The medium (device or material) by which traceability is transferred from one inspection equipment standard unit to another unit.

(21) *Winchester bushel.* A container that has a capacity of 2,150.42 cubic inches (32 dry quarts).

§ 801.3 Tolerances for barley pearlers.

The maintenance tolerances for barley pearlers used in performing official inspection services shall be:

Item	Tolerance
Timer switch:	
0 to 60 seconds	±5 seconds, deviation from standard clock.
61 to 90 seconds	±7 seconds, deviation from standard clock.
Over 90 seconds	±10 seconds, deviation from standard clock.
Pearled portion	±1.0 gram, mean deviation from standard barley pearler using barley.

§ 801.4 Tolerances for dockage testers.

The maintenance tolerances for dockage testers used in performing official inspection services shall be:

Item	Tolerance
Air separation	±0.10 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.
Riddle separation	±0.10 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.
Sieve separation	±0.10 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.
Total dockage separation.	±0.15 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.

§ 801.5 Tolerance for diverter-type mechanical samplers.

The maintenance tolerance for diverter-type mechanical samplers (primary, or primary and secondary in combination) used in performing official inspection services shall be ±10 percent, mean deviation from standard sampling device using corn or the same type of grain that the system will be used to sample.

§ 801.6 Tolerances for moisture meters.

The maintenance tolerances for moisture meters used in performing official inspection services shall be:

(a) Headquarters standard meters.

Moisture range	Tolerance	
	Direct comparison	Sample exchange
Low	±0.05 percent moisture, mean deviation from National standard moisture meter using Hard Red Winter wheat.	
Mid	±0.05 percent moisture, mean deviation from National standard moisture meter using Hard Red Winter wheat.	

Moisture range	Tolerance	
	Direct comparison	Sample exchange
High	±0.05 percent moisture, mean deviation from National standard moisture meter using Hard Red Winter wheat.	

(b) All other than Headquarters standard meters.

Moisture range	Tolerance	
	Direct comparison	Sample exchange
Low	±0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.	±0.20 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.
Mid	±0.10 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.	±0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.
High	±0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.	±0.20 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.

§ 801.7 Tolerances for near-infrared reflectance (NIR) analyzers and Kjeldahl analyses.

(a) *NIR.* The maintenance tolerance for NIR analyzers used in performing official inspection services shall be ±0.15 percent, mean deviation from standard Kjeldahl using wheat.

(b) *Kjeldahl.* The maintenance tolerance for Kjeldahl analyses used in performing official inspection services shall be ±0.15 percent, standard deviation.

§ 801.8 Tolerances for sieves.

The maintenance tolerances for sieves used in performing official inspection services shall be:

(a) Thickness of metal: ±0.0015 inch.

(b) Accuracy of perforation: ±0.001 inch from design specification.

(c) Sieving accuracy:

Sieve description	Tolerance	
	Direct comparison	Sample exchange
.064 x ⅜ inch oblong	±0.2 percent, mean deviation from standard sieve using wheat	±0.3 percent, mean deviation from standard sieve using wheat.
6/64 x ¾ inch slotted	±0.3 percent, mean deviation from standard sieve using barley	±0.5 percent, mean deviation from standard sieve using barley.
5.5/64 x ¾ inch slotted	±0.5 percent, mean deviation from standard sieve using barley	±0.7 percent, mean deviation from standard sieve using barley.
7/64 x ¾ inch slotted	±0.7 percent, mean deviation from standard sieve using barley	±1.0 percent, mean deviation from standard sieve using barley.

§ 801.9 Tolerances for test weight apparatuses.

The maintenance tolerances for test weight per bushel apparatuses used in performing official inspection services shall be:

Item	Tolerance
Beam/scale accuracy	±0.10 pound per bushel deviation at any reading, using test weights.
Overall accuracy	±0.15 pound per bushel, mean deviation from standard test weight apparatus using wheat.

§ 801.10 Tolerance for dividers.

The maintenance tolerance for dividers used in performing official inspection services shall be ±1.0 percent, mean deviation from target value using wheat.

§ 801.11 Related design requirements.

(a) *Suitability.* The design, construction, and location of official sampling and inspection equipment and related sample handling systems shall be suitable for the official sampling and inspection activities for which the equipment is to be used.

(b) *Durability.* The design, construction, and material used in official sampling and inspection equipment and related sample handling systems shall assure that, under normal operating conditions, operating parts will remain fully operable, adjustments will remain reasonably constant, and accuracy will be maintained between equipment test periods.

(c) *Marking and identification.* Official sampling and inspection equipment for which tolerances have been established shall be permanently marked to show the manufacturer's name, initials, or trademark; the serial number of the equipment; and the model, the type, and the design or pattern of the equipment. Operational controls for mechanical samplers and related sample handling systems, including but not limited to pushbuttons and switches, shall be conspicuously identified as to the equipment or activity controlled by the pushbutton or switch.

(d) *Repeatability.* Official inspection equipment when tested in accordance with §§ 800.217 and 800.219 shall, within the tolerances prescribed in §§ 801.3 through 801.10, be capable of repeating its results when the equipment is operated in its normal manner.

(e) *Security.* Mechanical samplers and related sample handling systems shall provide a ready means of sealing to deter unauthorized adjustments, removal, or changing of component parts or timing sequence without removing or breaking the seals; and otherwise be designed, constructed, and installed in a manner to prevent deception by any person.

(f) *Installation requirements.* Official sampling and inspection equipment and related sample handling systems shall be installed (1) at a site approved by the Service, (2) according to the manufacturer's instructions, and (3) in such a manner that neither the operation nor the performance of the equipment or system will be adversely affected by the foundation, supports, or any other characteristic of the installation.

PART 802—OFFICIAL PERFORMANCE AND PROCEDURAL REQUIREMENTS FOR GRAIN WEIGHING EQUIPMENT AND RELATED GRAIN HANDLING SYSTEMS

Sec.
802.0 Applicability.
802.1 Qualified laboratories.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

§ 802.0 Applicability.

(a) The requirements set forth in this Part 802 describe certain specifications, tolerances, and other technical requirements for grain weighing equipment and related grain handling systems used in performing Class X or Class Y weighing services and inspection services under the Act. All scales used for official grain weight and inspection certification shall meet applicable requirements contained in the FGIS Weighing Handbook; the General Code, the Scale Codes, the Automatic Bulk Weighing Systems Code, and the Weights Code of the 1985 edition of National Bureau of Standards' (NBS) Handbook 44, "Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices" (Handbook 44); and NBS Handbook 105–1, "Specifications and Tolerances for Field Standard Weights" (Handbook 105–1). Pursuant to the provisions of 5 U.S.C. 552(a), with the exception of the Handbook 44 requirements listed in paragraph (b), the materials in Handbooks 44 and 105–1 are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.** The NBS Handbooks are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20403. These are also available for inspection at the Office of the Federal Register, Room 8401, 1100 "L" Street, N.W., Washington, D.C.

(b) The following Handbook 44 requirements are not incorporated by reference:

Scales Code (2.20)
- N.2.1.1—For coupled-in-motion tests.
- T.3.8.3—Weighing coupled-in-motion used for individual car weights.
- T.3.8.4—Weighing coupled-in-motion used for unit train weights.

New Scales Code (2.20)
- N.3.1.1—Test train.
- T.1.9—Railway track scales weighing in motion.
- T.N.3.6—In motion weighing.
- T.N.3.6.1–4—In motion weighing.
- T.N.8—Influence factors.

§ 802.1 Qualified laboratories.

(a) *Metrology laboratories.* (1) Any State metrology laboratory currently approved by the NBS ongoing certification program having auditing capability is automatically approved by the Service.

(2) Any county or city weights and measures jurisdiction approved by NBS or by their respective NBS-Certified State laboratory as being equipped with appropriate traceable standards and trained staff to provide valid calibration is approved by the Service. The State approval may be documented by a certificate or letter. The jurisdiction must be equipped to provide suitable certification documentation.

(3) Any commercial industrial laboratory primarily involved in the business of sealing and calibrating test weights (standards) will be approved by the Service provided:

(i) It requests written authority to perform tolerance testing of weights used within the Service's program(s) through their approved State jurisdiction. Copies of its request and written reference regarding the State decision shall be provided to the Service. A positive decision by the State will be required as a prerequisite to the Service's granting approval to any commercial laboratory to tolerance test the weights used in testing scales under the jurisdiction of the Service;

(ii) It has NBS traceable standards (through the State) and trained staff to perform calibrations in a manner prescribed by NBS and/or the State;

(iii) It is equipped to provide suitable certification documentation;

(iv) It permits the Service to make onsite visits to laboratory testing space.

(4) Approval of the commercial industrial laboratory will be at the Service's discretion. Once it has obtained approval, the commercial industrial laboratory maintains its site in a manner prescribed by the State and the Service.

(b) *Type evaluation laboratories.* Any State measurement laboratory currently certified by NBS in accordance with its program for the Certification of Capability of State Measurement Laboratories to conduct evaluations under the National Type Evaluation Program is approved by the Service.

Dated: February 12, 1986.

Kenneth A. Gilles,

Administrator.

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BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Parts 905 and 913

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; and Grapefruit Grown in the Interior District in Florida; Redistricting and Reapportionment of Grower Members

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule redefines grower districts and reapportions grower members on the Citrus Administrative Committee (CAC) and the Interior Grapefruit Marketing Committee (IGMC) under Marketing Order Nos. 905 and 913, respectively. The rule is based on changes in the average percentage of acreage, production, and shipments of regulated fruits during the preceding five-year period (1980–1985). The changes were recommended at meetings of the CAC and IGMC held on February 4, 1986.

EFFECTIVE DATE: February 28, 1986.

FOR FURTHER INFORMATION CONTACT: George J. Kelhart, Acting Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250. Telephone: (202) 475–3919.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum No. 1512–1 and Executive Order 12291, and has been designated a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that these actions will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities for their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 95 handlers of citrus under the Marketing Order for Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida, and approximately 57 handlers of grapefruit under the Marketing Order for Grapefruit Grown in the Interior District in Florida will be subject to

regulations during the course of the current season and that the great majority of these groups may be classified as small entities. While regulations issued under these orders impose some costs on affected handlers and the number of such firms may be substantial, the added burden imposed on small entities, if present at all, is not significant.

It is found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Pursuant to §§ 905.14 and 913.14 of the subject Marketing Orders, any redistricting and reapportionment must be announced on or before March 1 of the then current fiscal period. This deadline cannot be met with an effective date 30 days after publication.

Notice of these actions was published in the **Federal Register** on February 13, 1986 (50 FR 5361). Interested persons were invited to submit written comments by February 24, 1986. No comments were received.

Section 905.13 of the order covering Florida oranges, grapefruit, tangerines and tangelos defines five citrus districts comprising the production area for purposes of grower representation on the CAC. The apportionment of grower members for each citrus district is described in § 905.23. Currently, each district is represented by two grower members and alternates except Citrus District Two, which has one grower member and alternate, for a total of nine grower members on the CAC.

Section 905.14 of the order authorizes the CAC, with the approval of the Secretary, to redefine the districts into which the production area is divided or reapportion or otherwise change the grower membership of the districts, or both. The membership of the CAC must consist of at least eight but not more than nine grower members. The number of members from each district and the grouping of the districts are based, insofar as practicable, upon the respective averages for the immediately preceding five fiscal periods of: (1) The volume of fruit shipped from each district; (2) the volume of fruit produced in each district; and (3) the total number of acres of citrus in each district.

During the five year period (1980–85), the combined average percentages for Marketing Order 905 are as follows: Citrus District One, 16.54 percent; Citrus District Two, 8.36 percent; Citrus District Three, 30.59 percent, Citrus District Four, 23.39 percent; and Citrus District Five, 21.12 percent. The average percent of Citrus District Two shows a decrease in acreage, production, and shipments for the five-year period. This final rule will: (1) Combine Citrus Districts One and Two to become Citrus District One with two grower members and alternates; (2) change Citrus District Five to Citrus District Two with two grower members and alternates; (3) change Citrus District Four to Citrus District Three with two grower members and alternates; and (4) change Citrus District Three to Citrus District Four with three grower members and alternates. The action will result in more proportionate averages as follows: Citrus District One, 24.90 percent; Citrus District Two, 21.12 percent, Citrus District Three, 23.39 percent; and Citrus District Four, 30.59 percent.

For Florida Interior District grapefruit, § 913.13 of the order defines four grower districts for purposes of grower representation on the IGMC. The apportionment of grower members for each grower district is described in § 913.18 of the order. Currently, Grower Districts Two and Three are each represented by one grower member and alternate; Grower District One has two grower members and alternates; and Grower District Four has three grower members and alternates for a total of seven grower members on the IGMC.

Section 913.14 authorizes the IGMC, with the approval of the Secretary, to redefine the districts into which the production area is divided or reapportion or otherwise change the grower membership of the districts, or both. The membership of the IGMC must consist of at least six but not more than seven grower members. The redistricting of grower districts and the reapportionment of grower members are based on the same criteria as contained in § 905.14 for Florida citrus.

The combined average percentages for M.O. 913 during the 1980–85 five-year period are: Grower District One, 21.09 percent; Grower District Two, 7.74 percent; Grower District Three, 26.48 percent; and Grower District Four, 44.69 percent. This final rule will: (1) Combine Grower Districts One and Two to become Grower District One with two grower members and alternates; (2) change Grower District Four to Grower District Two with three grower members and alternates; and (3) change the representation from one grower member and alternate to two grower members and alternates in Grower District Three. This action will result in the following average percentages: Grower District One, 28.83 percent; Grower District Two, 44.69 percent; and Grower District Three, 26.48 percent.

After consideration of all relevant matter presented, the information and recommendations submitted by the CAC and IGMC, and other available information, it is further found that the redistricting of districts and reapportionment of grower members under §§ 905.14 and 913.14, as hereinafter set forth, will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Parts 905 and 913

Marketing Agreements and Orders, Oranges, Grapefruit, Interior District, Tangerines, Tangelos, and Florida.

1. The authority citation for 7 CFR Parts 905 and 913 continues to read as follows:

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

PART 905—[AMENDED]

2. A new § 905.114 is added to Subpart—Rules and Regulations (7 CFR §§ 905.120—905.152) to read as follows:

§ 905.114 Redistricting of citrus districts and reapportionment of grower members.

Pursuant to § 905.14, the citrus districts and membership allotted each district shall be as follows:

(a) "Citrus District One" shall include the Counties of Hillsborough, Pinellas, Pasco, Hernando, Citrus, Sumter, Lake, Osceola, Orange, Seminole, Alachua, Putnam, St. Johns, Flagler, Marion, Levy, Duval, Nassau, Baker, Union, Bradford, Columbia, Clay, Gilchrist, and Suwannee, and County Commissioner's Districts One, Two, and Three of Volusia County, and that part of the Counties of Indian River and Brevard not included in Regulation Area II. This district shall have two grower members and alternates.

(b) "Citrus District Two" shall include the County of Polk. This district shall have two grower members and alternates.

(c) "Citrus District Three" shall include the Counties of Manatee, Sarasota, Hardee, Highlands, Okeechobee, Glades, De Soto, Charlotte, Lee, Hendry, Collier, Monroe, Dade, Broward, and that part of the Counties of Palm Beach and Martin not included in Regulation Area II. This district shall have two grower members and alternates.

(d) "Citrus District Four" shall include the County of St. Lucie and that part of the Counties of Brevard, Indian River, Martin, and Palm Beach described as lying within Regulation Area II, and County Commissioner's Districts Four and Five of Volusia County. This district shall have three grower members and alternates.

PART 913—[AMENDED]

3. A new § 913.114 is added to Subpart—Rules and Regulations (7 CFR §§ 913.120–913.160) to read as follows:

§ 913.114 Redistricting of grower districts and reapportionment of grower members.

Pursuant to § 913.14, the grower districts and membership allotted each district shall be as follows:

(a) "Grower District One" shall include the Counties of Hillsborough, Pinellas, Pasco, Hernando, Citrus, Sumter, Lake, Osceola, Orange, Seminole, Alachua, Putnam, St. Johns, Flagler, Marion, Levy, Duval, Nassau, Baker, Union, Bradford, Columbia, Clay, Gilchrist, and Suwanee, and County Commissioner's Districts 1, 2, and 3 of Volusia County, and that part of the Counties of Indian River and Brevard which is included in the Interior District. This district shall have two grower members and alternates.

(b) "Grower District Two" shall include the County of Polk. This district shall have three grower members and alternates.

(c) "Grower District Three" shall include the Counties of Manatee, Sarasota, Hardee, Highlands, Okeechobee, Glades, De Soto, Charlotte, Lee, Hendry, Collier, Monroe, Dade, Broward, and the parts of the Counties of Palm Beach and Martin which are included in the Interior District. This district shall have two grower members and alternates.

Dated: February 26, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 86-4545 Filed 2-27-86; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 979 and 987

Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes assessment rates under Marketing Orders 979 and 987 for the 1985–86 fiscal period. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATES: October 1, 1985—September 30, 1986 (§§ 979.208, and 987.330).

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Acting Chief, Marketing Order Administration Branch, F&V Division, AMS, USDA, Washington, D.C. 20250 (202) 447–4552.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum No. 1512–1 and Executive Order 12291 and has been designated a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has certified that these actions will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities for their own behalf. Thus both statutes have small entity orientation and compatibility.

The rule authorizes expenditures and establishes assessment rates under Marketing Orders 979 and 987 for the 1985–86 fiscal period.

The assessment rates prescribed herein represent only a small fraction of the crop values of the specified commodities. It is estimated that approximately 35 handlers of Texas melons and 26 handlers of California dates are currently subject to regulation under marketing orders each season, and the great majority of this group may be classified as small entities. While regulations issued under these orders impose some costs on affected handlers and the number of such firms may be substantial, the added burden on small entities, if present at all, is not significant.

These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon the recommendations and information submitted by each committee established under the respective marketing orders, and upon other information. It is found that the expenses and rates of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Each order requires that the rate of assessment for a particular fiscal period shall apply to all assessable fruits and vegetables handled from the beginning of such period. To enable the committee to meet current fiscal obligations, approval of the expenses is necessary without delay. It is necessary to effectuate the declared policy of the act to make these provisions effective as specified and handlers have been apprised of such provisions, and the effective time.

List of Subjects in 7 CFR 979 and 987

Marketing agreements and orders; Melons, Dates, Texas, and California.

1. The authority citation for 7 CFR Parts 979 and 987 continues to read as follows:

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

2. Therefore, §§ 979.207 and 987.329 are removed and new §§ 979.208 and 987.330 are added to read as follows: (The followng sections prescribed expenses and assessment rates and will not be published in the Code of Federal Regulations.)

PART 979—MELONS GROWN IN SOUTH TEXAS

§ 979.208 Expenses and assessment rate.

Expenses of $195,519 by the South Texas Melon Committee are authorized, and an assessment rate of $0.015 per carton of melons is established for the fiscal period ending September 30, 1986. In accordance with the provisions of § 979.42, late payment charges of one and one-half percent per month shall be charged on the unpaid balance for each past due account. An account is past due 30 days after the billing date. Unexpended funds may be carried over as a reserve.

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

§ 987.330 Expenses and assessment rate.

Expenses of $26,050 by the California Date Administrative Committee are authorized, and an assessment rate payable by each handler in accordance with § 987.72 of 8 cents per hundredweight of assessable dates is established for the crop year ending September 30, 1986. Any unexpended funds from that crop may be used temporarily during the first four months of the ensuing crop year, and thereafter shall be credited or refunded to the handler from whom collected.

Dated: February 21, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 86-4342 Filed 2-27-86; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 86-013]

Specifically Approved States Authorized To Receive Mares and Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations by adding Wisconsin to the lists of approved States authorized to receive certain mares and stallions imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, has determined that Wisconsin has laws or regulations in effect to require the additional inspection, treatment, and testing of such horses to further ensure their freedom from CEM as required by the regulations. The amendments are necessary in order to avoid the imposition of unnecessary restrictions on importers of mares and stallions from countries affected with CEM.

EFFECTIVE DATE: February 28, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Allan A. Furr, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain horses (mares and stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment, and testing.

A document published in the **Federal Register** on November 29, 1985 (50 FR 49028-49029), set forth an interim rule amending § 92.4 of the regulations by adding Wisconsin to the lists of approved States authorized to receive these mares and stallions. The addition of Wisconsin to the lists was based on the findings that it meets certain minimum standards concerning treatment, testing, and handling procedures for these mares and stallions.

The interim rule was made effective upon publication. Comments were solicited for 60 days after publication of the amendments. No comments were received. The factual situation which was set forth in the document of November 29, 1985, still provides a basis for the amendments.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

It is anticipated that fewer than 20 mares and stallions from countries affected with CEM will be imported into the State of Wisconsin annually. This compares with approximately 3,340 such animals imported into the entire United States during Fiscal Year 1984 and with approximately 36,000 horses of all classes imported into the United States during the same period.

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

Executive Order 12372

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

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, the interim rule amending 9 CFR Part 92 which was published at 50 FR 49028-49029 on November 29, 1985, is adopted as a final rule.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, DC, this 25th day of February 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-4403 Filed 2-27-86; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R-0568]

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending 12 CFR Part 265, its Rules Regarding Delegation of Authority, to delegate authority to permit foreign subsidiaries of U.S. banking organizations to hold shares of U.S. affiliates as part of internal reorganizations. The delegation is intended to expedite processing of applications that raise no substantial issues.

EFFECTIVE DATE: February 21, 1986.

FOR FURTHER INFORMATION CONTACT: James Keller, Manager, International Banking Applications, Division of Banking Supervision and Regulation (202/452-2523); or Kathleen M. O'Day, Senior Counsel, Legal Division (202/452-3786); Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 4(c)(13) of the Bank Holding Company Act (12 U.S.C. 1843(c)(13)) permits a U.S. banking organization to invest in a

foreign company that does not do business in the United States except as an incident to its foreign business. As a general matter, this does not permit a foreign subsidiary of a U.S. banking organization to hold shares of U.S. companies. The Board, however, has permitted a foreign subsidiary to hold shares of a U.S. affiliate where the investment in the shares is part of an internal reorganization or transfer of funds from outside the United States to the U.S. affiliate and may be viewed as a provision of services to the parent by the foreign subsidiary. The Board is amending its delegation rules to authorize the Director of the Division of Banking Supervision and Regulation in consultation with the General Counsel, to permit such a foreign subsidiary of a U.S. banking organization to hold shares in a U.S. affiliate in such circumstances, *i.e.*, as part of an internal reorganization or transfer of funds.

The provisions of 5 U.S.C. 553 relating to notice, public participation and deferred effective date are not followed in connection with the adoption of this amendment because the changes involved are procedural in nature and do not constitute substantive rules subject to the requirement of that section.

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601 *et. seq.*), the Board of Governors of the Federal Reserve System certifies that the amendment adopted will not have a significant economic impact on a substantial number of small entities that would be subject to the regulation.

List of Subjects in 12 CFR Part 265

Authority delegations [Government agencies], Banks, Banking, Federal Reserve System.

PART 265—[AMENDED]

12 CFR Part 265 is amended as follows:

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

Authority: Sec. 11, 38 Stat. 261; 12 U.S.C. 248.

2. 12 CFR Part 265 is amended by adding a new paragraph § 265.2(c)(34) to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

(c) * * *

(34) Under the provisions of Subpart A of part 211 of this chapter (Regulation K) and after consultation with the General Counsel, to permit a foreign subsidiary of a bank holding company to invest in shares of a U.S. affiliate of the banking holding company where the investment is made as part of an internal corporate reorganization or an internal transfer of funds, subject to such conditions and terms as the Director and the General Counsel deem appropriate and consistent with the purposes of Regulation K.

By order of the Board of Governors, February 21, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86–4308 Filed 2–27–86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–NM–64–AD; Amdt. 39–5243]

Airworthiness Directives, Fokker B.V. Model F28 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires repetitive inspections, and repair, if necessary, of the center wing rear spar end fittings on certain Fokker Model F28 series airplanes. Several cases of cracked fittings due to stress corrosion were found during inspection by the manufacturer. Uncorrected cracked fittings could result in structural failure of the wing.

EFFECTIVE DATE: April 7, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained from the Manager, Maintenance and Engineering, Fokker B.V., Product Support, P.O. Box 7600, 11172J Schiphol Oost, The Netherlands. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark E. Baldwin, Standardization Branch, ANM–113; telephone (206) 431–2978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires repetitive inspections, and repair, if necessary, of the center wing rear spar end fittings on certain Fokker Model F28 airplanes was published in the **Federal Register** on July 22, 1985 (50 FR 29694). Several cases of cracked fittings due to stress corrosion were found during inspection by the manufacturer. The inspections, and repairs, if necessary, are required within six years after initial delivery and at intervals not to exceed one year thereafter. This action is considered necessary to maintain the structural integrity of the wing.

The comment period for the proposal, which ended September 10, 1985, afforded interested persons an opportunity to participate in making the rule. Due consideration has been given to the comment received, which was from an organization representing an airline operator. The commenter offered no objections to the proposed AD.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule without change.

It is estimated that there are 30 airplanes on the U.S. Register which are affected by this AD, that it will take approximately 3 manhours per airplane per year to conduct the required inspections, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost to U.S. operators will be $3,600 per year.

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 of the minimal cost of compliance per airplane ($120.). 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

PART—39—[AMENDED]

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

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following airworthiness directive:

Fokker B.V.: Applies to Model F28 airplanes, certificated in any category:

Serial Numbers:
11003 to 11189 inclusive
11190 to 11192 inclusive (RH side only)
*11991 and 11992

To prevent failures of the wing center section, accomplish the following, unless already accomplished, within the next 60 days after the effective date of this AD, or before the airplane reaches six years of age (from date of delivery), whichever occurs later:

A. Inspect the center wing rear spar end fittings, and repair if cracks are found, in accordance with Fokker Service Bulletin F28/57-73, dated June 18, 1984.

B. Repeat the inspection and repairs required by paragraph A., above, at intervals not to exceed one year.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to the Manager, Maintenance and Engineering, Fokker B.V., Product Support, P.O. Box 7600, 11172J Schiphol Oost, The Netherlands. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective April 7, 1986.

Issued in Seattle, Washington, on January 21, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-4303 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-118-AD; Amdt. 39-5242]

Airworthiness Directives; Gates Learjet Models 25, 25A, 25B, and 25C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises an existing airworthiness directive (AD) applicable to certain Gates Learjet Model 25 series airplanes, to extend the inspection interval for Stall Warning Accelerometers from 165 hours to 220 hours time-in-service. This will permit operators to perform this inspection in conjunction with other airplane maintenance schedules.

DATE: Effective April 7, 1986.

ADDRESSES: The applicable service information may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Robert B. Jackson, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Central Region, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4419.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by revising AD 82-01-04R1 to increase the repetitive inspection interval of the Stall Warning Accelerometer Unit from 165 hours to 220 hours time-in-service, was published in the **Federal Register** on November 13, 1985 (50 FR 46777). In addition, the proposed amendment would revise paragraph G. of the AD to reflect the correct address of the Wichita Aircraft Certification Office.

The comment period closed January 3, 1986, and interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment which was received. The commenter strongly supported the proposal.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 180 airplanes of U.S. registry will be affected by this AD. It has been determined that the requirements of this AD may actually reduce operators' costs since the required inspection may be accomplished in conjunction with other regularly scheduled airplane maintenance and inspections.

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. 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

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the 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. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By revising paragraphs D. and G. of Airworthiness Directive (AD) 82-01-04 R1, Amendment 39-4751, as follows:

"D. To ensure proper operation of the Stall Warning Accelerometer Unit, unless previously inspected in the last 100 hours time-in-service before the effective date of this AD, within the next 50 hours time-in-service, and at intervals not to exceed 220 hours time-in-service thereafter, perform the inspection of the Stall Warning Accelerometer in accordance with Gates Learjet Service Bulletin SB 23/24/25-301B, as appropriate."

"G. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Wichita Aircraft Certification Office, FAA, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209."

All persons affected by this proposal who have not already received the applicable service information from the manufacturer may obtain copies upon request to Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

This amendment becomes effective April 7, 1986.

Issued in Seattle, Washington, on February 21, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-4302 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-ANM-10]

Correction to Description of Great Falls, MT, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The description of the Great Falls, Montana, transition area contains an incorrect reference to Airway V-257. The airway should be V-247. This action corrects the description.

DATES: Effective date—0901 UTC, March 31, 1986.

Comments must be received on or before May 2, 1986.

ADDRESSES: Send comments on the rule to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 86-ANM-10, 17900 Pacific Highway South, C-68966, Seattle, WA 98168.

The official docket may be examined in the Regional Counsel's Office at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Katherine Paul, Airspace Technical Specialist, ANM-535, Federal Aviation Administration, Docket No. 86-ANM-10, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, Telephone: (206) 431-2530.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves correcting a reference to Airway V-257 in the description of the Great Falls, Montana, transition area and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations corrects a reference to Airway 257 in the description of the Great Falls, Montana, transition area. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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 CFR Part 71

Transition areas/Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

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

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

2. By amending § 71.181 as follows:

Great Falls, Montana (Revised)

That airspace extending upward from 700 feet above the surface within a 17-mile radius of Malmstrom AFB (lat. 47°30'05"N/long. 111°11'20"W) within 3 miles each side of the Great Falls VORTAC 157 radial, extending from the 17-mile radius area to 21.5 miles southeast of the VORTAC, and within 9 miles northwest of and 13 miles southeast of the Great Falls VORTAC 225 radial, extending from the 17-mile radius area to 15 miles southwest of the VORTAC. That airspace extending upward from 1,200 feet above the surface within a 60-mile radius of the Great Falls VORTAC; and that airspace beginning 60 miles southeast of the Great Falls VORTAC from the south edge of V-113, east to the west edge of V-187, southeast to the intersect of the east edge of V-247, northwest to the intersect of the 60-mile radius of great Falls VORTAC; excluding that portion overlying the Billings, Montana, and Helena, Montana, 1,200-foot transition areas.

Issued in Seattle, Washington, on February 20, 1986.

David E. Jones,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86-4301 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ANM-31]

Amendment to Transition Area; Wenatchee, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the transition area at Wenatchee, Washington, to accommodate a new VOR/DME-C instrument approach to the Pangborn Field Airport at Wenatchee, Washington.

EFFECTIVE DATE: 0901 UTC, April 3, 1986.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace & Procedures Specialist, ANM-534, Federal Aviation Administration, Docket No. 85-ANM-31, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2534.

SUPPLEMENTARY INFORMATION:

History

On Friday, December 20, 1985, the FAA proposed to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the transition area for Wenatchee, Washington (51 FR 3944).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the Wenatchee, Washington, transition area. This action is necessary to provide controlled airspace to accommodate a new VOR/DME-C instrument approach to the Pangborn Field Airport. This action will ensure segregation of aircraft using approach procedures in instrument

weather conditions and other aircraft operating in visual weather conditions.

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

Transition areas, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

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

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

2. By amending § 71.181 as follows:

§ 71.181 [Amended]

Wenatchee, Washington, Transition Area (Amended)

That airspace extending upward from 700 feet above the surface within 4 miles each side of the Wenatchee VOR 124° radial, extending from the VOR to 12.5 miles southeast of the VOR and that airspace between the 5-mile radius circle of the Pangborn Field Airport (lat 47°23'56"N, long. 120°12'20"W) and the 11 DME arc of the Wenatchee VOR/DME bounded by the north edge of V-120 clockwise to the Wenatchee VOR/DME 327°T (305°M) radial, including that airspace within a 1-mile radius of Francher Field, Washington (lat. 47°26'55"N, long. 120°16'40"W); that airspace extending upward from 1,200 feet above the surface within 5 miles south and 8 miles north of the Wenatchee VOR 092° and 272° radials, extending 7 miles west to 14 miles east of the VOR and within 5 miles southwest and 9.5 miles northeast of the 124° radial, extending from the VOR/DME to 23 miles southeast of the VOR and that airspace between the 11 DME and the 19 DME arcs of the Wenatchee VOR/DME bounded by the north edge of V-120 clockwise to the Wenatchee VOR/DME 327°T (305°M) radial.

Issued in Seattle, Washington, on February 20, 1986.

David E. Jones,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86-4363 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ANM-5]

Amendment to Transition Area; Douglas, WY; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects **Federal Register** Document 86-1869. The final rule airspace description which was published for the Douglas, Wyoming, transition area to be effective March 13, 1986, contained reference to an erroneous state boundary and an incomplete description of the 1,200 foot transition area. This action corrects these errors.

EFFECTIVE DATE: March 13, 1986.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace & Procedures Specialist, ANM-534, Federal Aviation Administration, Docket No. 85-ANM-5, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2534.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 86-1869 was published on January 31, 1986 (51 FR 3944) that amended the 700 foot transition area at Douglas, Wyoming. This action was necessary due to the relocation of the Converse County Airport, Douglas, Wyoming. It was discovered that the airspace description published in the final rule contained reference to an erroneous state boundary and an incomplete description of the 1,200 foot transition area. This action corrects these discrepancies.

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

Transition areas, Aviation safety.

Adoption of the Correction

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 86-1869, as published in the **Federal Register** on January 31, 1986 (51 FR 3944) 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).

§ 71.181 [Corrected]

2. By correcting § 71.181 as follows:

Douglas, Wyoming, Transition Area [Amended]

That airspace extending upward from 700 feet above the surface within a 10.5 mile radius of the Converse County Airport, Douglas, Wyoming, (lat. 42°47'46" N, long. 105°23'08" W); and that airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at a point at lat. 43°14'00" N, long. 105°28'01" W; east along the south edge of V-26 to lat. 43°28'30" N, long. 104°30'00" W; to lat. 43°00'00" N, long. 104°30'00" W; east to the Wyoming-South Dakota-Nebraska State boundary, south to the north edge of V-100, west to the west edge of V-19, northwest to lat. 42°27'30" N, long. 105°52'05" W; thence to point of beginning, excluding the Casper and Cheyenne, Wyoming, transition areas.

Issued in Seattle, Washington, on February 20, 1986.

David E. Jones,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86-4360 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ASO-18]

Alteration to Christiansted St. Croix, VI, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action enlarges the Christiansted St. Croix, VI, Transition Area to accommodate operations conducted under instrument flight rules

(IFR) from Christiansted Harbor Seaplane Base.

EFFECTIVE DATE: 0901 UTC, May 8, 1986.

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

SUPPLEMENTARY INFORMATION:

History

On November 22, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide sufficient controlled airspace within which operations conducted under IFR from Christiansted Harbor Seaplane Base would be afforded the protection of increased VFR minimums associated with controlled airspace (50 FR 48220). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations enlarges the Christiansted, St. Croix, VI, Transition Area to accommodate IFR departure operations from the Christiansted Harbor Seaplane Base.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

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

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

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

§ 71.181 [Amended]

2. § 71.181 is amended as follows:

Christiansted, St. Croix, VI [Amended]

By removing the words "and that airspace" and substituting the words "within a 6.5-mile radius of Christiansted Harbor Seaplane Base (lat. 17°45'11" N., long. 64°42'24" N.); and that airspace" and by removing "VOR" wherever it appears and substituting "VOR/DME." Also, by removing "068°" wherever it appears and substituting "069°."

Issued in Washington, DC, on February 21, 1986.

Shelomo Wugalter,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 86-4365 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 86-AWA-1]

Alteration of Restricted Areas R-3202A, B and C—Saylor Creek, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the times of use for Restricted Areas R-3202A, B and C, located near Saylor Creek, ID, indicating more accurately when the areas are being utilized. This action will reduce the time the restricted areas are in effect.

EFFECTIVE DATE: 0901 U.T.C., May 8, 1986.

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

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) changes the times of use for Restricted Areas R-3202A, B and C, located near Saylor Creek, ID, from "daily, 0600-0200, local time; other times by NOTAM" to "Monday-Friday, 0800-0000 local time; other times by NOTAM." Because this would amend the time of designation to reflect actual times of use and would reduce the time the restricted areas are in effect, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor amendment in which the public would not be particularly interested. Section 73.32 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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 73

Aviation safety, Restricted areas.

Adoption of the Amendment

PART 73—[AMENDED]

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

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

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

2. Section 73.32 is amended as follows:

R-3202A Saylor Creek, ID [Amended]

By removing the words "Daily, 0600 to 0200, local time." and by substituting the words "Monday-Friday, 0800-0000 local time."

R-3202B Saylor Creek, ID [Amended]

By removing the words "Daily, 0600 to

0200, local time." and by substituting the words "Monday-Friday, 0800–0000 local time."

R–3202C Saylor Creek, ID [Amended]

By removing the words "Daily, 0600 to 0200, local time." and by substituting the words "Monday-Friday, 0800–0000 local time."

Issued in Washington, D.C. on February 21, 1986.

Shelomo Wugalter,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–4364 Filed 2–27–86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 85–AGL–29]

Change in Time of Designation of Restricted Areas R–4201A and R–4201B, Camp Grayling, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the time of designation for R–4201A and R–4201B, Camp Grayling, MI. A "continuous" time of designation of these restricted areas is no longer required by the using agency. The time changes will more accurately reflect actual use, will release time periods during which the areas are available for public access, and will provide for the more efficient utilization of airspace.

DATE: Effective 0901 U.T.C., May 8, 1986.

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

The Rule

This amendment to part 73 of the Federal Aviation Regulations (14 CFR Part 73) reduces the times of use for Restricted Areas R–4201A and R–4201B, Camp Grayling, MI, from "continuous" to "0800–1600 local time, Tuesday–Saturday; other times by NOTAM" for R–4201A and to "0001 Saturday–2359 Sunday local time; other times by NOTAM" for R–4201B. The Department of the Army has indicated that continuous use of R–4201A and R–4201B is no longer required. Because this would amend the time of designation to reflect actual times of use and reduce the time that the restricted areas are in effect, this action is a minor amendment in which the public would not be particularly interested. For this reason, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Section 73.42 of part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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 73

Aviation safety, Restricted areas.

Adoption of the Amendment

PART 73—[AMENDED]

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

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

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

2. Section 73.42 is amended as follows:

R–4201A Camp Grayling, MI [Amended]

By removing the word "Continuous" and substituting the words "0800–1600 local time, Tuesday–Saturday; other times by NOTAM."

R–4201B Camp Grayling, MI [Amended]

By removing the word "Continuous" and substituting the words "0001 Saturday–2359 Sunday local time; other times by NOTAM."

Issued in Washington, D.C., on February 21, 1986.

Shelomo Wugalter,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–4367 Filed 2–27–86; 8:45 am]

BILLING CODE 4910-M 13

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14 CFR Part 75

[Airspace Docket No. 85–AWA–52]

Alteration and Establishment of Jet Routes—Expanded East Coast Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Jet Route J–79 and establishes new Jet Route J–193 which are located in the vicinity of Richmond, VA. The realignment alleviates congestion and compression of traffic in the airspace between New England and Florida. This amendment is a portion of the Expanded East Coast Plan (EECP) that is designed to make optimum use of limited airspace along the east coast corridor. The jet routes in this docket, J–79 and J–193, were removed from ASD 85–AWA–41, due to technical problems that could not be resolved in time to make the effective date of March 13, 1986. The EECP will be implemented in several segments until completed.

EFFECTIVE DATE: 0901 UTC, May 8, 1986.

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

SUPPLEMENTARY INFORMATION:

History

On October 16, 1985, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of J–174, J–40, J–191, J–79 and establish J–193 in ADS 85–AWA–41 (50 FR 41905). Due to technical problems with NAVAIDs, J–79 and J–193 were removed from ASD 85–AWA–41 and are processed under this rule with a May 8, 1986, effective date. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations realigns J–79 and establishes new J–193. These jet routes are segments of the EECP that is designed to alleviate compression and

congestion in several terminal areas. This action completes an additional segment of the EECP.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

PART 75—[AMENDED]

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

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

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

§ 75.100 [Amended]

2. § 75.100 is amended as follows:

J-79 [Amended]

By removing the words "Charleston; Wilmington, NC; Norfolk, VA; INT of Norfolk 023° and Coyle, NJ, 208° radials; Coyle; Kennedy, NY;" and substituting the words "Charleston; Tar River, NC; Franklin, VA; Salisbury, MD; Sea Isle, NJ; Kennedy, NY;"

J-193 [New]

From Wilmington, NC, via INT of Wilmington 058° and Franklin, VA 190° radials; to Franklin.

Issued in Washington, DC, on February 21, 1986.

Shelomo Wugalter,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-4368 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 24918; Amdt. No. 1315]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—

Individual SIAP copies may be obtained from:

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

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

By Subscription—

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

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

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

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number. This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for

Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on February 21, 1986.

John S. Kern,

Acting Director of Flight Standards.

Adoption of the Amendment

PART 97—[AMENDED]

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

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

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

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

** * * Effective 8 May 1986*

Camden, AR—Harrell Field, VOR/DME Rwy 36, Amdt. 5
Camden, AR—Harrell Field, NDB Rwy 18, Amdt. 8
Fargo, ND—Hector Field, NDB Rwy 17, Amdt. 13
Fargo, ND—Hector Field, ILS Rwy 17, Amdt. 2
Wahpeton, ND—Harry Stern, NDB Rwy 33, Amdt. 2
Williston, ND—Sloulin Fld Intl, VOR Rwy 11, Amdt. 11
Williston, ND—Sloulin Fld Intl, VOR/DME Rwy 29, Amdt. 2
Williston, ND—Sloulin Fld Intl, ILS Rwy 29, Amdt. 1
Williston, ND—Skoulin Fld Intl, ILS Rwy 29, Amdt. 1

** * * Effective 10 April 1986*

Harrison, AR—Boone County, LOC Rwy 36, Amdt. 5
Harrison, AR—Boone County, NDB Rwy 18, Amdt. 4
Harrison, AR—Boone County, NDB Rwy 36, Amdt. 4
Atlanta, GA—The William B. Hartsfield Atlanta Intl, ILS Rwy 8R, Amdt. 58
Cartersville, GA—Cartersville, VOR/DME-A, Amdt. 2, Cancelled
Moline, IL—Quad-City, ILS Rwy 9, Amdt. 27
Bellaire, MI—Antrim County, VOR Rwy 2, Orig.
West Branch, MI—West Branch Community, VOR Rwy 27, Orig.
West Branch, MI—West Branch Community, NDB Rwy 27, Amdt. 6
Cape Girardeau, MO—Cape Girardeau Muni, VOR Rwy 2, Amdt. 8
Cape Girardeau, MO—Cape Girardeau Muni, VOR Rwy 10, Amdt. 1
Cape Girardeau, MO—Cape Girardeau Muni, VOR Rwy 20, Amdt. 1
Buffalo, NY—Greater Buffalo Intl, VOR-A, Amdt. 17
Buffalo, NY—Greater Buffalo Intl, NDB Rwy 5, Amdt. 10
Buffalo, NY—Greater Buffalo Intl, NDB Rwy 23, Amdt. 14
Buffalo, NY—Greater Buffalo Intl, ILS Rwy 5, Amdt. 13
Buffalo, NY—Greater Buffalo Intl, ILS Rwy 23, Amdt. 27
Buffalo, NY—Greater Buffalo Intl, RADAR-1, Amdt. 13
Syracuse, NY—Syracuse Hancock Intl, RADAR-1, Amdt. 5, Cancelled
Mandan, ND—Mandan Muni, RADAR-1 Amdt. 1
Merrill, WI—Merrill Muni, NDB Rwy 7, Amdt. 1
Merrill, WI—Merrill Muni, NDB Rwy 16, Amdt. 5

** * * Effective 13 March 1986*

Fort Huachuca-Sierra Vista, AZ—Libby AAF/Sierra Vista Muni, VOR-A, Amdt. 1, Cancelled
Fort Huachuca-Sierra Vista, AZ—Libby AAF/Sierra Vista Muni, NDB Rwy 26, Orig.

The FAA published an Amendment in Docket No. *24902*, Amdt. No. *1313* to Part 97 of the Federal Aviation Regulations (VOL *51* FR No. *22* Page *4159;* dated *3 FEB 1986*) under Section 97.*25* effective *13 MAR 86*, which is hereby amended as follows:

Lake Charles, LA—Lake Charles Muni, LOC BC Rwy 33, Amdt. 16, Rescinded.

[FR Doc. 86-4280 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regulations No. 4 and 16]

Supplemental Security Income; Disability and Blindness Determinations

Correction

In FR Doc. 85-28887, beginning on page 50118, in the issue of Friday, December 6, 1985, make the following corrections:

1. On page 50127, second column, fifth line from bottom in § 404.1579(b)(5), "lastest" should read "latest".

2. On the same page, third column, fifth line, in § 404.1579(c)(4), "medica" should read "medical".

3. On page 50131, third column, in § 404.1594(b)(3) Example 2, second paragraph, first line, "had" should read "has".

4. On page 50132, first column, twenty-fourth line in § 404.1594(b)(4), "had" should read "has". In the thirty-second line, after the word "these" insert "basic".

5. On the same page, second column, fourth line in § 404.1594(b)(4)(ii), "in" should read "is". In the eleventh line, the second "to sustained" should be removed.

6. On page 50133, first column, second line in § 404.1594(c)(3), "consideration" should read "considerations."

7. On the same page, third column, twenty-eighth line in § 404.1594(c)(3)(v), "effects" should read "efforts".

8. On page 50137, first column, first line of § 416.986(a), "you" should read "your". In the second line, "yor" should read "you". In paragraph (a)(2) of same section and column, second line, "no" should read "not".

9. On page 50139, in § 416.994(b)(1)(iv)(C), second column, first line, "evaluation" should read "evaluations".

10. On page 50140, first column, fifth line in § 416.994(b)(2)(iv)(C), "our" should read "your".

11. On the same page, third column, twentieth line in § 416.994(b)(3), before "medical" insert "any".

12. On page 50141, second column, third line in § 416.994(b)(3)(iii)(B)*(1)*, "Subchapter" should read "Subpart". In the same section, paragraph (b)(3)(iii))(B)*(2)*, first line, "or" should read "of".

13. On the same page, third column, sixth line in § 416.994(b)(3)(iv)(A), Example 1, "electroencephalogram" was misspelled.

14. On page 50142, first column, eighth line in § 416.994(b)(3)(iv)(B), Example, "original" was misspelled.

15. On page 50143, third column, third line in § 416.994(c)(1)(i) Example 1, "has" should read "had".

16. On page 50145, in § 416.994(c)(3)(i), second column, twenty-second line, "The" should read "This".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid

Correction

In FR Doc. 86-3005 beginning on page 5162 in the issue of Wednesday, February 12, 1986, make the following corrections:

1. On page 5162, third column, in Part 558, in the first line of the Authority, insert "82" before "Stat.".

2. On page 5163, in the table at the top of the page, under "Limitations", first line, insert "cattle" after "pasture".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: The Parole Commission is making procedural clarifications and revisions to its rules at 28 CFR 2.19 (Information Considered) and § 2.27 (Appeal of Original Jurisdiction Cases). The amendment to 28 CFR 2.19 provides that the procedures for submission of materials to be considered by the Commission also are applicable to preliminary interviews and the amendment to 28 CFR 2.27 revises the date at which material supporting the appeal of an original jurisdiction case must be submitted to the Commission.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Alan J. Chaset, Deputy Director of Research and Program Development, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Telephone (301) 492-4980.

SUPPLEMENTARY INFORMATION: The U.S. Parole Commission is making procedural changes to two of its rules related to the Submission by offenders of materials and information for consideration by the Commission.

First, in making a parole or reparole determination, the Commission considers a number of reports and other documents concerning the prisoner. It will also take into consideration additional information concerning the prisioner, including information submitted by the prisoner or by other interested persons. The rules governing the information so considered are at 28 CFR 2.19.

Occasionally, at the hearing, a prisoner or his representative will submit for the first time voluminous material concerning the prisoner to be considered by the panel. In such instances, it is generally impossible for the examiners to read all the material submitted without seriously disturbing the hearing schedule. To remedy this situation and to ensure that the information contained in the submitted materials receives appropriate attention and review, the Commission adopted procedures which limit the amount of material to be first submitted at a hearing, which establish the timing of that submission, which allow for summarization of the submitted material, and which provides for Commission consideration of all the material submitted as part of the review of the panel's recommendation. A final rule in this regard was published in the Federal Register (50 FR 36422, September 6, 1985).

The submission of voluminous materials concerning prisoners are equally problematic to the individuals who conduct preliminary interviews as part of the parole revocation process. To remedy this similar situation and again to ensure that the submitted material receives appropriate attention, the Commission is amending 28 CFR 2.19 to extend the coverage of those procedures to preliminary interviews.

Second, as part of the procedures regarding the Commission's consideration of an appeal of original jurisdiction cases, the Commission receives and reviews written information concerning prisoners as submitted by attorneys, relatives and other interested parties. Presently, these supporting materials are to be submitted at least two weeks in advance of the Commission meeting at which the appeal will be heard. 28 CFR 2.27(b). The Commission has determined that this two-week deadline does not provide ample time for the material to be reviewed, a summary prepared, typed, rechecked for accuracy, photocopied for the National and Regional Commissioners' packets and mailed out. These necessary steps take considerable time and delay review by the Commissioners beyond the two-week period.

To remedy this situation and to ensure adequate time for review, the Commission is amending 28 CFR 2.27(b) to require that the supporting materials be submitted thirty days in advance of the meeting at which the appeal will be considered.

These such changes will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisoners, Probation and parole.

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and (4204(a)(6).

2. 28 CFR 2.19, *Information Considered,* is amended by revising paragraph (b)(3) to read as follows:

§ 2.19 Information Considered.

* * * * *

(b) * * *

(3) If material of more than six (6), double-spaced, letter-sized pages is first submitted at the time of the hearing (or preliminary interview) and the hearing panel (or person conducting the hearing or preliminary interview) concludes that it is not feasible to read all the material at that time, the person submitting the material will be permitted to summarize it briefly at the hearing (or preliminary interview). All of the material submitted will become part of the record to be considered by the Commission in its review of the proceedings.

* * * * *

3. 28 CFR § 2.27, *Appeal of Original Jurisdiction Cases,* is amended by

revising paragraph (b) to read as follows:

§ 2.27 Appeal of Original Jurisdiction Cases.

* * * * *

(b) Attorneys, relatives, and other interested parties who wish to submit written information concerning a prisoner's appeal should send such information to the National Appeals Board Analyst, United States Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. Appeals and all supporting material are to be submitted thirty days in advance of the meeting at which the appeals will be considered.

* * * * *

Dated: February 12, 1986.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 86-4237 Filed 2-27-86; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: The Parole Commission is making several interpretative clarifications, revisions and additions to its paroling policy guidelines contained in 28 CFR 2.20 and 2.36. These changes and additions are intended to remove ambiguities, to conform to other parts of the guidelines, and to make the guidelines more comprehensive.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Alan J. Chaset, Deputy Director of Research and Program Development, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Telephone (301) 492-4980.

SUPPLEMENTARY INFORMATION:

A. The Interim Rule and its Purposes

On October 3, 1985, the U.S. Parole Commission published in the **Federal Register** (50 FR 40368) an interim rule, with request for public comment, that made a number of amendments to the Commission's paroling policy guidelines. Among those amendments were the following:

1. A revision was made to 28 CFR 2.20(j)(1) to conform to amendments made to 28 CFR 2.21 concerning the recalculation of the salient factor score for parole violators. And a revision was made to 28 CFR 2.36(a)(1) to make it more consistent with amendments made to 28 CFR 2.21 concerning the grading of administrative violations as Category One.

2. Several changes were made to the offense examples in the Offense Severity Index of 28 CFR 2.20. These amendments were, for the most part, editorial and served to clarify the offense examples. Other revisions added new offense examples, making the offense severity index more comprehensive by including behaviors previously not specifically covered. Offense Example 211(a) was revised for clarity as were Offense Examples 212(a), 221(e), 615, and 621(b). (For consistency, an amendment was made to Definition 17 in Subchapter B of Chapter Thirteen to conform to the revision in Offense Examples 211(e) and 212(a)). The titles of Offense Examples 232 and 801 were revised for clarity and consistency and the statutory reference in the title of Offense Example 361 was removed. New subparagraph (c) was added to Offense Example 322 to clarify the relationship of extortion to non-governmental corruption. Operating video gambling machines were added to the list of gambling law violations in Offense Example 1111 and, for consitsency, Offense Example 1112 was revised for grading by reference to Offense Example 1111. Offense Example 803 was removed; the underlying statute had been repealed and involuntary manslaughter is covered elsewhere in the guidelines. New Offense Example 363 was added to make the index more comprehensive by providing coverage for "insider trading" offenses. The grading of the severity of those offenses paralleled that of the antitrust offenses in Offense Example 361. New Offense Examples 1171 and 1172, rating environmental offenses, were added. The Commission proposed the creation of a subchapter on these offenses in the proposed rule published on June 10, 1985 (50 FR 24236). No comment was received, and the Commission had developed these two offense examples pursuant to that proposal. Also, new General Note (7) was added to Subchapter A of Chapter Thirteen to clarify the grading of state offenses committed at or about the same time as the current federal offense.

3. To make the rules more comprehensive, the Commission revised several offense examples and other paragraphs by incorporating, as part of the rules, instructional material previously included in the Commission's internal Rules and Procedures Manual. These changes were also to help clarify the rules and examples. In this regard, amendments were made to Offense Examples 232(c), 331(f)(3), 331(g)(2), 362(d), and 618 (a) and (b). Similarly, Note (3) was added to the Notes to Chapter Nine; subparagraphs (a) through (e) were added to General Note (2) of Subchapter A of Chapter Thirteen; and the salient factor scoring instructions were incorporated into the rules.

B. Public Comment

With the exception of the addition of new Offense Example 363 regarding insider trading (discussed below), no public comment was received on any of the revisions, additions or clarifications contained in the interim rule.

As regards the addition of new Offense Example 363 to Chapter 3, Subchapter G of the Offense Behavior Severity Index of § 2.20, significant response was received questioning the severity ratings developed for insider trading. An amemdment was attached to the Continuing Resolution (House Joint Resolution 465, Further Continuing Appropriations for Fiscal Year 1986; Pub. L. 99-190) prohibiting the Parole Commission from enforcing this offense example for a six month period, except with respect to pending offenses. Letters were forwarded by various Senators and Congressmen expressing their views on the subject. Additionally, a letter was received from the Secretary of the U.S. Securities and Exchange Commission noting that Commission's position on the matter and another received from the Deputy Attorney General passing on the comments of the Economic Crime Council.

The thrust of all the comments received was basically the same: insider trading is a very serious offense that has consequences beyond the illegal profits generated by the inside trader; as a comparative, the severity level of insider trading should be graded as similar to fraud type offenses rather than to antitrust offenses as provided for in the interim rule; the severity ratings contained in the interim rule do not adequately reflect the seriousness of the offense and the resultant harm caused and, further, do not reflect recent legislative and prosecutorial initiatives aimed at both deterring and more appropriately sanctioning this behavior.

The U.S. Parole Commission has reviewed the letters and comments received and has determined to amend the portion of the interim rule that deals with insider trading. Rather than paralleling the severity categories for insider trading offenses with violations of the antitrust laws, such offenses will be treated as similar to traditional frauds and will be rated accordingly.

C. Changes From the Interim Rule

This final rule contains several changes from the interim rule. First, a change is being made to Offense Examples 301(a) and 303(a) of Chapter Three, Subchapter A of the Offense Behavior Severity Index of § 2.20 to conform the language therein to the changes made in Offense Examples 211(a) and 212(a) of Chapter Two, Subchapter B of the Offense Behavior Severity Index of § 2.20. Second, an error was made in the interim rule whereby Offense Example 331 was identified incorrectly (in two instances) as being within Chapter 3, Subchapter F of the Offense Behavior Severity Index of § 2.20. Offense Example 331 is in Chapter 3, Subchapter D of the Offense Behavior Severity Index of § 2.20. Next, as discussed above, a revision has been made to Offense Example 363 of Chapter 3, Subchapter G of the Offense Behavior Severity Index of § 2.20. Finally, for clarification, language is being added to the instructions for the computation of the salient factor score contained in § 2.20 at A.2(b)6 and at *Special Instructions—Federal Parole Violations*, Item C and Item D.

These rule changes will not have a significant econonic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Prisoners, Probation and parole.

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR 2.20, *Paroling Policy Guidelines; Statement of General Policy*, is amended by revising paragraph (j)(1) to read as follows:

§ 2.20 Paroling Policy Guidelines; Statement of General Policy.

* * * * *

(j)(1) In probation revocation cases, the original federal offense behavior and any new criminal conduct on probation (federal or otherwise) is considered in assessing offense severity. The original federal conviction is also counted in the salient factor score as a prior conviction. Credit is given toward the guidelines for any time spent in confinement on any offense considered in assessing offense severity.

* * * * *

3. Offense Example 211(a) in Chapter 2, Subchapter B, in the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

211 *Assault During Commission of Another Offense*

(a) If serious bodily injury* results or if 'serious bodily injury is the result intended'*, grade as Category Seven;

* * * * *

4. Offense Example 212(a) of Chapter 2, Subchapter B of the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

212 *Assault*

(a) If serious bodily injury* results or if 'serious bodily injury is the result intended'*, grade as Category Seven;

* * * * *

5. Offense Example 221(e) of Chapter 2, Subchapter C of the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

221 *Kidnapping*

* * * * *

(e) *Exception:* If not for ransom or terrorism, and no bodily injury to victim, and limited duration (e.g., abducting the driver of a truck during a hijacking and releasing him unharmed within an hour), grade as Category Six.

6. The title of Offense Example 232 of Chapter 2, Subchapter D in the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

232 *Unlawful Sexual Conduct with Minors (e.g., carnal knowledge*)*

7. Offense Example 232 of Chapter 2, Subchapter D in the Offense Behavior Severity Index of § 2.20 is amended by revising paragraph (c) to read as follows:

232 *Unlawful Sexual Conduct with Minors (e.g., carnal knowledge*)*

* * * * *

(c) *Note:* Where the victim is less than 12 years of age at the time of the offense, the aggravating factor of an extremely vulnerable victim is presumed to exist.

8. Offense Example 301(a) of Chapter 3, Subchapter A in the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

301 *Property Destruction by Arson or Explosives*

(a) If the conduct results in serious bodily injury* or if 'serious bodily injury is the result intended'*, grade as Category Seven;

* * * * *

9. Offense Example 303(a) of Chapter 3, Subchapter A in the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

303 *Property Destruction Other Than Listed Above*

(a) If the conduct result in serious bodily injury* or 'serious bodily injury is the result intended'*, grade as if 'assault during commission of another offense';

* * * * *

10. Offense Example 322 of Chapter 3, Subchapter C in the Offense Behavior Severity Index of § 2.20 is revising paragraph (c) to read as follows:

322 *Extortion*

* * * * *

(c) If neither (a) nor (b) is applicable, grade under Chapter Eleven, Subchapter F;

11. Offense Example 331 of Chapter 3, Subchapter D in the Offense Behavior Severity Index of § 2.20 is amended by revising paragraph (f)(3) to read as follows:

331 *Theft, Forgery* * * **

* * * * *

(f) * * *

(3) Grade obtaining drugs for own use by a fraudulent or fraudulently obtained prescription as Category two.

* * * * *

12. Offense Example 331 of Chapter 3, Subchapter D in the Offense Behavior Severity Index of § 2.20 is amended by revising paragraph (g)(2) to read as follows:

331 *Theft, Forgery* * * **

* * * * *

(g) * * *

(2) Grade fraudulent sale of drugs (e.g., sale of sugar as heroin) as 'fraud'.

13. The title of Offense Example 361 of Chapter 3, Subchapter G in the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

361 *Violation of Securities or Investment Regulations*

14. Offense Example 362 of Chapter 3, Subchapter G in the Offense Behavior Severity Index of § 2.20 is amended by revising paragraph (d) to read as follows:

362 *Antitrust Offenses*

* * * * *

(d) *Note:* The term 'economic impact' refers to the estimated loss to any victims (e.g., loss to consumers from a price fixing offense).

15. Offense Example 363 of Chapter 3, Subchapter G is revised in the Offense Behavior Severity Index of § 2.20 to read as follows:

363 *Insider Trading*

(a) If the estimated economic impact is more than $500,000, grade as Category Six;

(b) If the estimated economic impact is more than $100,000 but not more than $500,000, grade as Category Five;

(c) If the estimated economic impact is at least $20,000 but not more than $100,000, grade as Category Four;

(d) If the estimated economic impact is at least $2,000 but less than $20,000, grade as Category Three;

(e) If the estimated economic impact is less than $2,000, grade as Category Two.

(f) Note: The term 'economic impact' includes the damage sustained by the victim whose information was unlawfully used, plus any other illicit profit resulting from the offense.

16. Offense Example 615 of Chapter 6, Subchapter B in the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

615 *Harboring a Fugitive*
Grade as if 'accessory after the fact' to the offense for which the fugitive is wanted, but not higher than Category Three.

17. Offense Example 618 of Chapter 6, Subchapter B in the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

618 *Contempt of Court*
(a) Criminal Contempt (re: 18 U.S.C. 402). Where imposed in connecton with a prisoner serving a sentence for another offense, add <=6 months to the guidelines otherwise appropriate.
(b) *Exception:* If a criminal sentence of more than one year is imposed under 18 U.S.C. 401 for refusal to testify concerning a criminal offense, grade such conduct as if 'accessory after the fact'.
(c) Civil Contempt. See 28 CFR 2.10.

18. Offense Example 621 of Chapter 6, Subchapter C in the Offense Behavior Severity Index of § 2.20 is amended by revising paragraph (b) to read as follows:

621 *Bribery* * * *
* * * * *
(b) If the above conduct involves a pattern of corruption (e.g., multiple instances), grade as not less than Category Four.
* * * * *

19. The title of Offense Example 801 of Chapter 8, Subchapter A in the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

801 *Unlawful Possession or Distribution of Explosives; or Use of Explosives During a Felony*

20. Offense Example 803 of Chapter 8, Subchapter A in the Offense Behavior Severity Index of § 2.20 is removed.

21. Note 3 to the Notes to Chapter Nine of the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

—Notes to Chapter Nine
* * * * *
(3) Grade unlawful possession or distribution of precursors of illicit drugs as Category Five (i.e., aiding and abetting the manufacture of synthetic illicit drugs).

22. Offense Example 1111 of Chapter Eleven, Subchapter B of the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

1111 *Gambling Law Violations—Operating or Employment in an Unlawful Business* (re: 18 U.S.C. 1955)
(a) If large scale operation [e.g., Sports books (estimated daily gross more than $15,000); Horse books (estimated daily gross more than $4,000); Numbers bankers (estimated daily gross more than $2,000); Dice or card games (estimated daily 'house cut' more than $1,000); video gambling (eight or more machines)]; grade as Category Four;
(b) If medium scale operation [e.g., Sports books (estimated daily gross $5,000—$15,000); Horse books (estimated daily gross $1,500—$4,000); Numbers bankers (estimated daily gross $750—$2,000); Dice or card games (estimated daily 'house cut' $400—$1,000); video gambling (four-seven machines)]; grade as Category Three;
(c) If small scale operation [e.g., Sports books (estimated daily gross less than $5,000); Horse books (estimated daily gross less than $1,500); Numbers bankers (estimated daily gross less than $750); Dice or card games (estimated daily 'house cut' less than $400); video gambling (three or fewer machines)]; grade as Category Two;
(d) *Exception:* Where it is established that the offender had no proprietary interest or managerial role, grade as Category One.

23. Offense Example 1112 of Chapter Eleven, Subchapter B of the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

1112 *Interstate Transportation of Wagering Paraphernalia* (re: 18 U.S.C. 1953) Grade as if 'operating a gambling business'.

24. Offense Examples 1171 and 1172 of Chapter Eleven, Subchapter H to the Offense Behavior Severity Index of § 2.20 are revised to read as follows:

SUBCHAPTER H—ENVIRONMENTAL OFFENSES

1171 *Knowing Endangerment Resulting From Unlawful Treatment, Transportation, Storage, or Disposal of Hazardous Waste* [Re: 42 U.S.C. 6928(e)]
(a) If death results, grade as Category Seven;
(b) If serious bodily injury results, grade as Category Six;
(c) Otherwise, grade as Category Five.
(d) *Note:* Knowing Endangerment requires a finding that the offender knowingly transported, treated, stored, or disposed of any hazardous waste and knew that he thereby placed another person in imminent danger of death or serious bodily injury.

1172 *Knowing Disposal and/or Storage and Treatment of Hazardous Waste Without a Permit; Transportation of Hazardous Waste to an Unpermitted Facility* [Re: 42 U.S.C. 6928(d)(1–2)]
(a) If death results, grade as Category Six;
(b) If (1) serious bodily injury results; or (2) a substantial potential for death or serious bodily injury in the future results; or (3) a substantial disruption to the environment results (e.g., estimated cleanup cost exceeds $100,000, or a community is evacuated for more than 72 hours), grade as Category Five;
(c) If (1) bodily injury results, or (2) a significant disruption to the environment results (e.g., estimated cleanup costs of $20,000–$100,000, or a community is evacuated for 72 hours or less), grade as Category Four;
(d) Otherwise, grade as Category Three;
(e) *Exception:* Where the offender is a non-managerial employee (i.e., a truckdriver or loading dock worker) acting under the orders of another person, grade as two categories below the underlying offense, but not less than Category One.

25. General Note 2 to Chapter Thirteen, Subchapter A in the Offense Behavior Severity Index of § 2.20 is amended by revising paragraphs (a), (b), (c), (d), and (e) to read as follows:

SUBCHAPTER A—GENERAL NOTES
* * * * *
2. * * *
(a) In certain instances, the guidelines specify how multiple offenses are to be rated. In offenses rated by monetary loss (e.g., theft and related offenses, counterfeiting, tax evasion) or drug offenses, the total amount of the property or drugs involved is used as the basis for the offense severity rating. In instances not specifically covered in the guidelines, the decision-makers must exercise discretion as to whether or not the multiple offense behavior is sufficiently aggravating to justify increasing the severity rating. The following chart is intended to provide guidance in assessing whether the severity of multiple offenses is sufficient to raise the offense severity level; it is not intended as a mechanical rule.

MULTIPLE SEPARATE OFFENSES

Severity	Points	Severity	Points
Category One	= 1/9	Category Five	= 9
Category Two	= 1/3	Category Six	= 27
Category Three	= 1	Category Seven	= 45
Category Four	= 3		

Examples: 3 Category Five Offense [3x(9)=27]=Category Six, 5 Category Five Offenses [5x(9)=45]=Category Seven, 2 Category Six Offenses [2x(27)=54]=Category Seven

(b) The term 'multiple separate offenses' generally refers to offenses committed at different times. However, there are certain circumstances in which offenses committed at the same time are properly considered multiple separate offenses for the purpose of establishing the offense severity rating. These include (1) unrelated offenses, and (2) offenses involving the unlawful possession of weapons during commission of another offense.
(c) For offenses graded according to monetary value (e.g., theft) and drug offenses, the severity rating is based on the amount or quantity involved and not on the number of separate instances.
(d) Intervening Arrests. Where offenses ordinarily graded by aggregation of value/quantity (e.g., property or drug offenses) are separated by an intervening arrest, grade (1) by aggregation of value/quantity or (2) as multiple separate offenses, whichever results in a higher severity category.
(3) Income Tax Violations Related to Other Criminal Activity. Where the circumstances indicate that the offender's income tax violations are related to failure to report

income from other criminal activity (e.g., failure to report income from a fraud offense) grade as tax evasion or according to the underlying criminal activity established, whichever is higher. Do not grade as multiple separate offenses.

26. Chapter Thirteen, Subchapter A is amended by revising General Note 7 to the Offense Behavior Severity Index of § 2.20 to read as follows:

SUBCHAPTER A—GENERAL NOTES

* * * * *

7. Where state offense(s) are sufficiently related to the federal offense in time or nature to be considered as part of the same episode, course, or spree of criminal conduct (e.g., during a three month period an offender robs two federal banks, one state bank, and one grocery store), such conduct shall be considered as an aggravating factor by being graded on the severity scale as if part of the current federal offense behavior. Any time spent in custody on the state offense(s) shall be credited for guideline purposes.

27. Definition 17 of Chapter Thirteen, Subchapter B of the Offense Behavior Severity Index of § 2.20 is revised to read as follows:

SUBCHAPTER B—DEFINITIONS

* * * * *

17. 'Serious bodily injury is the result intended' refers to a limited category of offense behaviors where the circumstances indicate that the bodily injury intended was serious (e.g., throwing acid in a person's face, or firing a weapon at a person) but where it is not established that murder was the intended object. Where the circumstances establish that murder was the intended object, grade as an 'attempt to murder'.

* * * * *

28. 28 CFR 2.20, *Paroling Policy Guidelines; Statement of General Policy*, is amended by revising instructions for the computation of the salient factor score to read as follows:

SALIENT FACTOR SCORING MANUAL. The following instructions serve as a guide in computing the salient factor score.

ITEM A. PRIOR CONVICTIONS/ ADJUDICATIONS (ADULT OR JUVENILE) [[None = 3; One = 2; Two or three = 1; Four or more. . . . = 0]]

A.1 In General. Count all convictions/ adjudications (adult or juvenile) for criminal offenses (other than the current offense) that were committed prior to the present period of confinement, except as specifically noted. Convictions for prior offenses that are charged or adjudicated together (e.g., three burglaries) are counted as a single prior conviction, except when such offenses are separated by an intervening arrest (e.g., three convictions for larceny and a conviction for an additional larceny committed after the arrest for the first three larcenies would be counted as two prior convictions, even if all four offenses were adjudicated together). Do not count the current federal offense or state/ local convictions resulting from the current federal offense (i.e., offenses that are considered in assessing the severity of the current offense). *Exception:* Where the first and last overt acts of the current offense behavior are separated by an intervening federal conviction (e.g., after conviction for the current federal offense, the offender commits another federal offense while on appeal bond), both offenses are counted in assessing offense severity; the earlier offense is also counted as a prior conviction in the salient factor score.

A.2 Convictions—

(a) Felony convictions are counted. Non-felony convictions are counted, except as listed under (b) and (c). Convictions for driving while intoxicated/while under the influence/while impaired, or leaving the scene of an accident involving injury or an attended vehicle are counted. For the purpose of scoring Item A of the salient factor score, use the offense of conviction.

(b) Convictions for the following offenses are counted only if the sentence resulting was a commitment of more than thirty days (as defined in item B) or probation of one year or more (as defined in Item E), or if the record indicates that the offense was classified by the jurisdiction as a felony (regardless of sentence):

1. contempt of court;
2. disorderly conduct/disorderly person/ breach of the peace/disturbing the peace/ uttering loud and abusive language;
3. driving without a license/with a revoked or suspended license/with a false license;
4. false information to a police officer;
5. fish and game violations;
6. gambling (e.g., betting on dice, sports, cards) [Note: Operation or promotion of or employment in an unlawful gambling business is not included herein];
7. loitering;
8. non-support;
9. prostitution;
10. resisting arrest/evade and elude;
11. trespassing;
12. reckless driving;
13. hindering/failure to obey a police officer;
14. leaving the scene of an accident (except as listed under (a)).

(c) Convictions for certain minor offenses are not counted, regardless of sentence. These include:

1. hitchhiking;
2. local regulatory violations;
3. public intoxication/possession of alcohol by a minor/possession of alcohol in an open container;
4. traffic violations (except as specifically listed);
5. vagrancy/vagabond and rogue;
6. civil contempt.

A.3 Juvenile Conduct. Count juvenile convictions/adjudications except as follows:

(a) Do not count any status offense (e.g., runaway, truancy, habitual disobedience) unless the behavior included a criminal offense which would otherwise be counted;

(b) Do not count any criminal offense committed at age 15 or less, unless it resulted in a commitment of more than 30 days.

A.4 Military Conduct. Count military convictions by general or special court-martial (not summary court-maritial or Article 15 disciplinary proceeding) for acts that are generally prohibited by civilian criminal law (e.g., assault, theft). Do not count convictions for strictly military offenses. *Note:* This does not preclude consideration of serious or repeated military misconduct as a negative indicant of parole prognosis (i.e., a possible reason for overriding the salient factor score in relation to this item).

A.5 Diversion. Conduct resulting in diversion from the judicial process without a finding of guilt (e.g., deferred prosecution, probation without plea) is not to be counted in scoring this item. However, behavior resulting in a judicial determination of guilt or an admission of guilt before a judicial body shall be counted as a conviction even if a conviction is not formally entered.

A.6 Setting Aside of Convictions/ Restoration of Civil Rights Setting aside or removal of juvenile convictions/ adjudications is normally for civil purposes (to remove civil penalties and stigma). Such convictions/adjudications are to be counted for purposes of assessing parole prognosis. This also applies to adult convictions/ adjudications which may be set aside by various methods (including pardon). However, convictions/adjudications that were set aside or pardoned on grounds of innocence are not to be counted.

A.7 Convictions Reversed or Vacated on Grounds of Constitutional or Procedural Error. Exclude any conviction reversed or vacated for constitutional or procedural grounds, unless the prisoner has been retried and reconvicted. It is the Commission's presumption that a conviction/adjudication is valid. If a prisoner challenges such conviction he/she should be advised to petition for a reversal of such conviction in the court in which he/she was originally tried, and then to provide the Commission with evidence of such reversal. *Note:* Occasionally the presentence report documents facts clearly indicating that a conviction was unconstitutional for deprivation of counsel [this occurs only when the conviction was for a felony, or for a lesser offense for which imprisonment was actually imposed; and the record is clear that the defendant (1) was indigent, and (2) was not provided counsel, and (3) did not waive counsel]. In such case, do not count the conviction. Similarly, if the offender has applied to have a conviction vacated and provides evidence (e.g., a letter from the court clerk) that the required records are unavailable, do not count the conviction. *Note:* If a conviction found to be invalid is nonetheless supported by persuasive information that the offender committed the criminal act, this information may be considered as a negative indicant of parole prognosis (i.e., a possible reason for overriding the salient factor score).

A.8 Ancient Prior Record. If both of the following conditions are met: (1) the offender's only countable convictions under Item A occurred at least ten years prior to the commencement of the current offense behavior (the date of the last countable conviction under Item A refers to the date of the conviction, itself, not the date of the offense leading to conviction), and (2) there is at least a ten year commitment free period in

the community (including time on probation or parole) between the last release from a countable commitment (under Item B) and the commencement of the current offense behavior; then convictions/commitments prior to the above ten year period are not to be counted for purposes of Item A, B, or C. *Note:* This provision does not preclude consideration of earlier behavior (e.g., repetition of particularly serious or assaultive conduct) as a negative indicant of parole prognosis (i.e., a possible reason for overriding the salient factor score). Similarly, a substantial crime free period in the community, not amounting to ten years, may, in light of other factors, indicate that the offender belongs in a better risk category than the salient factor score indicates.

A.9 Foreign Convictions. Foreign convictions (for behavior that would be criminal in the United States) are counted.

A.10 Tribal Court Convictions. Tribal court convictions are counted under the same terms and conditions as any other conviction.

A11. Forfeiture of Collateral. If the only known disposition is forfeiture of collateral, count as a conviction (if a conviction for such offense would otherwise be counted).

A.12 Conditional/Unconditional Discharge (New York State). In N.Y. State, the term "conditional discharge" refers to a conviction with a suspended sentence and unsupervised probation; the term "unconditional discharge" refers to a conviction with a suspended sentence. Thus, such N.Y. State dispositions for countable offenses are counted as convictions.

ITEM B. PRIOR COMMITMENTS OF MORE THAN THIRTY DAYS (ADULT OR JUVENILE) [[None=-2; One or two=1; Three or more=0]]

B.1 Count all prior commitments of more than thirty days (adult or juvenile) resulting from a conviction/adjudication listed under Item A, except as noted below. Also count commitments of more than thirty days imposed upon revocation of probation or parole where the original probation or parole resulted from a conviction/adjudication counted under Item A.

B.2 Count only commitments that were imposed prior to the commission of the last overt act of the current offense behavior. Commitments imposed after the current offense are not counted for purposes of this item. Concurrent or consecutive sentences (whether imposed as the same time or at different times) that result in a continuous period of confinement count as a single commitment. However, a new court commitment of more than thirty days imposed for an escape/attempted escape or for criminal behavior committed while in confinement/escape status counts as a separate commitment.

B.3 Definitions—

(a) This item only includes commitments that were actually imposed. Do not count a suspended sentence as a commitment. Do not count confinement pending trial or sentencing or for study and observation as a commitment unless the sentence is specifically to "time served". If a sentence imposed is subsequently reconsidered and reduced, do not count as a commitment if it is determined that the total time served, including jail time, was 30 days or less. Count a sentence to intermittent confinement (e.g., weekends) totalling more than 30 days.

(b) This item includes confinement in adult or juvenile institutions, and residential treatment centers. It does not include foster home placement. Count confinement in a community treatment center when part of a committed sentence. Do not count confinement in a CTC when imposed as a condition of probation or parole. Do not count self-commitment for drug or alcohol treatment.

(c) If a committed sentence of more then thirty days is imposed prior to the current offense but the offender avoids or delays service of the sentence (e.g., by absconding, escaping, bail pending appeal), count as a prior commitment. *Note:* Where the subject unlawfully avoids service of a prior commitment by escaping or failing to appear for service of sentence, this commitment is also to be considered in Items D and E. *Example:* An offender is sentenced to a term of three years confinement, released on appeal bond, and commits the current offense. Count as a previous commitment under Item B, but not under Items D and E. To be considered under Items D and E, the avoidance of sentence must have been unlawful (e.g., escape or failure to report for service or sentence).

ITEM C. AGE AT COMMENCEMENT OF THE CURRENT OFFENSE/PRIOR COMMITMENTS OF MORE THAN THIRTY DAYS (ADULT OR JUVENILE)

C.1 Score 2 if the subject was 26 years of age or more at the commencement of the current offense and has fewer than five prior commitments.

C.2 Score 1 if the subject was 20–25 years of age at the commencement of the current offense and has fewer than five prior commitments.

C.3 Score 0 if the subject was 19 years of age or less at the commencement of the current offense, or if the subject has five or more prior commitments.

C.4 Definitions—

(a) Use the age at the commencement of the subject's current federal offense behavior, except as noted under special instructions for federal probation/parole/confinement/escape status violators.

(b) Prior commitment is defined under Item B.

ITEM D. RECENT COMMITMENT FREE PERIOD (THREE YEARS)

D.1 Score 1 if the subject has no prior commitments; or if the subject was released to the community from his/her last prior commitment at least three years prior to commencement of his/her current offense behavior.

D.2 Score 0 if the subject's last release to the community from a prior commitment occurred less than three years prior to the current offense behavior; or if the subject was in confinement/escape status at the time of the current offense.

D.3 Definitions—

(a) Prior commitment is defined under Item B.

(b) Confinement/escape status is defined under Item E.

(c) Release to the community means release from confinement status (e.g., a person paroled through a CTC is released to the community when released from the CTC, not when placed in the CTC).

ITEM E. PROBATION/PAROLE/CONFINEMENT/ESCAPE STATUS VIOLATOR THIS TIME

E.1 Score 1 if the subject was not on probation or parole, nor in confinement or escape status at the time of the current offense behavior; and was not committed as a probation, parole, confinement, or escape status violator this time.

E.2 Score 0 if the subject was on probation or parole or in confinement or escape status at the time of the current offense behavior; or if the subject was committed as a probation, parole, confinement, or escape status violator this time.

E.3 Definitions

(a) The term probation/parole refers to a period of federal, state, or local probation or parole supervision. Occasionally, a court disposition such as 'summary probation' or 'unsupervised probation' will be encountered. If it is clear that this disposition involved no attempt at supervision, it will not be counted for purposes of this item. *Note:* Unsupervised probation/parole due to deportation is counted in scoring this item.

(b) The term 'parole' includes parole, mandatory parole, conditional release, or mandatory release supervision (i.e., any form of supervised release).

(c) The term 'confinement/escape status' includes institutional custody, work or study release, pass or furlough, community treatment center confinement, or escape from any of the above.

ITEM F. HISTORY OF HEROIN/OPIATE DEPENDENCE

F.1 Score 1 if the subject has no history of heroin or opiate dependence.

F.2 Score 0 if the subject has any record of heroin or opiate dependence.

F.3 Ancient Heroin/Opiate Record. If the subject has no record of heroin/opiate dependence within ten years (not counting any time spent in confinement), do not count a previous heroin/opiate record in scoring this item.

F.4 Definition. For calculation of the salient factor score, the term 'heroin/opiate dependence' is restricted to dependence on heroin, morphine, or dilaudid. Dependence refers to physical or psychological dependence, or regular or habitual usage. Abuse of other opiate or non-opiate substances is not counted in scoring this item. However, this does not preclude consideration of serious abuse of a drug not listed above as a negative indicant of parole prognosis (i.e., a possible reason for overriding the salient factor score in relation to this item).

Special Instructions—Federal Probation Violators

Item A Count the original federal offense as a prior conviction. Do not count the conduct leading to probation revocation as a prior conviction.

Item B Count all prior commitments of more than thirty days which were imposed prior to the behavior resulting in the current probation revocation. If the subject is committed as a probation violator following a 'split sentence' for which more than thirty days were served, count the confinement portion of the 'split sentence' as a prior commitment. *Note*: the prisoner is still credited with the time served toward the current commitment.

Item C Use the age at commencement of the probation violation, not the original offense.

Item D Count backwards three years from the commencement of the probation violation.

Item E By definition, no point is credited for this item. *Exception*: A case placed on unsupervised probation (other than for deportation) would not lose credit for this item.

Item F No special instructions.

Special Instructions—Federal Parole Violators

Item A The conviction from which paroled counts as a prior conviction.

Item B The commitment from which paroled counts as a prior commitment.

Item C Use the age at commencement of the new criminal behavior/parole violation behavior.

Item D Count backwards three years from the commencement of the new criminal behavior/parole violation behavior.

Item E By definition, no point is credited for this item.

Item F No special instructions.

Special Instructions—Federal Confinement/ Escape Status Violators With New Criminal Behavior in the Community

Item A The conviction being served at the time of the confinement/escape status violation counts as a prior conviction.

Item B The commitment being served at the time of the confinement/escape status violation counts as a prior commitment.

Item C Use the age at commencement of the confinement/escape status violation.

Item D By definition, no point is credited for this item.

Item E By definition, no point is credited for this item.

Item F No special instructions.

29. 28 CFR 2.36(a)(1), *Rescission Guidelines*, is revised to conform to 28 CFR 2.21 concerning the grading of administrative violations as Category One. The revised paragraph reads as follows:

§ 2.36 Rescission Guidelines.

(a) * * *

(1) Administrative Rule Infraction(s) (including alcohol abuse) normally can be adequately sanctioned by postponing a presumptive or effective date by 0–60 days per instance of misconduct, or by 0–120 days in the case of use or simple possession of illicit drugs. Escape or other new criminal conduct shall be considered in accordance with the guidelines set forth below.

* * * * *

Dated: February 12, 1986.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 86–4238 Filed 2–27–86; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286b

[OSD Administrative Instruction No. 81]

Privacy Act of 1974, as Amended; Privacy Program

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: This final rule revises the Office of the Secretary of Defense Privacy Program which implements the Privacy Act of 1974, as amended (5 U.S.C. 552a) within the Department. This revision suspersedes a final rule (40 FR 55526) published on November 28, 1975, 32 CFR Part 286b—"Personal Privacy and Rights of Individuals Regarding Their Personal Records." This revision incorporates changes occasioned by DoD Directive 5400.11, June 9, 1982, and DoD Regulation 5400.11–R, August 31, 1983, both entitled: "Department of Defense Privacy Program."

EFFECTIVE DATE: January 13, 1986.

FOR FURTHER INFORMATION CONTACT: Ms Norma Cook, OSD Privacy Act Officer, Office of the Deputy Assisant Secretary of Defense (Administration), The Pentagon, Washington, D.C. 20301–1100. Telephone 202–697–2501 or AUTOVON 227–2501.

SUPPLEMENTARY INFORMATION: Subsection 3(f) of Privacy Act of 1974, as amended (Title 5 U.S.C. § 552a) requires that Federal agencies promulgate rules for implementing the Privacy Act. On November 28, 1975, the Office of the Secretary of Defense published a final rule (40 FR 55526), 32 CFR Part 286b, which implemented DoD Directive 5400.11 dated August 4, 1975 entitled: "Personal Privacy and Rights of Individuals Regarding Their Personal Records." DoD Directive 5400.11 entitled: "Department of Defense Privacy Program" was revised on June 9, 1982. This revision implements the above mentioned documents.

The Department of Defense has determined that this revision is not a major rule as defined by Executive Order 12291, is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 90–354) and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

List of Subjects in 32 CFR Part 286b

Privacy.

Accordingly, Part 286b of 32 CFR is revised to read as follows:

PART 286b—PRIVACY PROGRAM

Sec.

Authority: Privacy Act of 1974, Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a)

§ 286b.1 Reissuance and purpose.

This part reissues Administrative Instruction No. 81 to update and implement basic policies and procedures outlined in Privacy Act of 1974, DoD 5400.11–R, OMB Circular No. A–108 (TM No. 4) and to provide guidance and procedures for use in establishing the Privacy Program in the Office of the Secretary of Defense (OSD) and those organizations assigned to OSD for administrative support.

§ 286b.2 Applicability and scope.

(a) This part applies to the OSD, Organization of the Joint Chiefs of Staff (OJCS), Inspector General of the Department of Defense (IG, DOD), Defense Advanced Research Projects Agency (DARPA), Uniformed Services University of the Health Sciences (USUHS) and other activities assigned to OSD for administrative support (hereafter referred to collectively as "OSD Components").

(b) This part covers record systems maintained by OSD Components and governs the maintenance, access, change, and release of information contained in OSD Component record systems, from which information pertaining to an individual is retrieved by a personal identifier.

§ 286b.3 Definitions.

Access. Any individual's review of a record or a copy of a record or parts of a system of records.

Disclosure. The transfer of any personal information from a system of records by any means of oral, written, electronic, mechanical, or other communication, to any person, private entity, or Government agency, other than the subject of the record, the

subject's designated agent, or the subject's legal guardian.

Individual. A living citizen of the United States or an alien lawfully admitted to the United States for permanent residence. The legal guardian of an individual has the same rights as the individual and may act on his or her behalf.

Individual Access. Access to information pertaining to the individual or his or her designated agent or legal guardian.

Maintain. Includes maintenance, collection, use or dissemination.

Personal Information. Information about an individual that is intimate or private, as distinguished from information related solely to the individual's official functions or public life.

§ 286b.4 Policy.

(a) It is DoD policy to protect the privacy of individuals involved in any phase of the personnel management process and to permit any individual to know what existing records pertain to him or her in any OSD Component covered by this part.

(b) Each office maintaining records and information about individuals shall ensure that their privacy is protected from unauthorized disclosure. These offices shall permit individuals to have access to, and to have a copy made of, all or any portion of records pertaining to them (except those referred to in Chapters 3 and 5, DoD 5400.11–R and to have an opportunity to request that such records be amended as provided by the Privacy Act of 1974. Individuals requesting access to their records shall receive concurrent consideration under the Privacy Act of 1974 and the Freedom of Information Act as amended, if appropriate.

(c) The heads of OSD Components shall maintain any record of an identifiable personal nature in a manner that is necessary and lawful. Any information collected must be as accurate, relevant, timely, and complete as is reasonable to ensure fairness to the individual. Adequate safeguards must be provided to prevent misuse or unauthorized release of such information.

§ 286b.5 Responsibilities.

(a) The Deputy Assistant Secretary of Defense (Administration) (DASD(A)), Office of the Assistant Secretary of Defense (Comptroller) OASD(c)), shall:

(1) Direct and administer the DoD Privacy Program for OSD Components.

(2) Establish standards and procedures to ensure implementation of and compliance with the Privacy Act of 1974, OMB Circular No. A–108 (TM No. 4), and DoD 5400.11–R.

(3) Serve as the appellate authority within OSD when a requester appeals a denial for amendment of a record or initiates legal action to correct a record.

(4) Evaluate and decide, in coordination with the General Counsel (GC), DoD, appeals resulting from denials of correction and/or amendments to records by OSD Components.

(5) Designate the Records Management Division, Correspondence and Directives Directorate, Washington Headquarters Services (WHS), as the office responsible for all aspects of the Privacy Act, except that portion pertaining to receiving and acting on public requests for personal records. As such, the Records Management Division, shall:

(i) Exercise oversight and administrative control of the Privacy Act Program in OSD and those organizations assigned to OSD for administrative support.

(ii) Provide guidance and training to organizational entities as required by the Privacy Act of 1974 and OMB Circular A–108 (TM No. 4).

(iii) Collect and consolidate data from OSD Components, and submit an annual report to the Defense Privacy Office, as required by the Privacy Act of 1974, OMB Circular A–108 (TM No. 4) and DoD 5400.11–R.

(iv) Coordinate and consolidate information for reporting all record systems, as well as changes to approved systems, to the Office of Management and Budget (OMB), the Congress, and the **Federal Register**, as required by the Privacy Act of 1974, OMB Circular No. A–108 (TM No. 4) and DoD 5400.11–R.

(v) Collect information from OSD Components, and prepare consolidated reports required by the Privacy Act of 1974 and DoD 5400.11–R.

(b) The Assistant Secretary of Defense (Public Affairs) (ASDC(A) shall:

(1) Designate the Director for Freedom of Information and Security Review, OASDP(A), as the point of contact for individuals requesting information or access to records and copies concerning themselves.

(2) Serve as the authority within OSD when requesters seek reconsideration of previously denied requests for access to records, and in coordination with the GC, DoD, and the DASD(A), evaluate and decide on such requests.

(c) The Director for Freedom of Information and Security Review shall:

(1) Forward requests for information or access to records to the appropriate OSD Component having primary responsibility for any pertinent system of records under the Privacy Act of 1974 or to OSD Components, under the Freedom of Information Act as amended.

(2) Maintain deadlines to ensure that responses are made within the time limits prescribed in DoD 5400.7–R, DoD Directive 5400.10 and this part.

(3) Collect fees charged and assessed for reproducing requested materials.

(4) Refer all matters concerning amendments of records and general and specific exemptions under the Privacy Act of 1974 to the proper OSD components.

(5) Authorize a specific field activity of an OSD Component to act as the point of contact for individuals requesting information or access to records or copies, under the Privacy Act of 1974 for which the field activity has primary responsibility. All authorizations by the ASD(PA) shall be coordinated with the heads of the OSD Component concerned.

(d) The General Counsel, DoD, shall:

(1) Coordinate with the Department of Justice (DoJ) on all OSD final denials of appeals for amending records, and review actions to confirm denial of access to records.

(2) Provide advice and assistance to the DASD(A) in the discharge of appellate and review responsibilities, and to the ASD(PA) on all access matters.

(3) Provide advice and assistance to OSD Components on legal matters pertaining to the Privacy Act of 1974.

(e) The Head of OSD Components shall:

(1) Designate an individual as the point of contact for Privacy Act matters, designate an official to deny initial requests for access to an individual's records or changes to records; and advise both DASD(A) and ASD(PA) of names of officials so designated.

(2) Report any new record system, or changes to an existing system, to the Records Administrator, ODASD(A), at least 90 days before the intended use of the system.

(3) Review all contracts that provide for maintaining records systems, by or on behalf of his or her office, to ensure within his or her authority, that language is included that provides that such systems shall be maintained in a manner consistent with the Privacy Act of 1974.

(4) Revise procurement guidance to ensure that any contract providing for the maintenance of a records system, by or on behalf of his or her office, includes language that ensures that such system will be maintained in accordance with the Privacy Act of 1974.

(5) Revise computer and telecommunications procurement policies to ensure that agencies review all proposed contracts for equipment and services to comply with the Privacy Act of 1974.

(6) Coordinate with Automatic Data Processing (ADP) and word processing managers providing services to ensure that an adequate risk analysis is conducted to comply with DoD 5400.11–R.

(7) Review all Directives that require forms or other methods used to collect information about individuals to ensure that the Privacy Act of 1974 is complied with.

(8) Establish administrative systems in OSD Component organizations to comply with the procedures listed in this part and DoD 5400.11-R.

(9) Coordinate with the Office of the General Counsel (OGC) on all proposed denials of access to records.

(10) Provide justification to the ASD(PA) when access to a record is denied in whole or in part.

(11) Provide the record to the ASD(PA) when the initial denial of a request for access to such record has been appealed by the requester, or at the time of initial denial when appeal seems likely.

(12) Maintain an accurate account of the actions resulting in a denial for access to a record or for the correction of a record. This account should be maintained so that it can be readily certified as the complete record of proceedings if litigation occurs.

(13) Ensure that all personnel who either have access to the system of records, of who are engaged in developing or supervising procedures for handling records in the system, are aware of their responsibilities for protecting personal information as established in the Privacy Act and DoD 5400.11–R.

(14) Forward all requests for access to records received directly from an individual to the ASD(PA) for appropriate suspense control and recording.

(15) Provide ASD(PA) with a copy of the requested record when the request is granted.

(f) The Director for Space Management and Services (SM&S), WHS, shall:

Upon request of the OSD Records Administrator, provide the necessary automated services through the OSD support system for publishing of data in the **Federal Register** as required by the Privacy Act of 1974.

(g) The Requester is responsible for:

(1) Submitting a request for access to a record or information, in person or in writing, to the Directorate for Freedom of Information and Security Review, (DFOI/SR), OASD(PA), Room 2C757, Pentagon, Washington, D.C. 20301–1155. The Requester must also:

(i) Establish his or her identity as outlined in DoD 5400.11–R.

(ii) Describe the record sought, and provide sufficient information to enable the material to be located (e.g., identification of system or records, approximate date it was initiated, originating organization, and type of document).

(iii) Comply with procedures provided in DoD 5400.11–R for inspecting and/or obtaining copies of requested records.

(2) Submitting a written request to amend the record to the system manager or to the office designated in the system notice.

§ 286b.6 Procedures.

(a) *Publication of Notice in the* **Federal Register.** (1) A notice shall be published in the **Federal Register** of any record system meeting the definition of a system of records defined in DoD 5400.11–R.

(2) Regarding new or revised records systems, each OSD Component shall provide the DASD(A) with 90 days advance notice of any anticipated new or revised system of records. This material shall be submitted to the Office of Management and Budget (OBM) and to Congress at least 60 days before use and to the **Federal Register** at least 30 days before being put into use, in order to provide an opportunity for interested persons to submit written data, views, or arguments to the OSD Components. Instructions on content and preparation are outlined in DoD Regulation 5400.11–R.

(b) *Access to Information on Records Systems.* (1) Upon request, and as provided by the Privacy Act, records shall be disclosed only to the individual they pertain to and under whose individual name or identifier they are filed, unless exempted by provisions stated in DoD 5400.11–R.

(2) There is no requirement under the Privacy Act of 1974 that a record be created or that an individual be given access to records that are not retrieved by name or other individual identifier.

(3) Granting access to a record containing personal information shall not be conditioned upon any requirement that the individual state a reason or otherwise justify the need to gain access.

(4) No verification of identity shall be required of an individual seeking access to records that are otherwise available to the public.

(5) Individuals shall not be denied access to a record in a system of records pertaining to themselves because those records are exempted from disclosure under DoD 5400.7–R. This regulation states that "an exempted record shall be made available upon request of any individual when, in the judgment of the releasing Component or higher authority, no significant, legitimate, governmental purpose would be served by withholding it under an applicable exemption."

(6) Individuals shall not be denied access to their records for refusing to disclose their Social Security Numbers (SSNs), unless disclosure of the SSN is required by statute, by regulation adopted before January 1, 1975, or if the record's filing identifier and only means of retrieval is by SSN.

(7) Any individual may request access to a record pertaining to him or her, in person or by mail, in accordance with the procedures outlined in paragraph (b)(8) of this section.

(8) Information necessary to identify a record is: the individual's name, date of birth, place of birth, identification of the records system as listed in the **Federal Register**, or sufficient information to identify the type of records being sought, and the approximate date the records might have been created. Any individual making a request for access to records in person shall come to the Directorate for Freedom of Information and Security Review, DFOI/SR, OASD(PA) Room 2C757, Pentagon, Washington, D.C. 20301–1155; and shall provide personal identification acceptable to the Director, DFOI/SR, to verify the individual's identity (e.g., driver's license, other licenses, permits, or passes used for routine identification purposes).

(9) If an individual wishes to be accompanied by a third party when seeking access to records or wishes to have the record released directly to a third party, the individual may be required to furnish a signed access authorization granting the third party access.

(10) Any individual submitting a request by mail for access to information shall address such request to the Directorate for Freedom of Information and Security Review, OASD(PA), Pentagon, Room 2C757, Washington, D.C. 20301–1155. The request shall include a signed notarized statement to verify his or her identity or an alternate verification for individuals, such as military members overseas who do not have access to notary services.

(11) The following procedures shall apply to requests for access to investigatory records:

(i) Individuals requesting access to investigatory records pertaining to themselves and for law enforcement purposes are processed under DoD 5400.11–R or DoD 5400.7–R depending on which regulation gives them the greater degree of access.

(ii) Individual requests for access to investigatory records pertaining to themselves compiled for law enforcement purposes (and in the custody of law enforcement activities) that have been incorporated into the records system, exempted from the access provisions of DoD 5400.11–R, will be processed in accordance with Section B, Chapter 5, DoD 5400.11–R. Individuals shall not be denied access to records solely because they are in the exempt system, but they will have the same access that they would receive under DoD 5400.7–R. (Also see subsection A.10., Chapter 3, DoD 5400.11–R).

(iii) Requests by individuals for access to investigatory records pertaining to themselves that are in records systems exempted from access provisions will be processed under subsection C.1. of Chapter 5, DoD 5400.11–R or DoD 5400.7–R, depending upon which regulation gives the greater degree of access. (See also subsection A.10., Chapter 3, DoD 5400.11–R).

(iv) Individual requests for access to investigatory records exempted from access under Section B, Chapter 5, DoD 5400.11–R that are temporarily in the hands of a noninvestigatory element for adjudicative or personnel actions, will be referred to the originating investigating agency. The requester will be informed in writing of these referrals.

(12) The following procedures shall apply to requests for illegible, incomplete, or partially exempt records:

(i) An individual shall not be denied access to a record or a copy of a record solely because the physical condition or format of the record does not make it readily available (e.g., deteriorated state or on magnetic tape). The document will be prepared as an extract, or it will be exactly recopied.

(ii) If a portion of the record contains information that is exempt from access, an extract or summary containing all of the information in the record that is releasable shall be prepared.

(iii) When the physical condition of the record makes it necessary to prepare an extract for release, the extract shall be prepared so that it will be understood by the requester.

(iv) The requester shall be informed of all deletions or changes to records.

(13) Medical records shall be disclosed to the individual they pertain to, unless a determination is made in consultation with a medical doctor, that the disclosure could have adverse effects on the individual's physical or mental health. Such information may be transmitted to a medical doctor named by the individual concerned.

(14) The individual may be charged reproduction fees for copies or records as outlined in DoD 5400.11–R.

(c) *Request To Amend Personal Information in Records Systems and Disputes.* (1) The Head of an OSD Component, or the designated official, shall allow individuals to request amendment to their records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests should be as brief and as simple as possible and should contain, as a minimum, identifying information to locate the record, a description of the items to be amended, and the reason for the change. A request shall not be rejected nor required to be resubmitted unless additional information is essential to process the request. Requesters shall be required to provide verification of their identity as stated in paragraph (b)(8) of this section to ensure that they are seeking to amend records pertaining to themselves, and not, inadvertently or intentionally, the records of others.

(2) The appropriate system manager shall mail a written acknowledgment to an individual's request to amend a record within 10 days after receipt, excluding Saturdays, Sundays, and legal public holidays. Such acknowledgment shall identify the request and may, if necessary, request any additional information needed to make a determination. No acknowledgment is necessary if the request can be reviewed, processed, and if the individual can be notified of compliance or denial within the 10-day period. Whenever practical, the decision shall be made within 30 working days. For requests presented in person, written acknowledgment may be provided at the time the request is presented.

(3) The Head of an OSD Component, or designated official, shall promptly take one of the following actions on requests to amend the records:

(i) If the OSD Component official agrees with any portion or all of an individual's request, he or she will proceed to amend the records in accordance with existing statutes, regulations, or administrative procedures, and inform the requester of the action taken. The OSD Component official shall also notify all previous holders of the record that the amendment has been made, and shall explain the substance of the correction.

(ii) If he or she disagrees with all or any portion of a request, the individual shall be informed promptly of the refusal to amend a record, the reason for the refusal, and the procedure established by OSD for an appeal as outlined in paragraph (c)(6) of this section.

(iii) If the request for an amendment pertains to a record controlled and maintained by another Federal agency, the request shall be referred to the appropriate agency, and the requester advised of this.

(4) The following procedures shall be used when reviewing records under dispute:

(i) In response to a request for an amendment to records, officials shall determine the accuracy, relevance, timeliness, or completeness of the requested record. The Head of an OSD Component, or designated official, shall develop tolerances for accuracy, relevance, and timeliness by giving consideration as to whether such tolerances could result in consequences adverse to the individual.

(ii) The Head of an OSD Component, or designated official, shall limit the review of a record to those items of information that clearly bear on any determination to amend the records and shall ensure that all those elements are present before determination is made.

(5) If the Head of an OSD Component, or designated official, after an initial review of a request to amend a record, disagrees with all or any portion of a record, he or she shall:

(i) Advise the individual of the denial and the reason for it.

(ii) Inform the individual that he or she may request a further review.

(iii) Describe the procedures for requesting such review including the name and address of the official to whom the request should be directed. The procedures should be as brief and simple as possible and should indicate where the individual can seek advice or assistance in obtaining such review.

(iv) Furnish a copy of the justification of any denial to amend a record to DASD(A).

(6) If an individual disagrees with the initial OSD determination, he or she may file a request for further review of the record. The request should be sent to the Deputy Assistant Secretary of Defense (Administration), Department of Defense, The Pentagon, Washington, DC 20301–1155, if the record is created and maintained by an OSD Component.

(7) If, after review, the DASD(A) further refuses to amend the record as requested, the DASD(A) shall advise the individual:

(i) Of the refusal and the reason for it.

(ii) Of his or her right to file a statement of the reason for disagreeing with the DASD(A)'s decision.

(iii) Of the procedures for filing a statement of disagreements.

(iv) That the statement filed shall be made available to anyone the record is disclosed to, together with a brief statement, at the discretion of the OSD Component, summarizing its reasons for refusing to amend the records.

(v) That prior recipients of copies of disputed records shall be provided a copy of any statement of dispute to the extent that an accounting of disclosure is maintained.

(vi) Of his or her right to seek judicial review of the DASD(A)'s refusal to amend a record.

(8) If, after the review, the DASD(A) determines that the record should be amended in accordance with the individual's request, the OSD Component shall amend the record, advise the individual, and inform previous recipients where an accounting of disclosure has been maintained.

(9) The final OSD determination on an individual's request for a review of the DASD(A)'s refusal to amend the record must be concluded within 30 days (excluding Saturdays, Sundays, and legal public holidays) after receipt by the proper office. If the DASD(A) determines that a fair and equitable review cannot be made within that time, the individual will be informed in writing of the reasons for the delay and of the approximate date the review is expected to be completed.

(d) *Disclosure of Disputed Information.* (1) After the DASD(A) has refused to amend a record and the individual has filed a statement under paragraph (c)(7) of this section, the OSD Component shall clearly annotate the record so that the proceeding is clear to any authorized person to whom the record is disclosed. The notation itself shall be integral to the record. Where an accounting of a disclosure has been made, the OSD Component shall advise previous recipients that the record has been disputed, and shall provide a copy of the individual's statement where requested.

(i) This statement shall be maintained to permit ready retrieval whenever the disputed portion of the record is to be disclosed.

(ii) When information that is the subject of a statement of dispute is subsequently disclosed, the OSD Component's designated official shall note which information is disputed and provide a copy of the individual's statement.

(2) The OSD Component shall include a brief summary of its reasons for not making a correction when disclosing disputed information. Such statement shall normally be limited to the reasons given to the individual for not amending the record.

(3) Copies of the OSD Component's summary will be treated as part of the individual's record; however, it will not be subject to the amendment procedure outlined in paragraph (c)(3) of this section.

(e) *Penalties*—(1) *Civil Action.* (i) An individual may file a civil suit against the United States for:

(A) Refusal to amend a record.

(B) Improper denial of the access to a record.

(C) Failure to maintain a record accurately.

(ii) An individual may also file a suit against the United States for failure to implement a provision of the Privacy Act when such failure leads to an adverse determination.

(iii) If the individual's suit is upheld, the court may direct the United States to pay the court costs and lawyer's fees.

(iv) When the individual can show that personal damage was done because an OSD officer or employee failed to comply with the provisions of the Privacy Act of 1974, the United States may be assessed damages by the court at a minimum of $1,000.

(2) *Criminal action.* (i) Criminal penalties may be imposed against an OSD officer or employee for willful unauthorized disclosure of information in the records, for failure to publish a notice of the existence of a record system in the **Federal Register**, or for gaining access to the individual's record under false pretenses (i.e., against any person who knowingly and willfully requests or obtains any record concerning another individual without legal authorization).

(ii) An OSD officer or employee may be fined up to $5,000 for a violation as outlined in paragraph (e)(2)(i) of this section.

(3) *Litigation Status Sheet.* Whenever a complaint citing the Privacy Act of 1974 is filed in a U.S. District Court against the Department of Defense, a DoD Component, or any DoD employee, the responsible system manager shall promptly notify the Defense Privacy Office. The litigation status sheet in DoD 5400.11–R provides a standard format for this notification. (The initial litigation status sheet shall, as a miniumum, provide the information required by items 1 through 6.) A revised litigation status sheet shall be provided at each stage of the litigation. When a court renders a formal opinion or judgment, copies of the judgment or opinion shall be provided to the Defense Privacy Office with the litigation status sheet reporting that judgment or opinion.

§ 286b.7 Procedures for exemptions.

(a) *General information.* The Secretary of Defense designates those Office of the Secretary of Defense (OSD) systems of records which will be exempt from certain provisions of the Privacy Act. There are two types of exemptions, general and specific. The general exemption authorizes the exemption of a system of records from all but a few requirements of the Act. The specific exemption authorizes exemption of a system of records or portion thereof, from only a few specific requirements. If an OSD Component originates a new system of records for which it proposes an exemption, or if it proposes an additional or new exemption for an existing system of records, it shall submit the recommended exemption with the records system notice as outlined in § 286b.6. No exemption of a system of records shall be considered automatic for all records in the system. The systems manager shall review each requested record and apply the exemptions only when this will serve significant and legitimate Government purpose.

(b) *General exemptions.* [Reserved]

(c) *Specific exemptions.* All systems of records maintained by any OSD Component shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to subsection (k)(1) of that section to the extent that the system contains any information properly classified under Executive Order 11265, "National Security Information," dated June 28, 552a(d) pursuant to subsection (k)(1) of that section to the extent that the system contains any information properly classified under Executive Order 11265, "National Security Information," dated June 28, 1979, as amended, and required by the Executive Order to be kept classified in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions may contain isolated information which has been properly classified. The Secretary of Defense has designated the following OSD system of records described below specifically exempted from the appropriate provisions of the Privacy Act pursuant to the designated authority contained therein:

(i) *SYSID–DWHS P26, SYSNAME.* Protective Services File. Exemption.

This system of records is exempt from subsections (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f) of 5 U.S.C. 552a, which would require the disclosure of investigatory material compiled for law enforcement purposes; or a record maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. If any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or otherwise be eligible, as a result of the maintenance of the material compiled for law enforcement purposes, the material shall be provided to that individual, except to the extent that its disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

Authority. 5 U.S.C. 552a(k) (2) and (3).

Reasons. These exemptions are necessary to maintain the confidentiality of the records compiled for the purpose of law enforcement, or protecting the President of the United States or others pursuant to 18 U.S.C. 3056.

(2) *SYSID–DWHS P28, SYSNAME.* The Office of the Secretary of Defense Clearance File:

Exemption. This system of records is exempt from subsections (c)(3) and (d) of 5 U.S.C. 552a, which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information but only to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning the specific information which would reveal the identity of the source.

Authority. 5 U.S.C. 552a(k)(5).

Reasons. This exemption is required to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

(3) *SYSID–DGC 04, SYSNAME.* Industrial Personnel Security Clearance Case Files.

Exemption. All portions of this system which fall under 5 U.S.C. 552a(k)(5) are exempt from the following provisions of Title 5 U.S.C. 552a: (c)(3); (d).

Authority. 5 U.S.C. 552a(k)(5).

Reasons. This system of records is exempt from subsections (c)(3) and (d) of Section 552a of 5 U.S.C. which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning whether specific information would reveal the identity of a source. This exemption is required in order to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

(4) *SYSID–DWHS P32, SYSNAME.* Standards of Conduct Inquiry File. Exemption. This system of records is exempted from subsections (c)(3) and (d) of 5 U.S.C. 552a, which would require the disclosure of: investigatory material compiled for law enforcement purposes; or investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or Federal contracts, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. If any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or otherwise be eligible, as a result of the maintenance of investigatory material compiled for law enforcement purposes, the material shall be provided to that individual, except to the extent that its disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

Authority. 5 U.S.C. 552a(k) (2) and (5).

Reasons. These exemptions are necessary to protect the confidentiality of the records compiled for the purpose of: enforcement of the conflict of interest statutes by the Department of Defense Standards of Conduct Counselor, General Counsel, or their designees; and determining suitability, eligibility or qualifications for Federal civilian employment, military service, or Federal contracts of those alleged to have violated or caused others to violate the Standards of Conduct regulations of the Department of Defense.

(5) *SYSID–DUSDP 02, SYSNAME.* Special Personnel Security Cases.

Exemption. All portions of this system which fall under 5 U.S.C. 552a(k)(5) are exempt from the following provisions of 5 U.S.C. 552a: (c)(3); (d).

Authority: 5 U.S.C. 552a(k)(5).

Reasons. This system of records is exempt from subsections (c)(3) and (d) of 5 U.S.C. 552a which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning whether specific information would reveal the identity of a source. This exemption is required in order to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

SYSID–DMRA&L 02.0, SYSNAME. Educator Application Files.

Exemption—All portions of this system which fall within 5 U.S.C. 552a(k)(5) may be exempt from the following provisions of Title 5 U.S.C. 552a: (c)(3); (d).

Authority—5 U.S.C. 552a(k)(5).

Reasons—It is imperative that the confidential nature of evaluation and investigatory material on teacher application files furnished the

Department of Defense Dependent Schools (DoDDS) under promises of confidentiality be exempt from disclosure to the individual to insure the candid presentation of information necessary to make determinations involving applicants suitability for DoDDS teaching positions.

§ 286b.8 Information requirements.

The Defense Privacy Office shall establish requirements and deadlines for DoD privacy reports. These reports shall be licensed in accordance with DoD Directive 5000.19.

February 25, 1986.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-4393 Filed 2-27-86; 8:45 am]

BILLING CODE 3810-01-M

Proposed Rules

Federal Register
Vol. 51, No. 40
Friday, February 28, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 319

[Docket No. 84-019P]

Deletion of Certain Labeling Requirements for "Pork With Barbecue Sauce" or "Beef With Barbecue Sauce"

Correction

In FR Doc. 86-3900 beginning on page 6415 in the issue of Monday, February 24, 1986, make the following correction:

On page 6415, first column, in the "DATE" paragraph, "1966" should have read "1986".

BILLING CODE 1505-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 332

Powers Inconsistent With Purposes of Federal Deposit Insurance Law; Insurance and Real Estate Underwriting, etc.

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Extention of deadline for consideration, adoption, and publishing of final rule.

SUMMARY: This notice serves to extend the period of time which the FDIC may take under its internal policy statement for the consideration, adoption, and publishing of the FDIC's final rule on participation by insured banks in real estate development and insurance underwriting activities.

DATE: The deadline for final agency action on the proposed rule is extended to September 8, 1986.

FOR FURTHER INFORMATION CONTACT: Pamela E.F. LeCren, Senior Attorney, Legal Division, (202/898-3743) Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The FDIC's Statement of Policy on Development and Review of Rules and Regulations (44 FR 31007, 1979) states that it is the intention of the FDIC to formally withdraw any proposed regulation on which final action by the Board of Directors has not been taken within nine months from the date the regulation was last published for comment. The FDIC published on June 7, 1985 a proposed amendment to Part 332 of FDIC's regulations governing "Powers Inconsistent with the Purposes of Federal Deposit Insurance". (50 FR 23964, June 7, 1985). The proposed amendment would have, among other things, prohibited insured banks, subject to certain exceptions, from directly engaging in real estate development and insurance underwriting activities and established certain restrictions on the indirect conduct of such activities.

Pursuant to the FDIC's policy, final action on this proposed regulation should be taken by March 7, 1986 in order to avoid withdrawal of the proposed rule. Inasmuch as FDIC staff are still actively reviewing the June 7, 1985 proposal and two members of the FDIC's three member Board of Directors have changed since the regulation was published for comment, the FDIC's Board of Directors has determined that additional time is necessary for the staff to complete its review and for the Board of Directors to familiarize itself with the subject matter dealt with by the proposal. As withdrawing the proposal and initiating the rulemaking process anew will cause unnecessary delay, the Board of Directors has determined to extend the deadline for final agency action on the proposed regulation to September 8, 1986 by publication of this notice.

By order of the Board of Directors, 24th day of February, 1986.

Hoyle L. Robinson,
Executive Secretary.

[FR. Doc. 86-4397 Filed 2-27-86; 8:45 am]

BILLING CODE 6714-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Shipbuilding and Ship Repair Size Standard

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: On June 27, 1985, SBA published in the **Federal Register** a Notice of Inquiry soliciting the public's views concerning the appropriateness of retaining the ship repair component of the Shipbuilding and ship repair size standard at 1,000 employees. This notice referred to a special preliminary study by the SBA which indicated that the size standard in both shipbuilding and ship repair activities should be retained at 1,000 employees. Public response to this notice has now strongly supported this point of view and SBA is now formally notifying the public that it will retain the 1,000-employee size standard for both shipbuilding and ship repair activities.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Size Standards Staff, (202) 653-6373.

SUPPLEMENTARY INFORMATION: In the notice of June 27, 1985 (50 FR 26582), the Size Standards Staff treated the shipbuilding and ship repair industry (SIC-3731) as if it were two separate industries—the shipbuilding industry and the ship repair industry. It asked the question whether either activity, when analyzed as a distinct industry, should merit a different size standard than 1,000 employees. It took two broad elements into consideration—the industrial structure of these two "industries" and the procurement needs of the Government.

In considering the industrial structure of the two activities, the seven factors described in our regulation were considered using indexes which included the concentration ratio (percent of total sales received by the four most dominant firms in the industry), the average firm size in receipts, coverage (the proportion of firms falling under the size standard), the size distribution of Government contracts, and the proportion of Federal contract dollars awarded small firms either through the set-aside or the unrestricted process.

These factors in general supported the view that a 1,000-employee size standard is appropriate for both shipbuilding and ship repair activities. Both activities have been dominated by a few very large firms and this pattern suggests relatively high size standards. Only one factor—size of contract—seemed to imply that a lower size

standard than 1,000 employees might be appropriate for ship repair activities. However, this factor was clearly outweighed by the other factors, each suggesting that a high or very high size standard would be appropriate.

Other considerations tied to the procurement needs of the Government also argued strongly against a lower standard for either shipbuilding or ship repair activities. Updated data from the Department of Defense continued to indicate that set-aside contracts are distributed among a number of firms rather than concentrated among only a few firms. Moreover, the overall sophistication and reporting requirements of the Department of Defense would seem to imply a size standard in the 1,000-employee range to satisfy the procurement needs of the Federal Government.

The public response to the notice of June 27, 1985, also strongly supported a 1,000-employee size standard in both activities. Out of 32 commentors, 25 opposed the lower size standards, most perceiving the drive for a lower size standard as an attempt by very large firms to undercut the set-aside program by making it less attractive for the Department of Defense to set aside contracts. (A lower size standard would probably result in fewer set-aside contracts since there would be fewer eligible firms to compete for set-aside contracts).

From the seven commentors supporting the lower size standard of 500 employees in ship repair activities, only two issues were considered significant by SBA. These will each be reviewed.

Criticism: Contract data related to nuclear work awards should be separated from non-nuclear contract work for reason of analysis. Data for firms specializing in nuclear work should be separated from data for firms without nuclear capability since the two groups of firms only rarely compete for the same contracts. A separation of the data, from this perspective would show the non-nuclear component of the industry to be composed of smaller sized firms with smaller sized contracts and this in turn would suggest a lower size standard for ship repair activities.

Response: SBA believes that there is no logical basis to excluding data relating to certain firms based on their capital equipment or capabilities. Such a policy would require an additional standard for separating out acceptable data from other data simply because different equipment was involved. Moreover, the argument could be never ending with firms at every level arguing that they are not able to compete with larger sized firms because of capital equipment limitations.

Criticism: SBA should consider regional size standards for ship repair activities because the West and East Coast differ in the incidence of set-asides.

Response: The SBA has never considered varying size standards on a regional basis within particular industries as a viable alternative to a nationwide size standard. At present we have over 800 nationwide size standards and further subdivision based on regional variations could lead to thousands of different size standards with great administrative difficulties and considerable confusion. Moreover, inequities would arise since arbitrary geographical lines would define size standards and firms in one area of the nation would be treated differently from firms in another area in the same industry. There is a question whether such an unequal treatment would be legal. From an economic standpoint, firms might be motivated to change their area of operations simply because of size standard differences and this would be unfortunate from SBA's point of view. For these various reasons, SBA would be very reluctant to consider regional size standards even if it could be shown that significant regional differences exist.

The combination of SBA's internal analysis, the public's response and the strongly supportive view of the Navy has led SBA to the decision to retain the 1,000-employee size standard in both shipbuilding and ship repair activities. This size standard would appear to best meet the procurement needs of the Government as well as the needs of the small firm component of the industry at this point in time. Reinforcing the view that the ship repair size standard should be retained at 1,000 employees rather than lowered to 500 employees is the fact that only 12 percent of all Federal dollars for ship overhaul and repair work over the 1983–84 period was set aside for small firms. Accordingly the industry is now formally notified that SBA has decided to retain the size standard for both shipbuilding and ship repair activities at 1,000 employees, based on the structure of the industry and the procurement needs of the Government.

Dated: February 11, 1985.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 86–4411 Filed 2–27–86; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–NM–07–AD]

Airworthiness Directives; Lockheed-Georgia Company Model 1329 Series Airplanes (Jetstar), Equipped With Auxiliary Power Unit (APU) in Accordance With STC 1043WE or STC SA3297WE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require the replacement of the auxiliary power unit fuel supply shutoff valve with a modified valve on Lockheed 1329 airplanes equipped with Auxiliary Power Unit (APU) in accordance with Supplemental Type Certificate (STC) 1043WE or (STC) SA3292WE. This action is prompted by several incidents of fuel fumes entering the passenger compartment through the APU air inlet and air conditioning system from APU fuel control leaks in the APU compartment. This action is necessary to minimize the potential for fuel fumes entering the passenger compartment.

DATE: Comments must be received on or before April 22, 1986.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86–NM–07–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Airesearch Aviation Company, Customer Support Department, 6201 West Imperial Highway, Los Angeles, California 90045, or Lockheed-Georgia Company, 86 South Cobb Drive, Marietta, Georgia 30063, Attention: J. A. Smith. This information 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.

FOR FURTHER INFORMATION CONTACT: Mr. Romy Santiago, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communication received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rule Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-NM-07-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been at least seven reports of fuel fumes entering the passenger compartment through the APU air inlet and air conditioning system from APU fuel control leaks in the APU compartment on Lockheed-Georgia Model 1329 series airplanes. The FAA is aware of five incidents due to failure of components on the APU fuel control unit.

To correct this situation, Airesearch Aviation Company, the holder of the Supplemental Type Certificates (STC) on the APU installation, issued Service Bulletin No. 11.37, dated December 19, 1984, recommending replacement of the APU fuel supply shutoff value, Valcor V4700-13, with a modified value, Valcor V4700-130, having pressure relief capability, and visual inspection of the APU fuel control governor cover sealing joint for seal ring protrusion, cover distortion, or fuel leaks. Accomplishment of the inspection and modification described in Service Bulletin No. 11.37 is intended to minimize these fuel leaks and reduce the potential of fuel fumes from entering the passenger compartment.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being proposed which would require the replacement of the APU fuel supply shutoff valve with a modified valve and a visual inspection and replacement, if necessary, of the APU fuel control in accordance with the service bulletin previously mentioned.

It is estimated that 77 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required action, and that the average labor cost would be $40 per manhour. Repair parts are estimated at $726 per airplane. Based on these figures, the total cost impact of the AD is estimated to be $68,222.

For these reasons, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation 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 proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($866.). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Lockheed-California Company: Applies to Lockheed Jetstar Model 1329 and Jetstar II series airplanes, equipped with Airesearch Aviation Company Model 30-92 Auxiliary Power Unit (APU) in accordance with STC SA1043WE or STC SA3297WE. Compliance required as indicated, unless previously accomplished.

To minimize the potential for fuel fumes entering the passenger compartment, accomplish the following:

A. Within the next 600 hours time-in-service or 12 months after the effective date of this AD, whichever occurs earlier:

1. Install an improved APU fuel supply shutoff valve, Valcor P/N V4700-130, in accordance with Airesearch Aviation Company Service Bulletin No. 11.37, dated December 19, 1984, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region; and

2. Visually inspect and replace, if necessary before further flight, the sealing joint of the fuel control governor cover for fuel leaks, seal (O-ring) extrusion, and cover distortion, in accordance with the Airesearch Aviation Company service bulletin mentioned above.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this proposal who have not already received the appropriate service document from the manufacturer may obtain copies upon request to the Lockheed-Georgia Company, 86 South Cobb Drive, Marietta, Georgia 30063, Attention: J. A. Smith; or Airesearch Aviation Company, Customer Support Department, 6201 West Imperial Highway, Los Angeles, California 90045. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on February 21, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-4306 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-158-AD]

Airworthiness Directives; McDonnell Douglas Model DC-10-10, -15, -30, -40, and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require replacement or modification of tank 1, 2, and 3 transfer pump check valves and associated pressure switches, and installation of additional surge relief valves. This action is prompted by numerous incidents in which failures occurred in fuel transfer lines. This action is necessary to

minimize the potential of unusable fuel being trapped in any of the wing tanks and possible fuel imbalance, resulting in a reduction of airplane control or loss of range, or both.

DATES: Comments must be received on or before April 22, 1986.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–158–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. 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 4344 Donald Douglass Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Romy L. Santiago, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communication received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rule Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–158–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

Operators have reported 22 instances of incontrolled fuel transfer to the center wing auxiliary fuel tank from wing tanks 1, 2, and 3 after refueling, caused by a fuel line break or fuel couplings separation. In one case, the fuel line break was large enough to prevent fuel transfer from the auxiliary tank. Investigation has revealed that a fuel coupling separation or a fuel line break in the center wing crossfeed manifold can allow fuel to gravity-feed from the wing tanks to the center wing tank through the wing tank transfer pumps. These pumps have a check valve at the pump outlet which opens at a relatively low pressure.

McDonnell Douglas issued DC–10 Service Bulletin 28–140 in May 1984, which describes the installation of replacement transfer pump check valves which have a higher opening pressure, and the replacement of associated doubler assemblies and pressure switches. Revision 1 of Service Bulletin 28–140, dated October 16, 1985, incorporates notes which coordinate with Service Bulletin 28–163.

In related problems, operators have reported over 80 instances of damaged fuel system check valves, broken welds, deformed flanges, and separated couplings. Investigation has revealed that these conditions were caused by excessive surge pressure being generated from the aircraft fill shutoff valves. If not corrected, these conditions could result in component and pipe failures, with a consequential inability to transfer fuel, dump fuel, or crossfeed fuel, and possible excessive unusable fuel or lateral imbalance.

Accordingly, McDonnell issued DC–10 Service Bulletin (S/B) 28–163, dated October 16, 1985, which recommends modification of the fill shutoff valve tube/tee assemblies and existing surge relief valves in tanks 1 and 3, and installation of new surge relief valves in tank 2.

The FAA intends to specify a common compliance time for the accomplishment of both DC–10 S/B 28–140 and DC–10 S/B 28–163. Since the former service bulletin was issued in May 1984 and laboratory tests by McDonnell Douglas have proved the seriousness and magnitude of the fill valve pressure surge problem, the final compliance time specified by the FAA would be 3,000 flight hours or one year, whichever occurs first. It is appropriate to assume that operators will accomplish both service bulletins at the same maintenance check.

Since this condition is likely to exist or develop on other DC–10 airplanes of the same type design, and airworthiness dircetive (AD) is being proposed which would require modification of the transfer pump check valves and associated pressure switches, and installation of additional surge relief valves in accordance with McDonnell Douglas DC–10. Service Bulletin 28–140, Revision 1, date October 16, 1985 and Service Bulletin 28–163, dated October 16, 1985, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

It is estimated that 189 airplanes of U.S. registry would be affected by this AD. I would require approximately 21 manhours per airplane to accomplish the required repair, and the average labor charge would be $40 per manhour. The cost of parts exclusive of surge relief valves is estimated at $5,284 per airplane. Based on these figures, the total cost impact of this Ad on U.S. operators would be $1,157,436.

For this reasons, the FAA has determined that this document: (1) Involves a proposed regulations which is not major under Exectuve Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation 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 proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC–10 and KC–10A (Military) series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action in contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

Authority: 49 U.S.C. 1354(a); 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive;

McDonnell Douglas: Applies to Model DC-10-10, -15, -30, and -40 and KC-10A (Military) series airplanes, certificated in any category.

Compliance is required as indicated, unless previously accomplished.

To preclude potential fuel feed line failures and resulting unusable fuel or fuel imbalance, complete the following:

A. Within the next twelve (12) months, or 3,000 flight hours, whichever occurs first, after the effective date of this Ad, complete the modifications and installations in accordance with the accomplishment instructions of McDonnell Douglas DC-10 Service Bulletin 28-140, Revision 1, dated October 16, 1985, and Service Bulletin 28-163, dated October 16, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the 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 at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on February 21, 1986

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-4304 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ANM-22]

Alteration of Billings, MT, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the size of the Billing, Montana, Control zone. During an annual review of control zones, it was determined that the billings, control zone could be reduced in size and still contain the instrument approached to the Logan Field Airport.

DATES: Comments must be received on or before May 2, 1986.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 85-ANM 22-17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Regional Counsel's office at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Katherine G. Paul, ANM-535, Federal Aviation Administration, Docket No. 85-ANM-22, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2530.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemeking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-ANM-22". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule.

The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the size of the Billings, Montana, control zone to contain all Instrument Flight Rule arrivals and departures.

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

List of Subjects in 14 CFR Part 71

Control zones/Aviation safety.

PART 71—[AMENDED]

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

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

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

2. By amending § 71.171 as follows:

Billings, Montana (Revised)

That airspace extending upward from the surface within a 5-mile radius of the Logan International Airport (45°48'29" N lat./108°32'25" W long.) and within 2 miles each side of the 113° bearing from the airport extending from the 5-mile radius area to 7 miles east of the airport; and that airspace between the 220° bearing clockwise to the 170° bearing from the airport extending from the 5-mile radius area to a 6-mile radius.

Issued in Seattle, Washington, on February 20, 1986.

David E. Jones,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86-4299 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ANM-27]

Proposed Alteration of Helena Control Zone, Helena, MT.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking (NPRM).

SUMMARY: This document withdraws a NPRM which proposed to change the status of the Helena Control Zone from full-time to part-time. The National Weather Service modified its hours of operation and weather observations were not available from 0000 to 0400. Since the issuance of the NPRM, the National Weather Service has resumed their 24-hour operation; and therefore, the change in the status of the Helena Control Zone is not necessary. Accordingly, the NPRM is withdrawn.

DATE: This withdrawal is effective February 28, 1986.

FOR FURTHER INFORMATION CONTACT: Katherine G. Paul, Airspace Technical Specialist, Federal Aviation Administration, Docket No. 85-ANM-27, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, Telephone: (206) 431-2530.

SUPPLEMENTARY INFORMATION:

History

On August 29, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to change the status of the Helena Control Zone from full-time to part-time (50 FR 35100). The National Weather Service had modified its hours of operation and weather observations were not available from 0000 to 0400. Comments were requested from the public.

Since issuing the NPRM, the National Weather Service has informed FAA that they have resumed their 24-hour operation at Helena, Montana, and weather observations are available. Therefore, the change in the control zone status is not required and the NPRM is withdrawn.

Since this action only withdraws a NPRM, it may be made effective in less than 30 days. It is neither a proposal nor final rule; and therefore, is not covered under Executive Order 12291 or the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

The Withdrawal

Accordingly, pursuant to the authority delegated to me, the FAA withdraws a proposal to amend § 71.171 or Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By withdrawing the NPRM published in the **Federal Register** on August 29, 1985 (50 FR 35100), FR Doc. 85-20608.

Issued in Seattle, Washington, on February 20, 1986.

David E. Jones,

Manager, Air Traffic Division Northwest Mountain Region.

[FR Doc. 86-4300 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-ASW-8]

Proposed Designation of Transition Area; Madisonville, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Madisonville, TX. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Madisonville Municipal Airport. This action is necessary since there is a proposed VOR/DME SIAP to the Madisonville Municipal Airport utilizing the Leona VORTAC (LOA). This proposed action will benefit aircraft conducting instrument flight rules (IFR) activity at Madisonville Municipal Airport. Coincident with this proposed action, the airport status will be changed from visual flight rules (VFR) to IFR.

DATES: Comments must be received within 45 days after publication of this notice in the **Federal Register.**

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 86-ASW-8, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

The informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Forth Worth, TX.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2622.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-ASW-8." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also

request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating a 700-foot transition area at the Madisonville Municipal Airport, Madisonville, TX. To enhance airport usage, a new instrument approach procedure is being developed for the Madisonville Muncipal Airport, utilizing the Leona VORTAC as a navigational aid. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Madisonville, TX, at and above 700 feet above ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under IFR and other aircraft operating under VFR. This proposed action will change the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400-6A dated January 2, 1985.

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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

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

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revise Pub. L. 97-449, January 12, 1983); 14 CFR 11.65.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Madisonville, TX New

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Madisonville Municipal Airport (latitude 30°54'40" N., longitude 95°57'05" W.).

Issued in Fort Worth, TX, on February 13, 1986.

Donald R. Guempel,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 86-4366 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 85-AWA-51]

Proposed Establishment of Jet Routes—Expanded East Coast Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This supplemental notice corrects mistakes noted in the descriptions of J-208 in which "Hopeville, VA," should read "Hopewell, VA;" in J-210, where "Vance, SC" was inadvertently omitted; and J-209 to include "Norfolk, VA" as published in the **Federal Register** on January 21, 1986 (51 FR 2721). This proposal is a segment of the Expanded East Coast Plan (EECP) designed to make optimum use of the limited airspace along the east coast corridor.

DATES: Comments must be received on or before March 6, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 85-AWA-51, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AWA-51." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

In this supplemental notice the FAA is changing the proposed amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to correct mistakes noted in the original proposal published on January 21, 1986 (51 FR 2721). Also, the FAA proposes to extend J-209 from Tar River, NC, direct to Norfolk, VA. These route segments are a part of an overall plan designed to alleviate congestion and compression of traffic in the airspace between new England and Florida. This proposal is a portion of the EECP designed to make optimum use of limited airspace along the east coast corridor. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

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

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

2. Section 75.100 is amended as follows:

J-208 [New]

From Athens, GA, via Liberty, NC; to Hopewell, VA.

J-209 [New]

From Greenwood, SC, via Tar River, NC; to Norfolk, VA.

J-210 [New]

From INT Savannah, GA, 266° T(267° M) and Vance, SC, 221° T(223° M) radials; Vance; to Wilmington, NC.

Issued in Washington, DC on February 21, 1986.

Shelomo Wuglater,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-4362 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 85-349]

Cable Television Systems; Carriage of Television Broadcast Signals

AGENCY: Federal Communications Commission.

ACTION: Extension of time for reply comments.

SUMMARY: Action taken herein extends the time for filing reply comments in response to the Notice of Inquiry and Notice of Proposed Rule Making in MM Docket No. 85-349. This Notice requested comments and specific rule proposals regarding matters concerning carriage of television broadcast stations by cable television systems. The extension of time was requested by Adelphia Communications Corporation *et al.*

DATES: Reply comments are due March 4, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alan Stillwell, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 76

Cable television.

The Proposed Rule in this proceeding was published on November 22, 1985 (50 FR 48232).

Order Extending Time for Filing Reply Comments

In the matter of amendment of Part 76 of the Commission's Rules Concerning Carriage of Television Broadcast Signals by Cable Television Systems (MM Docket No. 85-349)

Adopted: February 20, 1986.
Released: February 21, 1986.

By the Acting Chief, Mass Media Bureau.

1. On February 18, 1986, Adelphia Communications Corporation *et al.* filed a motion requesting that the reply comment date in this proceeding be extended until March 4, 1986. The extension is said to be needed in order to review the large number of initial comments and to formulate adequate replies to the complex issues raised therein.

2. Good cause having been shown, the requested time extension will be granted.

3. Accordingly, it is ordered that the time for filing reply comments in the above-captioned proceeding is extended to and including March 4, 1986.

4. This action is taken pursuant to authority found in section 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

5. For further information concerning this proceeding, contact Alan Stillwell, Mass Media Bureau (202) 632-6302.

Federal Communications Commission.

William H. Johnson,

Acting Chief, Mass Media Bureau.

[FR Doc. 86-4388 Filed 2-27-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture; Adverse Effect Wage Rate for Montana; Reopening of Comment Period

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: This document reopens the comment period on a proposed rule to amend the regulations for the certification of temporary employment of nonimmigrant aliens in agriculture in the United States to add Montana to the list of States for which adverse effect wage rates (AEWRs) are computed and published annually. This action is taken to permit additional time for comments from interested parties.

DATE: The public is invited to submit written comments on the proposed rule on or before March 31, 1986.

ADDRESS: Send written comments to: Assistant Secretary of Labor, Employment and Training Administration Room 8100—Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213, Attention: Mr.

Richard C. Gilliland, Director, U.S. Employment Service.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas M. Bruening. Telephone: 202–376–6228.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 10, 1985, at 50 FR 50311, the Employment and Training Administration (ETA) of the Department of Labor (DOL) published a notice of proposed rulemaking to amend its regulations at 20 CFR Part 655 for the certification of temporary employment of nonimmigrant aliens in agriculture in the United States to add Montana to the list of States in 20 CFR § 655.207(b)(2) for which adverse effect wage rates (AEWRs) are computed and published annually. The AEWR for Montana will be established and set to prevent the employment of these aliens from having an adverse effect on the wages of similarly employed United States workers.

The public was invited to submit written comments on the proposed rule to ETA on or before January 9, 1986. Many commenters submitting comments on the proposed rule requested an extension of the comment period, in part because the comment period included public holidays. They requested an extension of time to allow the public to submit additional information which they believe DOL should consider before a final decision is reached on the rulemaking.

DOL has determined, therefore, to grant the above-referenced requests, and, in this one instance in this rulemaking, to reopen the comment period for an additional 30 days after the publication of this notice in the Federal Register.

Accordingly, the comment period on the proposed rule published in FR Doc. 85–29279 at 50 FR 50311 on December 10, 1985, is hereby reopened for a period concluding on the date set forth above in the "DATE" section.

Signed at Washington, D.C., this 18th day of February, 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86–4354 Filed 2–27–86; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 86–5, Notice No. 2]

Truck Size and Weight; Specialized Equipment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Supplementary information to advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The following information supplements Docket 86–5 published at 50 FR 52940 on December 27, 1985. The maxi-cube design that is discussed herein, is in addition to, not in place of, the combination of vehicles described in the December 27, 1985, notice. The petitioner has requested that this particular combination of vehicles also be designated as specialized equipment under the provisions of Section 411(d) of the Surface Transportation Assistance Act of 1982 (STAA).

DATE: The comment period on this docket has been extended to March 17, 1986.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 86–5, Notice No. 2, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. J.B. Smith, Office of Motor Carrier Transportation (202) 426–5370 or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426–0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: LHT Industries has filed an amended petition seeking a determination that an additional or alternative design also be classified as "specialized equipment" within the meaning of 411(d) of the STAA, 49 U.S.C. 2311(d). The alternative maxi-cube design is primarily different in that a two-axle truck (truck tractor) will be utilized rather than a three-axle power unit; the front cargo box (semitrailer) will be equipped with a single axle rather than no axles; the forward hold-down clamps securing the cargo box (semitrailer) to the truck (truck tractor) frame are eliminated; and the rear coupling pins are increased from 2 inches to 3 inches in diameter.

The front single-axle semitrailer on the newly proposed design is coupled to the tractor by conventional methods—kingpin and fifth wheel assembly plate. The front single-axle semitrailer is also secured at the rear of the tractor frame by 3-inch coupling pins that interface with the front semitrailer and provide semitrailer lateral and vertical stability. The kingpin and fifth wheel assembly act as a coupling and not a point of articulation. The second trailing semitrailer is connected by a drawbar coupling assembly to the rear of the front semitrailer and provides a single point of articulation. The total length of the combination of vehicles will not exceed 65 feet. (See Figures 1 and 2)

The FHWA is requesting public comments relative to this request by LHT Industries. The FHWA is primarily seeking comments and information on the following issues relating to the maxi-cube: maneuvering characteristics, safety, control, offtracking, crosswind effects and the need for overall length limits on such a configuration. The FHWA would also appreciate comments on the petitioner's stated advantages to this vehicle. Finally, FHWA would appreciate comments regarding the need to preempt current State regulation of this vehicle. Any other comments and information are invited.

The FHWA has determined, at this time, that this document contains neither a major rule under Executive Order 12291, nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. This determination will be reevaluated and a draft regulatory evaluation will be prepared, if necessary, based upon the data received in response to this notice.

Based upon the information available to FHWA at this time, the action taken in this rulemaking will not have significant impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultations and Federal programs and activities apply to this program)

Authority: 23 U.S.C. 315; 49 U.S.C. 2311(d); 49 CFR 1.48.

List of Subjects in 23 CFR Part 658

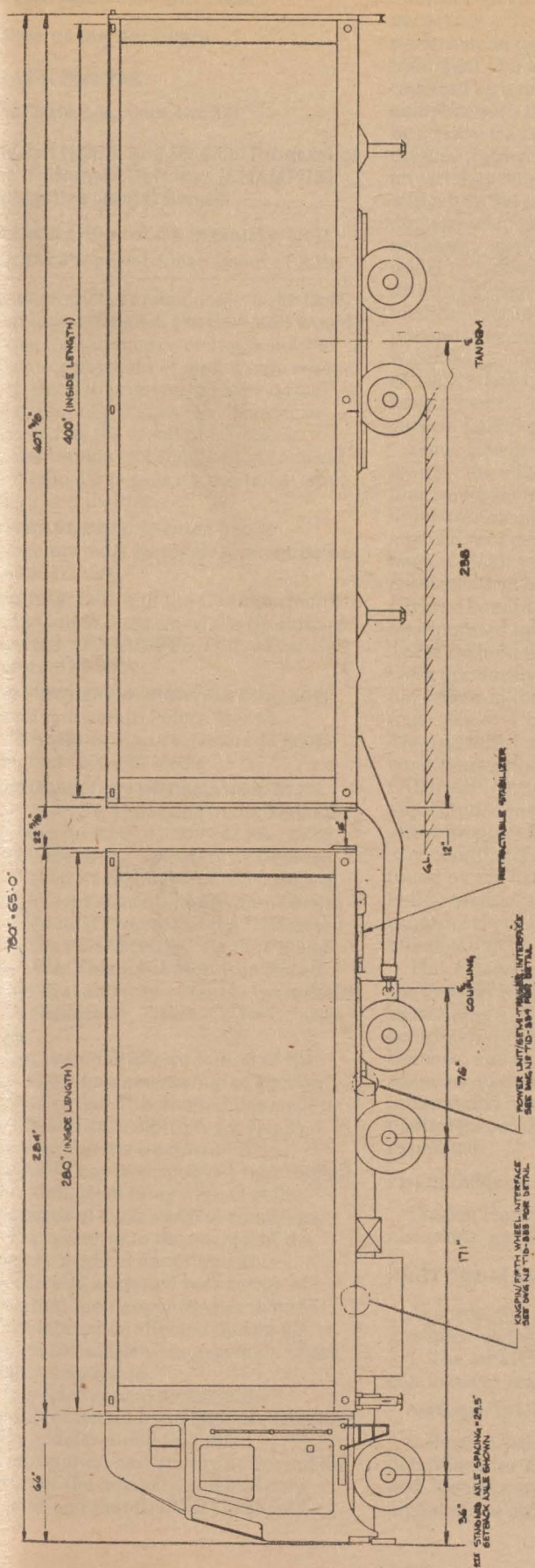
Grant programs—transportation, Highway and roads, Motor carriers—size and weight.

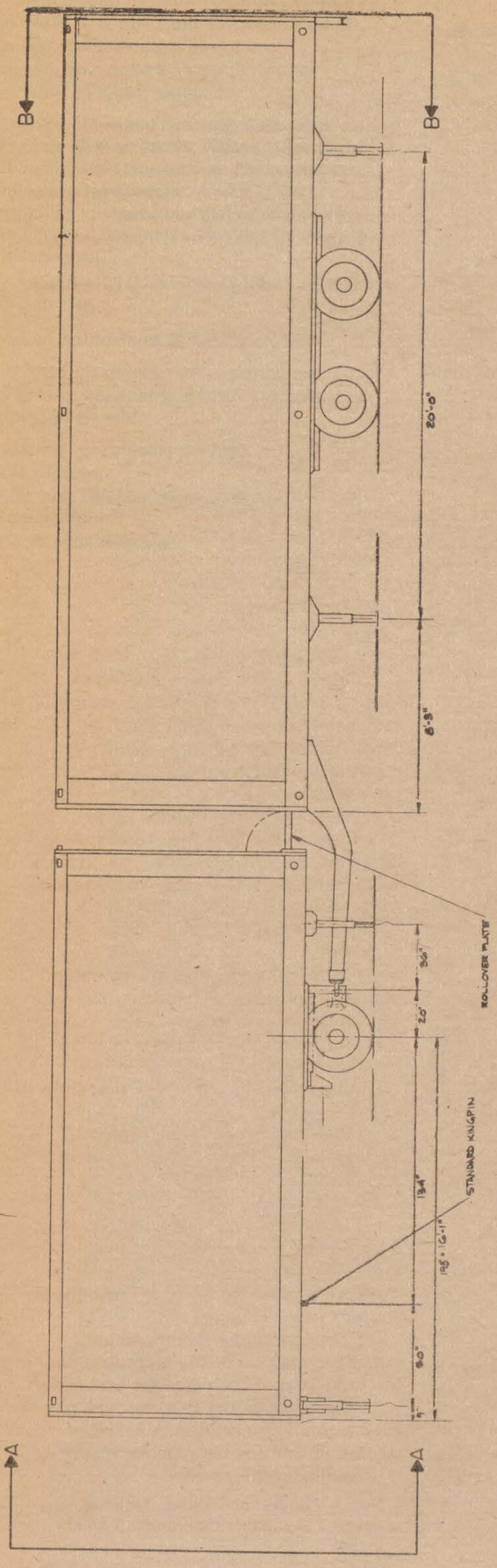
Issued on: February 21, 1986.

R.D. Morgan,

Executive Director, Federal Highway Administration.

BILLING CODE 4910-22-M


TANDEM
298"
RETRACTABLE STABILIZER
COUPLING
76"
POWER UNIT/SEMI-TRAILER INTERFACE
SEE DWG NO 710-884 FOR DETAIL
KINGPIN/FIFTH WHEEL INTERFACE
SEE DWG NO 710-888 FOR DETAIL
171"
NOSE STANDARD AXLE SPACING = 24.5"
SETBACK AXLE SHOWN
400' (INSIDE LENGTH)
280' (INSIDE LENGTH)
78'-0" x 65'-0"



[FR Doc. 86-4356 Filed 2-27-86; 8:45 am]
BILLING CODE 4910-22-C

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8-R, Amdt. No. 37]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Adjunctive Dental Benefit

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed Amendment of Rule.

SUMMARY: This amendment to the DoD Regulation 6010.8-R (32 CFR 199) would revise the adjunctive dental benefit to allow for payment of dental care when performed in preparation for medical treatment of a disease or disorder or required as the result of iatrogenic dental trauma or complications caused by medically necessary treatment of an injury or a disease.

EFFECTIVE DATE: Written public comments must be received on or before March 31, 1986.

ADDRESS: Office of the Civilian Health and Medical Program of the Uniformed Services, OCHAMPUS, Policy Branch, Aurora, CO 80045.

FOR FURTHER INFORMATION CONTACT: David E. Bennett, Policy Branch, OCHAMPUS, Aurora, Colorado 80045, telephone 303-361-8608.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the **Federal Register** on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8-4, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this Title. This regulation was issued under the authority of and in accordance with Chapter 55, Title 10, United States Code.

Our previous interpretation of the regulatory implementation of section 1079(1) of this Title limited payment to that dental care which is medically necessary in the treatment of an otherwise covered medical (not dental) condition, is an integral part of the treatment of such medical condition, and is essential to the control of the primary medical condition. This specifically excluded restoration of teeth and their supporting structures when injured or affected during the medical or surgical management of the medical condition.

In a final appeal decision the Assistant Secretary of Defense Health Affairs determined that this interpretation had unduly narrowed the intent of the adjunctive dental care benefit and that CHAMPUS should include cost sharing of medically necessary adjunctive dental care when performed in preparation for medical treatment of a disease or disorder or required as a result of dental trauma or complications caused by medically necessary treatment of an injury or disease (iatrogenic). Dental care undertaken solely for the purpose of mitigating the consequences of the damage which may be caused by necessary medical treatment of an injury or a disease should be considered an integral part of the treatment of the medical condition rather than simply a preventative measure. Preventative care is defined as that care usually consisting of relatively benign measures which have a neutral or beneficial effect on the general health of the patient.

Since general implementing provisions limiting the adjunctive dental benefit to that care which is medically necessary in the treatment of an otherwise covered medical (not dental) condition have been difficult to understand by providers and beneficiaries, a list of covered conditions has been incorporated into this proposed rule. These include those conditions which were previously covered under the program and those that will be covered under the new benefit interpretation. The treatment of these and similar conditions identified by the Director of OCHAMPUS may be paid under the adjunctive dental benefit. This will allow program flexibility in considering rare conditions or unusual situations not found on the list. The OCHAMPUS Policy Manual will contain detailed procedural guidelines for processing and adjudication of adjunctive dental claims.

This amendment is being published in the **Federal Register** for proposed rulemaking at the same time it is being coordinated within the Department of Defense, and with other interested agencies so that consideration of both internal and external comments and publication of the final rule can be expedited.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

PART 199—[AMENDED]

Accordingly, 32 CFR Part 199 is amended as follows:

1. The authority citation for Part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. Section 199.8 is amended by adding definitions for "adjunctive dental care" and "dental care" in the proper alphabetical order as follows:

§ 199.8 Definitions.

* * * * *

(b) * * *

Adjunctive Dental Care. Dental care which is medically necessary in the treatment of an otherwise covered medical (not dental) condition, is an integral part of the treatment of such medical condition and is essential to the control of the primary medical condition; or, is required in preparation for or as the result of dental trauma which may be or is caused by medically necessary treatment of an injury or disease (iatrogenic).

* * * * *

Dental Care. Services relating to the teeth and their supporting structures.

* * * * *

§ 199.10 [Amended]

3. Section 119.10 is amended by revising paragraphs (e)(10)(i), (e)(10)(ii) and the Note following paragraph (e)(10)(iv)(*h*) to read as follows:

* * * * *

(e) * * *

(10) * * *

(i) *Adjunctive Dental Care: Limited.* Adjunctive dental care is limited to those services and supplies provided under the following conditions:

(*a*) Dental care which is medically necessary in the treatment of an otherwise covered medical (not dental) condition, is an integral part of the treatment of such medical condition and is essential to the control of the primary medical condition. The following is a list of conditions for which CHAMPUS benefits are payable under this provision:

(*1*) Intraoral abscesses which extend beyond the dental alveolus.

(*2*) Extraoral abscesses.

(*3*) Cellulitis and osteitis which is clearly exacerbating and directly affecting a medical condition currently under treatment.

(*4*) Removal of teeth and tooth fragments in order to treat and repair facial trauma resulting from an accidental injury.

(*5*) Myofacial Pain Dysfunction Syndrome.

(*6*) Ankyloglossia.

(*7*) Adjunctive dental and orthodontic support for cleft palate.

(*8*) The prosthetic replacement of either the maxilla or the mandible due to the reduction of body tissues associated with traumatic injury (e.g., impact, gun shot wound), in addition to services related to treating neoplasms or iatrogenic dental trauma.

Note.—The test of whether dental trauma is covered is whether the trauma is solely

dental trauma. Dental trauma, in order to be covered, must be related to, and an integral part of medical trauma; or a result of medically necessary treatment of an injury or disease.

(*b*) Dental care required in preparation for medical treatment of a disease or disorder or required as the result of dental trauma caused by the medically necessary treatment of an injury or disease (iatrogenic).

(*1*) Necessary dental care including prophylaxis and extractions when performed in preparation for or as a result of in-line radiation therapy for oral or facial cancer.

(*2*) Treatment of gingival hyperplasia, with or without periodontal disease, as a direct result of prolonged therapy with Dilantin (diphenylhydantoin) or related compounds.

(*c*) Dental care is limited to the above and similar conditions specifically prescribed by the Director, OCHAMPUS, as meeting the requirements for coverage under the provisions of this section.

(ii) *General Exclusions.*

(*a*) Dental care which is routine, preventative, restorative, prosthodontic, periodontic or emergency does not qualify as adjunctive dental care for the purposes of CHAMPUS except when performed in preparation for or as a result of dental trauma caused by medically necessary treatment of an injury or disease.

(*b*) The adding or modifying of bridgework and dentures.

(*c*) Orthodontia, except when directly related to and an integral part of the medical or surgical correction of a cleft palate or when required in preparation for, or as a result of, trauma to the teeth and supporting structures caused by medically necessary treatment of an injury or disease.

* * * * *

(e) * * *

(10) * * *

(iv) * * *

(*h*) * * *

Note.—Extraction of unerupted or partially erupted, malposed or impacted teeth, with or without the attached follicular or development tissues, is not a covered oral surgery procedure except when the care is indicated in preparation for medical treatment of a disease or disorder or required as a result of dental trauma caused by the necesary medical treatment of an injury or illness. Surgical preparation of the mouth for dentures is not covered by CHAMPUS.

* * * * *

Dated: February 24, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-4329 Filed 2-27-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

32 CFR Part 701

Availability of Department of Navy Records and Publications of the Navy Documents Affecting the Public

AGENCY: Department of the Navy, DOD.

ACTION: Amendment to proposed rule.

SUMMARY: The Department of the Navy proposes to establish a specific exemption from certain provisions of the Privacy Act for a system of records.

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

ADDRESS: Send any comments to Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350.

FOR FURTHER INFORMATION CONTACT: Mrs. Aitken at the above address or telephone: 202/697-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy proposes to exempt certain provisions of system of records N05300-3, "Faculty Professional Files" under the provisions of 5 U.S.C. 552a (k)(5).

List of Subjects in 32 CFR Part 701

Privacy, Exemption, Investigative information, Records.

Accordingly, it is proposed to amend Subpart G of 32 CFR Part 701 as follows:

1. The authority citation for Part 701 continues to read as follows:

Authority: 5 U.S.C. 552, as amended by Pub. L. 93-502, 32 CFR Part 286 (40 FR 8190). Subpart E also issued under 32 CFR Part 296 (40 FR 4911), unless otherwise noted.

2. Add paragraph (n) to § 701.117.

PART 701—[AMENDED]

Subpart G—Privacy Act Exemptions

* * * * *

§ 701.117 Exemptions for specific Navy record systems.

* * * * *

(n) Naval Postgraduate School—(1) ID-N05300-3.

System name: Faculty Professional Files

Exemption: Portions of this system of records are exempt from the following subsections of Title 5 U.S.C. 552a: (c)(3), (d), e(4) (G) and (H), and (f).

Authority: 5 U.S.C. 552a (k)(5).

Reason: Exempted portions of this system contain information considered relevant and necessary to make a determination as to the qualifications, eligibility, or suitability for Federal employment, and was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

February 21, 1986.

[FR Doc. 86-4186 Filed 2-27-86; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[AD-FRL-29038]

Requirements for Implementation Plans: Surface Coal Mines and Fugitive Emissions; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of public comment period.

SUMMARY: On October 26, 1984, EPA proposed rulemaking which would cause the fugitive emissions from surface coal mines to be considered in determinations of whether construction involving those entities would be required to obtain major source new source review (NSR) permits (49 FR 43211). In that notice, EPA announced that it was preparing a Regulatory Impact Analysis (RIA) of the subject proposal and would make that document available for public comment. By this notice, EPA announces that the RIA is available for review and that the public comment period is reopened.

The previous notice also prompted special concerns on the part of the mining industry with respect to certain generic issues arising from the review of fugitive emissions. The comment period is hereby reopened to receive further comment on those specific issues.

DATES: The comment period will remain open until April 29, 1986. The public hearing will be held on April 9, 1986, at 10:00 a.m.

ADDRESSES: Comments should be submitted (triplicate, if possible) to: Central Docket Section (LE-131A), EPA,

401 M Street, SW., Washington, D.C. 20460, Attention: Docket No. A–84–33.

Public hearing: Room 239, Federal Building, Corner of 20th Stout St., Denver, Colorado.

Docket: The EPA established a docket for this rulemaking, Docket No. A–84–33, in accordance with Section 307(d) of the Clean Air Act (Act), 42 U.S.C. 7607(d), and its contents will serve as the record in case of judicial review under that section. The docket is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Kirt Cox, New Source Review Section, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711 (telephone 919–541–5591, FTS–629–5591).

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 302(j) of the Act, fugitive emissions are included in determining whether a source is "major," for NSR purposes, "as determined by rule by the Administrator." On October 26, 1984, EPA proposed that surface coal mines be added to the list of 30 source categories for which fugitive emissions are included in determining whether a source is "major" (49 FR 43211).

The EPA based its proposal on the interpretation that Congress intended that the Agency make only two determinations before requiring that fugitive emissions be included in applicability determinations pursuant to Section 302(j) of the Act. The first of these is that the sources have the potential to degrade air quality significantly; the second is that no unreasonable socioeconomic impacts relative to benefits would result from subjecting the sources to NSR. The first finding is adequate to support a proposal to list. The EPA will promulgate a proposed listing unless public comment affirmatively demonstrates that unreasonable socioeconomic impacts would result. It was pursuant to this model that EPA made the subject proposal with respect to mines. The EPA has been collecting the rulemaking record relevant to the second finding.

In the proposal, EPA reported that it was preparing an RIA, as described in Executive Order 12291, in order to aid in the evaluation of special issues related to the proposed action. The EPA indicated that it would make the results of the analysis available to the public for comment before taking final action on the proposal (49 FR at 43212). This procedure was further described in EPA's notice of December 17, 1984 (49 FR 48948). In that notice EPA reported that, upon completion of the analysis, it would announce the RIA's availability by a **Federal Register** notice and reopen the public comment period.

II. Reopening of the Public Comment Period

By this notice, EPA announces the availability of the RIA and the reopening of the public comment period for comment on it. Copies of the study may be obtained, subject to available supplies, from EPA's Office of Air Quality Planning and Standards by contacting Mr. Cox at the address noted above. The analysis has also been placed in the official rulemaking docket (Docket No. A–84–33) and is available for inspection and copying at the time and place indicated above. Although the focus of this reopening of the comment period is on the RIA, further comment on the proposal with respect to surface coal mines and the generic fugitive emissions issues discussed below in Part IV, will be accepted. The public comment period with respect to the existing list of 30 source categories and to the relevance of section 302(j) to review of modifications has closed and is not being reopened.

III. The Regulatory Impact Analysis

A. Summary

The analysis evaluates the projected consequences of alternative approaches to regulating new and modified surface coal mines as major construction projects under new source review. It considers benefits, costs, and general environmental and economic impacts.

Four regulatory alternatives are examined:

1. Do not list surface coal mines (the status quo).

2. List all new surface coal mines, grandfather increment consumption.

3. List all new surface coal mines, do not grandfather increment consumption.

4. IV. List only surface coal mines impacting Class I and Mandatory Class II areas.

Five important coal basins are investigated for Alternative II: Powder River, San Juan, Fort Union, Illinois, and Appalachian. Powder River serves as a case study for Alternative III; Bryce Canyon National Park and Chaco Culture National Historic Park are reviewed relative to Alternative IV.

These areas are evaluated for the year 1995.[1] The costs evaluated arise from application of best available control technology and, more importantly, from size limitations in surface coal mines because of ambient constraints. Benefit categories include mortality, morbidity, and soiling for Alternatives II and III, and visibility for Alternative IV. The study also examines national impacts involving coal price and production, and the cost of electricity

The costs determined under Alternative II and III, considerably exceed the benefits. The reason for this is that the modeling techniques employed indicate varying, but often significant, constraints on mine size as a result of prevention of significant deterioration (PSD) increment limitations. By contrast, relatively few people live in most mining basins; thus the benefits of cleaner air in those places are extremely limited. The results regarding Alternative IV are significantly different. Since less than 1 percent of the nation's coal reserves lie near Class I and Mandatory Class II areas, societal costs of regulation are expected to be relatively small. Benefits from protecting these areas of special scenic and ecologic importance can, however, be appreciable, although difficult to quantify.

It should be noted that the analysis of costs and benefits for Alternative IV is conducted with an assumption that no other regulatory program would protest Class I and Mandatory Class II areas from surface coal mines. It is possible, however, that other programs, notably the one operated by the Department of the Interior (DOI) pursuant to the Surface Mining Control and Reclamation Act, 30 U.S.C. 1201 *et seq.* could address similar problems. EPA therefore seeks comment on the effectiveness of such programs in protecting Class I and Mandatory Class II areas. EPA has requested an analysis of this issue from DOI. Responses will be placed in the rulemaking docket.

B. Role of the Study

This RIA has been prepared for two reasons. First, it satisfies the Executive Order 12291 requirement that major rulemakings consider economic consequences. Second, it was prepared for use in assisting the Administrator in making his decision on the final action on the October 26, 1984, proposal to list surface coal mines.

[1] For Alternative IV, Chaco Culture National Historic Park is evaluated for 1989 and Bryce Canyon is evaluated for 1996.

Legally, EPA has broad discretion in its use of the study. The Act allows economics to be taken into account in making this decision but does not mandate any specific test or standard.

The EPA sees this study as an important source of information for this decision-making process. Nonetheless, the Administrator will rely on the entire rulemaking record in making his final decision on this matter; no single document has a determinative role. The inherent imprecision in any such economic analysis makes it unwise to give conclusive weight to any finding that a particular alternative is simply economically more desirable than another. Also, a study cannot quantify in monetary terms all factors germane to the final decision. These more subjective concerns are explained briefly below.

Several factors limit the precision of the RIA. First, mines are unconventional sources that are not as readily evaluated as traditional industrial sources. They can appropriately be described as having a series of temporary, relocating emissions activities at one large, fixed location. Controversy also surrounds the application of many technical aspects of the review process. Modeling procedures are highly contested, as are certain emissions factor issues such as pit retention. Because the Act does not directly address the particular problems which mines may have but which are not experienced by most other sources of fugitive emissions, EPA had to make difficult policy assumptions which significantly affect the review of certain fugitive emissions points. Similarly, certain simplifying assumptions, such as basing the analysis on review of prototypical mines, are used in the analysis. All of the above factors have made preparation of the RIA more difficult, limit the precision of the analysis, and militate against relying solely on it.

A decision on a rulemaking involving important national issues should also consider issues beyond the scope of an economic study. For example, one or more of the regulatory options might have a pronounced effect upon national coal price or supply. Such an impact on the nation's energy supply could have ramifications to national security, trade balances, or international relations. Such factors are beyond the scope of regulatory analysis, and could be addressed with only limited precision in any case. Additionally, certain other factors, even though more traditionally economic in nature, are not evaluated by the study. For example, the study does not quantify costs of additional rail lines and other transportation systems required because the proposed regulations would potentially create more, smaller, surface mines. Nonetheless, such factors would add to the cost estimates and should be considered in the final decision.

Selection of the most reasonable option is thus not a simple process. The net benefit figures projected for various regulatory strategies by the RIA do not conclusively determine the relative values of these strategies. Instead, the final decision of whether to list will take into account many more factors than the numerical results of the study, most notably the record established by the commenters.

IV. Other Fugitive Emissions Issues

The October 26, 1984, proposal also reopened the public comment period on the existing list of 30 source categories for which fugitive emissions are included in determination of major source status. Further, the notice solicited comment on an interpretive ruling involving section 302(j) of the Act in relation to the review of modifications involving fugitive emissions at sources that are already "major."

Public comment on these matters was generally limited. However, representatives of the mining industry have expressed special additional concerns involving, generally, the definition of "source" which EPA uses in NSR applicability determinations. The essence of their argument is that some mines could be made subject to major preconstruction review even if EPA does not promulgate the proposed listing of surface coal mines. The EPA hereby solicits further comment on these matters.

At first look, the issue appears straightforward: if EPA list mines, fugitive emissions will be counted in future applicability determinations; if mines are not listed, fugitive emissions would not be counted. Since mines emit predominantly fugitive particulate matter, mines would not be subject to NSR because, without being listed pursuant to section 302(j) rulemaking, their potential to emit does not reach "major" status. That is, indeed, the case for isolated operations that engage solely in mining. However, mining associated with more conventional industrial activity may trigger NSR even if mines are not listed. This can arise from the definition of "source," as it pertains to standard industrial classification (SIC) groupings, to the concept of "support facility," or to EPA's requirements for modifications at sources already "major." These matters, described below, are vigorously addressed by some industry commenters, notably the American Mining Congress and National Coal Association.

The NSR regulations use the SIC code as the fundamental definitional tool for identifying the types of activities that are grouped together as a "source." This approach generally works well but poses a potential problem to the mining industry. For example, SIC 12, "bituminous coal and lignite mining," includes not only the mine proper but also coal preparation plants. Coal preparation plants are sometimes subject to NSR, especially since they are already listed with respect to the inclusion of fugitive emissions. "Coal cleaning plants (with thermal dryers)," a subset of coal preparation plants, is on the list of 30 for which fugitive emissions are counted in applicability determinations. In addition, there is a new source performance standard for coal preparation plants (40 CFR Part 60, Subpart Y). This standard was created prior to August 7, 1980, thereby rendering these sources as listed (*see e.g.*, 40 CFR 52.21(8)(4)(vii)(aa)).

These facts have two ramifications. First, stack and fugitive emissions at the coal cleaning plant would, of course, be summed in determining whether it would be a major stationary source. If the coal cleaning plant were "major," then the mine would also be brought into NSR, regardless of whether mines are listed. The reason for this is that these operations are typically aggregated as one source, since they belong to the same SIC, are adjacent and contiguous, and are under common control. Parties such as the National Coal Association indicate that coal cleaning plants are often not 100 tons-per-year sources, and, therefore, would not bring affiliated mines into review unless the fugitive emissions of the affected mines are taken into account. An additional issue arises, however, from the fact that strict construction of the regulations with respect to the SIC could result in the entire operation being a "listed" source. If this were the case, the *fugitive* emissions from the *mine* would be included in applicability determinations. This would result in PSD review in many such situations. The same issues can apply in cases involving other listed activities that may be operated with mines.

Second, a "support facility" for a source is considered as part of the primary source, even if it belongs to a different two-digit SIC code. "Support facilities" are defined by the 1980 preamble as "typically those which convey, store or otherwise assist in the

production of the principal product" (45 FR 52695). Physical proximity is generally a key part of such a determination. It is possible to conclude that operations such as mine mouth power plants are a single source, thus bringing the mine into PSD review.

Mining industry commenters also expressed concern about the operation of the interpretation set forth for comment in the October 26, 1984, Federal Register. This interpretation is that section 302(j) of the Act, the definition of "major stationary source," focuses its rulemaking requirement with respect to fugitive emissions on whether a *source* is "major," not on the review of modifications involving fugitive emissions at sources already "major." Generally this would have no effect on mines. Since mines are not listed and since they do not have sufficient stack emissions to qualify as "major," this interpretive ruling would not affect them. (If mines were listed, this interpretive ruling would have no bearing on their review.) Once again, however, the aggregation of mines with industrial facilities could produce results which the mining industry contends are unreasonable unless EPA has first completed a listing under section 302(j). Modifications at a mine associated with a coal preparation plant, for example, could trigger NSR of the modification, even if its emissions increase consisted totally of fugitive emissions. Of course, if one of the approaches to source definition enunciated above is adopted, fugitives from mines at such aggregated sources would be reviewed directly. The interpretive ruling would not come into play. Thus, the definition of "source" is expected to remain the primary issue.

These issues present essentially the same concern as the more prominent issue of listing: how to provide any appropriate relief from review to the mining industry while not jeopardizing the more important general review of fugitive emissions from all other sources. This is an especially challenging task in view of the fact that the Act does not expressly provide for special treatment of this somewhat unconventional source category. Because this rulemaking addresses mining issues broadly, and also includes responses to the reopening of the public comment period on the list of 30 source categories,[2] EPA is addressing these new concerns in this rulemaking.

The American Mining Congress and other mining groups, after presenting comment on these specific matters, conclude by arguing that surface coal mines "simply are not the kinds" of sources and emissions which Congress intended to be subject to NSR. Their recommended solution is to change the definition of "building, structure, facility, or installation" in all NSR regulations—e.g., 40 CFR 52.21(b)(6)—so as to create an exemption from the standard aggregation of pollutant-emitting activities based on proximity, ownership, and SIC code. This exemption would be created "where the agency has designated a separate source category or grouping."

The EPA concludes that the current approach to "source" definition appears reasonable for virtually all sources. It is posssible, however, that it may produce an untoward effect in the case of mines, for reasons argued by industry, if mines are found to be inappropriate for listing. The EPA, therefore, seeks comment on whether such an exemption, or any crafting of the section 302(j) rulemaking having similar effect, is justified for surface coal mines. The EPA anticipates that any such exemption would be granted only after a detailed examination of the nature of a particular source category and a finding that unusual circumstances justify this special treatment. It is also important that any such procedure for exemptions be crafted in a way so as not be jeopardize review of fugitive emissions from the great majority of sources for which an exemption would not be appropriate. The EPA, therefore, also solicits comment on what administrative procedures and safeguards might be appropriate for creating such an exemption.

V. Miscellaneous

A. Public Hearing

The EPA will hold a public hearing on April 9, 1986 at 10:00 a.m. in Room 239, Federal Building, Corner of 20th and Stout St., Denver, Colorado. The hearing will be informal. A panel of EPA staff will hear the oral presentations. There will be no cross-examination and no requirement that any person be under oath. Each member of the panel may seek clarification or amplification of any presentation. The presiding officer of the panel may set a time limit for each presentation and may restrict any presentation that would be irrelevant or repetitious. A transcript of the hearing will be made and placed in the rulemaking docket.

Any person who wishes to speak at the hearing should as soon as possible send written notice of this to EPA, give name, address, telephone number, and the length of the presentation. Anyone stating that this his or her presentation would be longer than 20 minutes should also state why it need be longer. Each notice should be sent to Mr. Kirt Cox at the address given at the beginning of this notice. The EPA will develop a schedule for presentations based on the notices it receives. Each speaker should bring extra copies of his or her presentation for the convenience of the hearing panel, the hearing reporter, the press, and other participants. The hearings will be open to the public.

B. Economic Impact Assessment

Section 307 of the Clean Air Act, 42 U.S.C. 7607, requires EPA to prepare an economic impact assessment in connection with proposal of any substantial revisions to existing regulations. This notice announces the availability of the economic analysis that EPA prepared in order to comply with Executive Order 12291 and which also satisfies the requirement for preparation of an economic impact assessment on the proposal to list strip mines. The EPA did not prepare an economic analysis of the new interpretation of section 302(j) as it relates to modifications because this is not a substantial revision. As discussed above, this interpretation will not bring many additional modifications under review.

Dated: February 18, 1986.

Charles L. Elkins,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 86-4357 Filed 2-27-86; 8:45 am]

BILLING CODE 6560-50-M

[2] Industry commenters have requested that coal cleaning plants be delisted.

GENERAL SERVICES ADMINISTRATION

Office of Acquisition Policy

41 CFR Part 101-20

Management of Buildings and Grounds

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking and availability of draft.

SUMMARY: This notice announces the availability of a draft proposed revision of Federal Property Management Regulation (FPMR) 101-20, Management of Buildings and Grounds.

DATE: Any comments on the proposed revision should be submitted in writing to the address shown below within 60 days from the publication date of this notice in the Federal Register. No

extensions on the comment date cited in this notice will be made.

ADDRESS: Comments should be submitted to the General Services Administration, VR, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Emily C. Karam, Director of Regulatory Review (VR), Office of Acquisition Policy, telephone (202) 566–1177 or FTS 566–1177. A single copy of the proposed revision is available upon request.

SUPPLEMENTARY INFORMATION: The proposed revision incorporates recommendations to update, clarify, and streamline the regulation which were submitted to the Administrator of GSA by the Interagency Advisory Committee on Regulatory Review.

List of Subjects in 41 CFR Part 101–20

Building operations, maintenance, protection, and alterations, Vending facilities; Conduct on Federal property, Occasional use of public buildings, Sidewalk installation, repair and replacement.

Dated: February 18, 1986.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 86–4287 Filed 2–27–86; 8:45 am]

BILLING CODE 6820–61–M

Notices

Federal Register
Vol. 51, No. 40
Friday, February 28, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 86-003]

Scrapie Research on U.S. Army Dugway Proving Ground, UT; Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) has prepared an environmental assessment for scrapie research using goats and sheep on the U.S. Army Dugway Proving Ground, Utah (DPG). On the basis of the assessment, the APHIS has determined no significant adverse effect on the environment will result from implementation of the selected alternative. Therefore, an environmental impact statement (EIS) on this program will not be prepared.

ADDRESS: A copy of the environmental assessment may be obtained from Dr. Chester A. Gipson, Special Diseases Staff, Veterinary Services, APHIS, USDA, Room 824, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782.

The environmental assessment is available for public inspection at this same address between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Chester A. Gipson, Special Diseases Staff, Veterinary Services, APHIS, USDA, Room 824, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, (301) 436-8231.

SUPPLEMENTARY INFORMATION:

Scrapie has been recognized as a serious threat to the sheep and goat industries in both the United States and Canada. The USDA has prepared an environmental assessment for conducting research using goats and sheep on U.S. Army Proving Ground in Utah.

The purpose of this action is to determine whether or not a procedure called embryonic transfer could be used in greatly reducing or eliminating the risk of introducing scrapie into domestic flocks. In this procedure, an embryo would be taken from a scrapie infected sheep or goat and transferred to the uterus of a recipient sheep or goat. Upon parturition, the newborn lamb or kid would represent a new genetic line.

The results of this action will yield information on if and how scrapie is transmitted vertically (from parent to progeny in utero). Scrapie-free sheep and goats might then be obtained from scrapie-exposed or affected flocks. The procedure might also provide a way to control or eradicate the disease in the United States and facilitate the import and export of genetic lines to strengthen the U.S. sheep and goat industry.

A number of alternatives were considered in selecting the recommended course of action: (1) No action; (2) Using a contained facility on DPG; (3) Performing scrapie research elsewhere; (4) Using the proposed corral facilities on the DPG.

Alternative one was disregarded because it would require that no scrapie research be performed. The need for this type of scrapie research is necessary to control or possibly eradicate this disease.

Alternative two was disregarded because the only such building available on the DPG which is qualified to operate at biosafety levels one, two, or three is Building 2028, Baker Laboratory. However, this building is not large enough to support both its ongoing military testing and the proposed scrapie research. Construction of a new building would be prohibitively expensive.

Alternative three is not feasible since performing scrapie research elsewhere would entail accomplishing a number of functions prior to its commencement. The time lost and additional money spent as well as the low probability of finding a site which matches DPG's complement of isolation, security, and available facilities makes this course of action inferior.

APHIS has selected four. The location of DPG is ideal for performing studies of this nature. It is relatively isolated from any large areas of population. This would ensure no possibility of spreading diseases. Also, a physical buffer zone will isolate the animals being tested from the natural fauna. Precautions have been made to assure that the water which has come in contact with the research area will evaporate before it could reach any major sources of water. These precautions will guarantee no contact would be made with the natural fauna, eliminating the possibility of the spread of disease. Most importantly, the use of this research facility is consistent with its past and intended uses.

APHIS, after considering the cumulative effects of implementing the selected alternative, has concluded there will be no primary, secondary, or cumulative adverse effects on the quality of the environment.

The environment assessment evaluated the uniqueness or rareness of resources affected and has concluded the selected alternative will neither have an effect on the continued existence of any endangered or threatened species nor will it result in destruction or adverse modifications of the habitats of such species.

This action has been reviewed under the requirements of the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321, et seq.), the Council on Environmental Qualities (CEQ), NEPA Regulations (40 CFR, Parts 1500-1508), and the APHIS guidelines concerning implementation of NEPA procedures.

Done at Washington, DC, this 24th day of February.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-4402 Filed 2-27-86; 8:45 am]
BILLING CODE 3410-34-M

Forest Service

Pacific Crest National Scenic Trail Advisory Council; Meeting

The Pacific Crest National Scenic Trail Advisory Council will meet on April 23 through April 25, 1986 in San Bernardino, CA. The meeting will begin at 7:00 pm. on April 23, at the Hilton

Hotel, located at 285 E. Hospitality Lane in San Bernardino.

The purpose of the meeting is for the Council to provide recommendations for the Secretary of Agriculture on broad questions of policy, programs, and procedures affecting the Pacific Crest Trail. The meeting will include a review of trail completion status, rights-of-way acquisition, and other related matters about the trail.

The meeting will be open to the public. Persons who wish additional information should contact Dick Benjamin, Assistant Regional Forester for Recreation, Wilderness and Cultural Rsources, Pacific Southwest Region, Forest Service, 630 Sansome Street, San Francisco, California 94111, phone (415) 556–6986.

Dated: February 19, 1986.

Zane G. Smith, Jr.,

Chairman.

[FR Doc. 86–4288 Filed 2–27–86; 8:45 am]

BILLING CODE 3410-11-M

Committee of State Foresters; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Committee of State Foresters will meet in Albuquerque, New Mexico, on March 6, 1986. The meeting will be held in the Santa Fe Room of the Continental Inn, 6000 Pan American Freeway, NE, beginning at 8 a.m.

The Committee is comprised of the seven members of the Executive Committee of the National Association of State Foresters. The purpose of the meeting is for the Committee of State Foresters to consult with the Secretary of Agriculture regarding the administration and application of various portions of the Cooperative Forestry Assistance Act of 1978 (Pub. L. 95–313). Peter Myers, Assistant Secretary for Natural Resources and Environment, will chair this meeting. The meeting will be open to the public. Written statements may be filed with the Committee before or after the meeting.

FOR FURTHER INFORMATION CONTACT: Allan J. West, Executive Secretary, State and Private Forestry, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, (202) 447–6657.

Dated: February 21, 1986.

F. Dale Robertson,

Associate Chief.

[FR Doc. 86–4343 Filed 2–27–86; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Federal Coal Export Commission Meeting

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976), as amended, notice is hereby given that the Federal Coal Export Commission (Commission) established on November 5, 1985 (50 FR 227 (1985)), will hold its initial meeting on Monday, March 17, 1986 at 10:00 a.m.–4:00 p.m. in Room 4830, U.S. Department of Commerce, Herbert C. Hoover Building, 14th and Constitution Avenue, NW., Washington, D.C. The initial meeting of a committee established by the Commission to review the state of the industry will be held on the same date, at the same address and room as the Commission meeting, between 2:00 p.m. and 4:00 p.m.

The Commission, consisting of 30 members invited to participate from among organized labor, coal exporters, transporters, financial institutions and government, will address problems affecting the U.S. coal export industry.

The agenda for this initial meeting emphasizes Commission/committee organization, membership and preliminary work plan. For further information contact Robert H. Brumley, Executive Director of the Commission, at (202) 377–4772.

The public is welcome to attend this initial meeting and will be admitted to the extent that seating is available. Public comments are welcome and persons wishing to make formal statements must notify the Executive Director of the Commission in advance of the meeting. The Chair retains the right to place reasonable limits on the duration of the public comments. Written statements may be submitted before or after each session.

Dated: February 25, 1986.

Robert H. Brumley,

Executive Director, Federal Coal Export Commission.

[FR Doc. 86–4466 Filed 2–27–86; 8:45 am]

BILLING CODE 3510-18-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council's Administrative Subcommittee will convene a public meeting, March 10, 1986 from approximately 10 a.m. to approximately 4 p.m., at the Council's Office, Banco de Ponce Building, Suite 1108 Hato Rey, PR, to discuss issues related to the Council's budget as well as to discuss other administrative issues. For further information contact the Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, PR 00918; telephone: (809) 753–4926.

Dated: February 20, 1986.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 86–4320 Filed 2–27–86; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will convene a public meeting, March 7, 1986, at the Howard Johnson's Motor Lodge, Danvers, MA, from 10 a.m. to approximately 5 p.m., to discuss resubmission of the Northeast Multispecies Fishery Management Plan to the Secretary of Commerce, as well as to discuss other fishery management and administrative matters. For further information contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, MA 01906; telephone: (617) 231–0422.

Dated: February 20, 1986.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 86–4321 Filed 2–27–86; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Groundfish Management Team will convene a public meeting, March 18–20, 1986, at the Northwest and Alaska Fisheries Center, National Marine Fisheries Service 7600 Sand Point Way, Building 4, Room 2079, Seattle, WA, to consider first trimester landings under current groundfish trip limits and trip frequencies; to review Council suggestions on the first draft of

a proposed groundfish fishery management plan amendment, and to draft reports to be presented to the Pacific Fishery Management Council during its April 8–11, 1986 meeting in Eureka, CA. For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 S.W. First Avenue, Portland, Or 97201; telphone (503) 221–6352.

Dated: February 20, 1986.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 86–4322 Filed 2–27–86; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce..

The Pacific Fishery Management Council and its advisory bodies will convene public meetings, March 10–13, 1986, at the Holiday Inn Portland-Airport, 8439 NE. Columbia Boulevard, Portland, OR, as follows:

On March 10, the Council meeting will convene at 1 p.m. with a closed session (not open to the public), to discuss litigation and personnel matters. The open session will begin at 2 p.m. with administrative matters, including appointment of a new member to the Groundfish Management Team and the status of the FY 86 budget. The Council will review the 1985 salmon fisheries and the status of the stocks, as well as hear recommendations from the Scientific and Statistical Committee (SSC), the Salmon Advisory Subpanel (SAS), the public, the states, and the National Marine Fisheries Service on the 1985 fisheries and the 1986 stock abundance.

On March 11, the Council will tentatively adopt 1986 salmon management options for analysis by the Salmon Plan Development Team (SPDT), and receive a summary of 1987 salmon plan amendment issues. The Council will also review groundfish management issues and take action on experimental fishing permit applications, drafts of the groundfish plan amendment package, and foreign fishing applications. There will be a public comment period at 4:30 p.m.

On March 12, the Council will continue consideration of administrative matters including the FY 87 data collection needs for Council-related activities and the Council/National Oceanic and Atmospheric Administration Task Group evaluation of the Magnuson Fishery Conservation and Management Act implementation. The Council will also hear a report of its Habitat Committee and public comments on a habitat policy prior to final adoption.

On March 13, the Council will hear the analysis and comments of the SPDT, SSC, SAS, public, and states on the provisonal 1986 salmon management options before final adoption of management options for public hearings.

Meetings of the Council's SSC, SAS, SPDT, habitat, foreign fishing, and budget committees will be held in the same location commencing the afternoon of March 9 through the evening of March 13. Detailed agendas of all meetings will be available for the public on February 21. For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 221–6352.

Dated: February 20, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86–4323 Filed 2–27–86; 8:45 am]

BILLING CODE 3510-22-M

Intent To Prepare a Draft Environmental Impact Statement and Management Plan for a Possible National Marine Sanctuary of Norfolk Canyon; Announcement of Norfolk Canyon as an Active Candidate and Suspension of Ten Fathom Ledge/Big Rock From Consideration as a National Marine Sanctuary

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: NOAA is announcing Norfolk Canyon (60 miles off the coast of Virginia) as an Active Candidate for designation as a National Marine Sanctuary, and its intent to prepare an environmental impact statement on the proposal to designate. A notice scheduling a scoping meeting will be published at a later date.

On September 17, 1985, NOAA initiated preliminary consultation on two sites as potential national marine sanctuaries. (Preliminary Consultation is the first step toward designation of a national marine sanctuary.) The sites were Norfolk Canyon and Ten Fathom Ledge/Big Rock. On November 18, 1985 the period for public comment ended. NOA has reviewed and considered public comments on both sites and is continuing the process for designating Norfolk Canyon. A draft management plan and draft environmental impact statement will be prepared. NOAA is also announcing that due to a backlog of Active Candidates it will not proceed with further evaluation of Ten Fathom Ledge/Big Rock at this time. The site will remain on the Site Evaluation List for future consideration.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Lindelof, Senior Policy Analyst, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, DC 20235 (202) 634–4236.

SUPPLEMENTARY INFORMATION:

I. Background

Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 as amended, 16 U.S.C. 1431 *et seq.* (the Act), authorizes the Secretary of Commerce to designate ocean waters, as far seaward as the outer edge of the continental shelf and over which the United States exercises jurisdiction, consistent with international law, as national marine sanctuaries. The purpose of designating national marine sanctuaries is to protect and manage distinctive areas of the marine environment for those conservation, recreational, ecological, historical, research, educational or aesthetic values which give these areas special national significance. The Act is administered by the National Oceanic and Atmospheric Administration (NOAA) through the Office of Ocean and Coastal Resource Management (OCRM), Sanctuary Program Division (SPD).

The 1984 amendments to the Act (Title I of Pub. L. 98–498, codified to 16 U.S.C. 1431–1439), made several changes in the process for designating National Marine Sanctuaries. NOAA is currently modifying its program operating regulations at 15 CFR Part 922 to reflect these changes. In the interim, where there is a conflict between the current regulations and the 1984 amendments, NOAA will rely on the statutory amendments. Since the 1984 amendments do not require the Preliminary Consultation or Active Candidate stages in the marine sanctuary designation process, NOAA will no longer conduct a formal Preliminary Consultation or Active Candidate review. Instead, NOAA will issue a notice informing the public of its

intent to prepare an EIS on a proposed designation of an Active Candidate selected from the Site Evaluation List (SEL).

NOAA began its consideration of Norfolk Canyon and Ten Fathom Ledge/Big Rock under its current operating regulations at 15 CFR 922.30(1). On September 17, 1985, NOAA published a notice (50 FR 37760) announcing preliminary consultation and seeking public comment for these two sites. The public comment period closed on November 18, 1985.

II. Selection of Norfolk Canyon as an Active Candidate

Norfolk Canyon is located approximately 60 miles off the coast of Virginia. The center of the Canyon head is approximately latitude 37°03.3' W, longitude 74°38.4' W. The Canyon head is about 16 to 19 km long and 6 km wide near the shelf break.

Natural Resources

Norfolk Canyon is the southern-most submarine canyon is a series of the prominent deep water features along the eastern continental margin of the United States. It is an excellent biogeographic representation of this habitat and has two distinguishing features which other East Coast canyon sites lack: (1) The physiographic location is in a non-glaciated area that is influenced by a major drainage system (Chesapeake Bay), and (2) the site is the habitat of several alcyonarid and scleractinid corals, including *Primnoe reseda.*

The geology of the Canyon is characterized by deep V-shaped valleys and steep, rocky and often unstable walls and swift current. Despite these physical features, Norfolk Canyon supports an abundance of marine life, of which its huge Alcyanarian tree corals and "pueblo villages" (i.e., areas along the canyon wall where large invertebrates and some finfish dig extensive depressions, caves and burrows for their lodging) are especially prominent. For a more detailed discussion of the site's natural resources, please see 50 FR 37760 announcing Prelimary Consultation.

Human Uses

Major human activities pursued on the eastern continental margin include commercial and recreational fisheries, mineral resources development, ocean dumping and military operations. Norfolk Canyon is not heavily fished for commercial purposes but the area is used by recreational fishermen who fish for white marlin (*Teptrapturus albidus*).

No mineral resources are currently mined in the vicinity of Norfolk Canyon. Those resources with the greatest near-term potential for development are oil and gas. Upcoming lease sale number 111 in the Mid-Atlantic area is tentatively scheduled for November 1986.

Although no ocean disposal of wastes is occuring at present in Norfolk Canyon, the area has been used previously for the dumping of radioactive wastes. There are two former dumpsites, one located at about the 1000-meter isobath, the other, more extensive, lying at depths between about 2000 and 2500 meters. Both occur on or near the axis of the Canyon.

Summary of Comments

A total of eight comments were received on the September 12, 1985 notice. Reviewers included Federal and state agencies, representatives of the oil and gas industry, representatives of the fishing industry, environmental and public interest groups, and members of the public. All comments received are on file at the Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, 2001 Wisconsin Avenue NW., Washington, DC 20235. The comments are available for review at that office.

All reviewers supported listing the Norfolk Canyon as an Active Candidate and proceeding with our evaluation. Amoco Corporation and the Offshore Operators Committee noted that until a boudary has been determined it was difficult to determine the significance of the proposal and that this information should be provided prior to selection as an active candidate. The Department of the Interior questioned how Norfolk Canyon was selected when it is not on NOAA's Site Evaluation List.

NOAA's Response.

In response to the boundary comment, at this early stage in reviewing a site as a potential national marine sanctuary, NOAA does not have sufficient information to formulate specific boundary alternatives. As part of developing a draft environmental impact statement and management plan, NOAA will identify several boundary alternatives, including its preferred alternative, for public review and comment.

In response to the Department of the Interior comment, as explained in the original notice for comment, Norfolk Canyon is eligible for consideration because it had already been under consideration for designation by NOAA at the time of development of the SEL and therefore was grandfathered into the SEL process. At the time of development of the SEL the following sites were under consideration for designation by NOAA: Cordell Bank (California); Norfolk Canyon (South Atlantic); La Parguera (Puerto Rico); Monterey Bay (California); Hawaiian waters; and Fagatele Bay (American Samoa). The scientific teams responsible for making SEL Recommendations were instructed not to consider these sites for SEL listing since they had already been selected by NOAA for further evaluation. At that time a contract had been awarded to synthesize information on the physical and biological features of Norfolk Canyon. This site is therefore the last of the pre-SEL Candidates to be actively considered.

Subsequent Actions

NOAA intends to prepare a draft environmental impact statement (DEIS) including a resource assessment report and draft management plan on the designation of the area as a National Marine Sanctuary. A scoping meeting will be held prior to preparation of the draft management plan and DEIS and a notice of its date, time and location will be published in the **Federal Register**. A public hearing on the DEIS Will be conducted. A final environmental impact statement and management plan will be prepared. In undertaking the analysis for the DEIS, NOAA will consider the factors required in determining if a site meets the Designation Standards outlined in section 303(a) of the 1984 amendments to the Act and will consult with Congress, other affected agencies and the appropriate Regional Fishery Management Council(s).

After the final environmental impact statement, subsequent steps include a determination by the Secretary of Commerce that the site meets the Designation Standards, and designation by the Secretary. Congress then has the opportunity to disapprove the designation. Opportunities for public comment exist throughout this process and will be advertised in the local media, and other appropriate channels.

III. Suspension of Ten Fathom Ledge/Big Rock From Further Consideration as a Potential National Marine Sanctuary.

The September 17, 1985 notice of Preliminary Consultation included the Ten Fathom Ledge/Big Rock site. NOAA received ten letters and petitions. Reviewers included Federal and state agencies, representatives of the fishing industry, environmental and public interest groups, dive groups and members of the public. All comments received are on file at the Sanctuary Programs Division, Office of Ocean and

Coastal Resource Management, 2001 Wisconsin Avenue NW., Washington, DC 20235. The comments are available for review at that office. Only representatives of the commercial fishing industry who use the area objected to proceeding to evaluate the site for designation. The commercial fishing interests expressed concern that there might be restrictions on fishing activities. The Department of the Interior suggested that the site may be needed for mining strategic nonenergy minerals and that more information should be provided to evaluate the site.

NOAA has decided not to proceed with designation of Ten Fathom Ledge/Big Rock at this time. The Sanctuary Programs Division currently has two active candidates, Flower Garden Banks in the Gulf of Mexico and Cordell Bank off the coast of California. The level of staff time and costs involved in marine sanctuary designation preclude the processing of more than two or three Active Candidates simultaneously. Given these constraints, it is not reasonable or likely that NOAA can process both Ten Fathom Ledge/Big Rock and Norfolk Canyon in the 3 year time span required by 15 CFR 922.31(a). Accordingly, NOAA has decided to continue the process it began several years ago for designating Norfolk Canyon and to leave Ten Fathom Ledge/Big Rock on the SEL for future consideration.

Federal Domestic Assistance Catalog No. 11.429.

Dated: February 24, 1986.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 86-4372 Filed 2-27-86; 8:45 am]

BILLING CODE 3510-08-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6-426,440 (4,539,648) Date Filed: 09/29/82
Detection of Agricultural Contraband in Baggage
SN 6-527,730 (4,534,856) Date Filed: 08/30/83
Electrodynamic Method for Separating Components
SN 6-579,919 (4,540,033) Date Filed: 02/14/84
Continuous Tree Harvester
SN 6-591,367 Date Filed: 09/20/85
Method for Controlling Yellow Nutsedge Using Puccinia Canaliculata
SN 6-593,058 (4,548,804) Date Filed: 03/26/84
Visual-Olfactory Habitat Mimic for Assessment of Fruit Fly Response to Behavior-Modifying Chemicals
SN 6-620,815 (4,545,236) Date Filed: 06/15/84
Device for Simulating Stress on Packages During Coupling of Railcars
SN 6-625,272 (4,550,905) Date Filed: 06/27/84
Hide Transfer Apparatus
SN 6-638,827 (4,539,008) Date Filed: 08/08/84
Agents to Produce Durable Press Low Formaldehyde Release Cellulosic Textiles: Etherified N,N-BIS(Hydroxymethyl)-Carbamates
SN 6-694,554 (4,554,442) Date Filed: 01/24/85
Aliquot Part Locator
SN 6-785,639 Date Filed: 10/08/85
Sex Pheromone Composition for Southwestern Corn Borer
SN 6-789,212 Date Filed: 10/16/85
Process for Dyeing Smooth-Dry Cellulosic Fabric
SN 6-789,298 Date Filed: 10/16/85
Method for Insitu Coloring Crosslinked Cellulosic Materials

Department of Commerce

SN 6-636,769 (4,558,218) Date Filed: 08/01/84
Heat Pipe Oven Molecular Beam Source

Department of Health and Human Services

SN 6-509,819 (4,544,231) Date Filed: 06/29/83
Method of Joining Plastic Optical Fibers and Connections Obtained
SN 6-548,849 (4,546,087) Date Filed: 11/04/83
Saponin-Based Polyether Polyols, Pharmaceutical Compositions and a Method of Using Same
SN 6-563,369 (4,547,367) Date Filed: 12/20/83
Hepatitis B. Core Antigen Vaccine
SN 6-620,801 (4,547,569) Date Filed: 06/14/84
Intercalculating Agents Specifying Nucleotides
SN 6-637,880 (4,547,368) Date Filed: 08/06/84
Hepatitis B. Core Antigen Vaccine Made by Recombinant DNA
SN 6-727,919 Date Filed: 04/26/85
Method of Forming a Metal Chelate Protein Conjugate
SN 6-787,134 Date Filed: 10/15/85
Reducing or Counteracting the Development of Measures of Brain Aging
SN 6-801,965 Date Filed: 11/26/85
Method and Device for Quantitative Endpoint Determination in Immunofluoresence Using Microfluorophotometry

Department of the Air Force

SN 6-366,743 (4,547,884) Date Filed: 04/08/82
Sonic Flow Plate
SN 6-375,640 (4,548,661) Date Filed: 05/06/82
Method for Assembling a Multiconductor Flat Cable
SN 6-393,267 (4,539,864) Date Filed: 06/29/82
Adjustable Balance Weight for Rotating Shaft
SN 6-447,736 (4,540,978) Date Filed: 12/07/82
Bistatic Pulse-Overlap Doppler Radar Intrusion Detection Apparatus
SN 6-491,108 (4,540,904) Date Filed: 05/03/83
Tri-State Type Driver Circuit
SN 6-497,447 (4,546,328) Date Filed: 05/23/83
PLL Swept Frequency Generator With Programmable Sweep Rate
SN 6-511,060 (4,550,255) Date Filed: 07/05/83
Void Detection and Composition Measurements in Composite Wires
SN 6-512,062 (4,538,792) Date Filed: 07/08/83
Loading Dolly
SN 6-512,064 (4,547,727) Date Filed: 07/08/83
Simultaneous Signal Detection for IFM Receivers by Transient Detection
SN 6-533,331 (4,549,427) Date Filed: 09/19/83
Electronic Nerve Agent Detector
SN 6-539,352 (4,538,635) Date Filed: 10/06/83
Laser Beam Duct Pressure Controller System

SN 6–539,889 (4,550,275) Date Filed: 10/07/83
High Efficiency Pulse Ultraviolet Light Source
SN 6–562,369 (4,546,032) Date Filed: 12/16/83
Fiber Reinforced Carbon/Carbon Composite Structure With Tailored Directional Shear Strength Properties
SN 6–566,445 (4,539,809) Date Filed: 12/28/83
Fuel Pump Vent Drain System
SN 6–574,434 (4,550,293) Date Filed: 01/27/84
Narrow Deviation Voltage Controlled Crystal Oscillator
SN 6–577,412 (4,546,353) Date Filed: 02/06/84
Asymmetric Thrust Warning System for Dual Engine Aircraft
SN 6–580,979 (4,546,320) Date Filed: 02/16/84
Total Temperature Probe Buffer Amplifier
SN 6–592,033 (4,540,833) Date Filed: 03/21/84
Protected Ethynlated Phenols
SN 6–595,153 (4,548,903) Date Filed: 03/30/84
Method to Reveal Microstructures in Single Phase Alloys
SN 6–607,094 (4,546,283) Date Filed: 05/04/84
Conductor Structure for Thick Film Electrical Device
SN 6–610,911 (4,547,958) Date Filed: 05/16/84
VMJ Solar Cell Fabrication Process Using Mask Aligner
SN 6–612,912 (4,544,713) Date Filed: 05/16/84
Method for Making Heterocyclic Block Copolymer
SN 6–616,380 (4,540,339) Date Filed: 06/01/84
One-Piece HPTR Blade Squealer Tip
SN 6–627,691 (4,546,343) Date Filed: 07/03/84
Data Acquisition Channel Apparatus
SN 6–634,346 (4,547,592) Date Filed: 07/25/84
Thermosetting Arylether Compounds and Their Synthesis
SN 6–635,393 (4,547,230) Date Filed: 07/30/84
LPE Semiconductor Material Transfer Method
SN 6–657,100 (4,546,897) Date Filed: 10/02/84
Inert Atmosphere Transfer Vessel
SN 6–661,646 (4,540,450) Date Filed: 10/17/84
INP:TE Protective Layer Process for Reducing Substrate Dissociation
SN 6–686,954 (4,546,429) Date Filed: 12/27/84
Interactive Communiation Channel
SN 6–688,943 Date Filed: 01/04/85
Apparatus for Transmitting Data from High Speed Rotors
SN 6–708,910 Date Filed: 03/06/85
Linear Geometry Thyratron
SN 6–741,643 Date Filed: 06/10/85
TiW/Si Self-Aligned Gate for GaAs Mesfets
SN 6–743,338 Date Filed: 10/06/85
Synthetic Aperture Multi-Telescope Tracker Apparatus
SN 6–743,550 Date Filed: 06/11/85
Discrete Phase Conjugate Technique for Precompensation of Laser Beams Transmitted Through Turbulence
SN 6–743,845 Date Filed: 06/12/85
Translational Mount for Large Optical Elements
SN 6–762,888 Date Filed: 08/06/85
Missile Longitudinal Support Assembly
SN 6–763,576 Date Filed: 08/08/85
Universal Wavefront Sensor Aparatus
SN 6–764,820 Date Filed: 08/12/85
Robotic Refueling System for Tactical and Strategic Aircraft
SN 6–765,483 Date Filed: 08/14/85
Novel Methods for Tuning Free Electron Lasers to Multiple Wavelengths
SN 6–768,664 Date Filed: 08/23/85
Computer Controlled Lead Forming
SN 6–769,114 Date Filed: 08/26/85
Infrared Sensor Target
SN 6–772,581 Date Filed: 09/04/85
Radar Clutter Simulator
SN 6–772,813 Date Filed: 05/09/85
Situation Awareness Mode
SN 6–772,814 Date Filed: 05/09/85
Automatic Attenuator for Sonobuoys
SN 6–772,815 Date Filed: 05/09/85
A New NDE Method for Coated Carbon-Carbon Composites
SN 6–777,141 Date Filed: 09/18/85
Computer Controller Optical Surfacing (CCOS) LAP Pressure Control System
SN 6–779,402 Date Filed: 09/24/85
Claw Grip Contract Probe for Flat Packs
SN 6–779,403 Date Filed: 09/24/85
Active Secondary Mirror Mount
SN 6–782,332 Date Filed: 10/01/85
Dual Material Exhaust Nozzle Flap
SN 6–782,335 Date Filed: 10/01/85
Hybrid Single Crystal Optic Fibers by Growth Solution
SN 6–782,630 Date Filed: 10/01/85
Hydraulic Pressure Intersifier
SN 6–784,986 Date Filed: 10/07/85
Igniter Electrode Life Control
SN 6–785,186 Date Filed: 10/07/85
Repetitively Pulsed Q-Switched Chemical Oxygen-Iodine Laser
SN 6–785,690 Date Filed: 10/09/85
Electrical Cone Connector
SN 6–788,189 Date Filed: 10/16/85
Aircraft Window Clamping Device
SN 6–789,862 Date Filed: 10/21/85
Hidden Fault Bit Apparatus for a Self-Organizing Digital Processor System
SN 6–789,863 Date Filed: 10/21/85
Direct Moat Self-Aligned Field Oxide Technique
SN 6–790,292 Date Filed: 10/22/85
A Real-Time Programmable Optical Correlator

Department of the Army

SN 6–478,816 (4,554,279) Date Filed: 03/31/83
5-(Straight Chain 3–12 Carbon Alkoxy)-8-Quinolinamines and their use for Treatment of Malaria
SN 6–521,490 (4,542,870) Date Filed: 08/08/83
SSICM Guidance and Control Concep
SN6–550,698 (4,542,954) Date Filed: 11/10/83
Wide Angle Lens for the Infrared Dedicatory Clause
SN 6–749,038 Date Filed: 06/25/85
Wideband SAW Channelizer Using Slanted Array Input Transducer
SN 6–775,076 Date Filed: 09/12/85
Oxynitride Glass Fibers
SN 6–778,941 Date Filed: 09/23/85
Single Plane Transient Voltage Suppression Device Assembly
SN 6–780,750 Date Filed: 09/27/85
Malaria Vaccine
SN 6–780,751 Date Filed: 09/27/85
Error Processing Technique for Modified Read Code
SN 6–781,166 Date Filed: 09/30/85
Method of Chemically Polishing Quartz Crystal Blanks
SN 6–785,709 Date Filed: 10/09/85
An Improved Process for Making Smoke Producing Composition
SN 6–791,672 Date Filed: 10/28/85
Optically Triggered Bulk Device Gunn Oscillator
SN 6–791,970 Date Filed: 10/28/85
Relative Sizing of Layout Data to Compensate for Exposure Errors on Optical Lithography Systems
SN 6–793,931 Date Filed: 11/01/85
SAW Transition Detector for PSK Signals
SN 6–796,332 Date Filed: 11/12/85
Electrolyte for Lithium-Inorganic Non-Aqueous Rechargeable Cell System and Rechargeable Cell System Including Said Electrolyte.

[FR Doc. 86–4294 Filed 2–27–86; 8:45 am]
BILLING CODE 3510-04-M

Government-Owned Inventions; Availability for Licensing

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commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Federal Patent Licensing National Technical Information Service U.S. Department of Commerce.

Department of Agriculture

SN 6–385,161 (4,556,460 Date Filed: 06/04/82
Dehydration of Ethanol
SN 6–724,013 Date Filed: 04/17/85
Ova Harvesting System
SN 6–794,028 Date Filed: 11/01/85
Self-Releasing Coupling
SN 6–797–538 Date Filed: 11/13/85
Postharvest Biological Control of Stone Fruit Brown Rot by *Bacillus Subtilis*

Department of Commerce

SN 6–581,831 (4,559,717) Date Filed: 2/21/84
Flexure Hinge
SN 6–802,091 Date Filed: 11/25/85
Method and Apparatus Relating to Specimen Cells for Scanning Electron Microscopes
SN 6–802,875 Date Filed: 11/29/85
Heat Pipe Oven Molecular Beam Source

Department of Health and Human Services

SN 6–459,796 (4,552,962) Date Filed: 01/21/83
Antitussive 6-Keto Morphinans of the (+)-Series
SN 6–476,830 (4,556,712) Date Filed: 03/18/83
Preparation and Racemization of Chiral 1-Benzyl-1,2,3,4-Tetrahydroisoquinolines
SN 6–798,930 Date Filed: 11/18/85
A High Speed Texture Discrimination of Ultrasonic Imaging

Department of the Air Force

SN 6–473,384 (4,554,416) Date Filed: 03/08/83
Low Voltage Two Wire to Four Wire Telephone Circuit Converter Apparatus
SN 6–473,392 (4,554,543) Date Filed: 03/08/83
Glide Slope Indicator System
SN 6–498,334 (4,555,706) Date Filed: 05/26/83
Simultaneous Nulling in the Sum and Difference Patterns of a Monopulse Radar Antenna
SN 6–505,166 (4,553,457) Date Filed: 06/17/83
Machining a Cooled Cylindrical Optic to Compensate for Pressure Distortion
SN 6–515,240 (4,553,435) Date Filed: 07/19/83
Elevated Transient Temperature Leak Test for Unstable Microelectronic Packages
SN 6–536,142 (4,554,544) Date Filed: 09/26/83
Diffuse Incandescent Runway Marker Light Apparatus for Overt/Covert Operation
SN 6–541,820 (4,555,770) Date Filed: 10/13/83
Charge-Coupled Device Gaussian Convolution Method
SN 6–559,561 (4,546,268) Date Filed: 12/08/83
Narrow Pulsewidth Pulse Generator Circuit Utilizing NPN Microwave Transistors
SN 6–566,753 (4,555,079) Date Filed: 12/28/83
Multiple Jet Blowing Around the Blunt Trailing Edge of a Circulation Controlled Airfoil
SN 6–569,642 (4,555,708) Date Filed: 01/10/84
Dipole Ring Array Antenna for Circularly Polarized Pattern
SN 6–579,625 (4,554,024) Date Filed: 02/13/84
Method for Preparing an Improved Pitch Impregnant for a Carbon-Carbon Composite
SN 6–586,956 (4,551,153) Date Filed: 03/07/84
Fuel Vapor Generator
SN 6–758,927 Date Filed: 07/25/85
Precision Guided Antiaircraft Munition
SN 6–763,575 Date Filed: 08/08/85
Fiber Optic Pyrometry with Large Dynamic Range
SN 6–763,578 Date Filed: 08/08/85
Transient Detector Apparatus
SN 6–767,446 Date Filed: 08/20/85
Low Pass II Section Digital Phase Shifter Apparatus
SN 6–767,454 Date Filed: 08/20/85
T-Section Digital Phase Shifter Apparatus
SN 6–767,455 Date Filed: 08/20/85
II-Section Digital Phase Shifter Apparatus
SN 6–767,578 Date Filed: 08/20/85
A Low Pass T-Section Digital Phase Shifter Apparatus
SN 6–767,923 Date Filed: 08/21/85
An Improved Process for Preparing Pentafluorotellurium Hypofluorite
SN 6–788,188 Date Filed: 10/16/85
Modulated Optical Energy Source
SN 6–788,199 Date Filed: 10/17/85
Timed Primate Roto-Positioner
SN 6–792,373 Date Filed: 10/29/85
Fire Control Apparatus for a Lasser Weapon
SN 6–793,811 Date Filed: 11/01/85
Microprocessor Controlled RF Modulator Apparatus
SN 6–793,812 Date Filed: 11/01/85
Sinusoidal Determination of Limiting Optical Resolution
SN 6–795,400 Date Filed: 11/06/85
Apparatus for Scanning and Measuring the Near-Field Radiation of an Antenna
SN 6–795,571 Date Filed: 11/12/85
Autonomous Synchronization of a Bistatic Synthetic Aperture Radar (SAR) System
SN 6–795,572 Date Filed: 11/06/85
Hybrid Single Crystal Optic Fibers
SN 6–796,125 Date Filed: 11/08/85
NF_3 Combustor for Cylindrical Laser
SN 6–798,042 Date Filed: 11/14/86
Improved Bolt Frame Construction

Department of the Army

SN 6–771,981 Date Filed: 09/03/85
Silver Sulfonamide-Complexes of Diamines as Antimicrobial Agents
SN 6–777,068 Date Filed: 09/17/85
Process for the Preparation of Detoxified Polysaccharide-Outer Membrane Protein Complexes, and Their Use as Antibacterial Vaccines
SN 6–797,345 Date Filed: 11/12/85
Dual Plane Transient Voltage Suppression Device Assembly
SN 6–801,023 Date Filed: 11/22/85
Afterburning Reduction
SN 6–801,024 Date Filed: 11/22/85
Filtering Transient Voltage Suppression Device Assembly

Department of the Interior

SN 6–502,034 (4,554,822) Date Filed 06/07/83
Plugging Factor Monitor Unit
SN 6–644,303 (4,552,730) Date Filed 08/27/84
Recovery of Titanium from Perovskite Using Sulfuric Acid Leaching

Department of Health & Human Sevices

SN 6–186,735 (4,359,457)
Anti Thy 1.2 Monoclonal Antibody-Ricin Hybrid Utilized as a Tumor Suppressant
SN 6–199,781 (4,356,117)
Chemical Modifications of Proteins Which Induce New Receptor Specificities and Therefore Elicit New Effects in Cells
SN 6–341,572 (4,397,843)
Mannose-b-Phosphate-Low Density Protein Reagent Effective Against Hypercholesterolemia
SN 6–350,222 (4,520,011)

Inactivating Protein Synthesis by Incubating Anti-Thy 1.1-Ricin A Chain Monoclonal Antibody Hybrids with Target Protein Cells

SN 6-350,223 (4,440,747)

Monoclonal Antibody-Ricin Hybrids as a Treatment of Murine Graft-Versus-Host Disease

SN 6-399,257 (4,500,637)

Prevention of Graft Versus Host Disease Following Bone Marrow Transplantation

SN 6-456,401

Improved Protocol for the Treatment of Graft Versus Host Disease.

[FR Doc. 86-4295 Filed 2-27-86; 8:45 am]
BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing an Import Restraint Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea

February 25, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on March 3, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Governments of the United States and the Republic of Korea have agreed, under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1982, as amended, to establish a specific limit for braided and non-braided luggage of man-made fibers in Category 670pt. (only T.S.U.S.A. numbers 706.3420, 706.4144 and 706.4152) with sublimits for braided (T.S.U.S.A. number 706.3420) and non-braided luggage (T.S.U.S.A. numbers 706.4152 and 705.4144), produced or manufactured in Korea and exported during the period which began on January 1, 1986 and extends through December 31, 1986. Accordingly, in the letter which follows this notice the Chairman of CITA directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Category 670 in excess of the designated restraint limits. Growth amounting to 2.5 percent per year will be applied for the duration of the agreement. Swing will not be available.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), Novmeber 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 25, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 18, 1985, which directed you to prohibit entry for consumption and withdrawal from warehouse for consumption of certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Effective on March 3, 1986, the directive of December 18, 1985 is hereby amended to include the following import restraint limits for man-made fiber textile products in Category 670:

Category	12-Mo restraint limit [1]
670 pt [2]	26,000,000 pounds of which not more than 24,750,000 pounds shall be in T.S.U.S.A. numbers 706.4152 and 706.4144 and not more than 1,250,000 pounds shall be in T.S.U.S.A. number 706.3420.

[1] The limit has not been adjusted to reflect any imports exported after December 31, 1985.
[2] For Category 670, only TSUSA numbers 706.3420, 706.4144, and 706.4152.

Man-made fiber textile products in TSUSA 706.3420 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Adjusting the Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on February 24, 1986. For further information contact Nathaniel Cohen, Trade Reference Assistant, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated May 24, 1985 (See 50 FR 21923) established restraint limits for specified categories of cotton, wool and man-made fiber textile products, including women's girls' and infants' cotton shirts and blouses in Category 341, men's and boys' other coats of man-made fibers in Category 634, and women's, girls' and infants' man-made fiber coats in Category 635, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on June 1, 1985 an extends through May 31, 1986. In the CITA directive published below the limit for Category 341 is being increased to 526,939 dozen to account for carryover and swing according to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983 between the Governments of the United States and Sri Lanka. The limits for Categories 634 and 635 are being reduced to 110,867 dozen and 173,072 dozen, respectively, to account for the swing applied to Category 341.

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 (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 24, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of May 24, 1985 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Sri Lank.

Effective on February 24, 1986, you are directed to adjust the restraint limits established for the following categories in the directive of May 24, 1985 to the limits indicated, according to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983 between the Governments of the United States and Sri Lanka:[1]

Category	Adjusted 12-mo limit (dozen) [1]
341	526,939
634	110,867
635	173,072

[1] The limits have not been adusted to account for any imports exported after May 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-4374 Filed 2-27-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Summer Study on Theater Air Defense; Meetings

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Summer Study on Theater Air Defense will meet closed session on 20–21 March, 15–16 April, 13 May 1986 and 11–12 June in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Summer Study will examine current U.S. air defense capabilities in Europe, joint plans and organizations, and relevant new technology and equipment.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matter listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

February 24, 1986.

[FR Doc. 86-4335 Filed 2-27-86; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Electronic Warfare; Meetings

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Electronic Combat will meet in closed session on 27 March, 23 April and 7 May 1986 in the Pentagon, Arlington, Virginia

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will examine current electronic warfare technical issues, vulnerabilities of U.S. systems, and the means of countering the effects of these technologies.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matter listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

February 24, 1986.

[FR Doc. 86-4333 Filed 2-27-86; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on FOFA (Defensive Systems, Subgroup); Meetings

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on FOFA (Defensive Systems Subgroup) will meet in closed session on 26 March 1986 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on 26 March 1986 the Subgroup will discuss the application of technology to systems designed to improve future U.S. air defense capabilities.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

February 24, 1986.

[FR Doc. 86-4334 Filed 2-27-86; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Airborne Reconnaissance; Meetings

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Airborne Reconnaissance will meet in closed session on 19–20 March, 7–8 May, 24–25 June, 20–21 August and 16–17 September 1986 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will examine

[1] The agreement provides, in part, that (1) specific limits may be exceeded by designated percentages, provided an equal amount in equivalent square yards is deducted from another specific limit; (2) specific limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

the technical and programmatic aspects as well as conceptual applications of the capabilities and systems to accomplish airborne reconnaissance.

In accordance with section 10(d) of the Federal Advisory committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

February 24, 1986

[FR Doc. 86–4332 Filed 2–27–86; 8:45 am]

BILLING CODE 3810-01-M

Renewal of Advisory Committees

Under the provisions of Pub. L. 92–463, "Federal Advisory Committee Act," notice is hereby given that the Department of Defense Advisory Committees listed below have been found to be in the public interest in conneciton with the performance of duties imposed on the Department of Defense by law. These committees are being renewed for two years effective February 28, 1986.

Office of the Secretary of Defense

Advisory Group of Electron Devices; Board of Visitors, Defense Systems Management College; Board of Visitors, Equal Opportunity Management Institue; Defense Advisory Committee on Military Personnel Testing; Defense Advisory Committee on Women in the Services; Defense Science Board; DoD Wage Committee.

Organization of the Joint Chiefs of Staff

Board of Visitors, National Defense University; Scientific Advisory Group of the Joint Strategic Target Planning Staff.

Army

Armed Forces Epidemiological Board; Army Advisory Panel on ROTC Affairs; Army Science Board; Command and General Staff College Advisory Committee; Department of the Army Historical Advisory Committee; Environmental Advisory Board, Chief of Engineers; Scientific Advisory Board, Armed Forces Institute of Pathology; US Army Medical Research and Development Advisory Committee.

Navy

Academic Advisory Board to the Superintendent, US Naval Academy; Board of Advisors to the President, Naval War College; Board of Advisors to the Superintendent, Naval Postgraduate School; Chief of Naval Operations Executive Panel Advisory Committee; Naval Research Advisory Committee; Navy Resale System Advisory Committee; Secretary of the Navy's Advisory Board on Education and Training; Secretary of the Navy's Advisory Committee on Naval History.

Air Force

Advisory Committee on the Air Force Historical Program; Air University Board of Visitors; Community College of the Air Force Advisory Committee; USAF Scientific Advisory Board.

Defense Nuclear Agency

Scientific Advisory Group of Effects.

Defense Intelligence Agency

Defense Intelligence Agency Advisory Committee.

Defense Communications Agency

Defense Communications Agency Scientific Advisory Group.

National Security Agency

National Security Agency Advisory Board; Public Cryptography Advisory Committee (PCAC).

Patricia Means,

OSD Federal Register Liaison Officer, Department of Defense.

February 21, 1986

[FR Doc. 86–4331 Filed 2–27–86; 8:45 am]

BILLING CODE 3810-01-M

Agency Information Collection Under OMB Review

ACTION: Public Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

REVISION OF A CURRENTLY APPROVED COLLECTION

Youth Attitude Tracking Study II (YATS II)

Determines/evaluates knowledge of and attitudes toward military service of Americans, 16–24 years of age. Provides annual cross-sectional data on propensity to serve and on other key issues for trend analyses. Used by DoD Components to develop recruiting strategies, incentive programs, advertising strategies, Congressional testimony, resource allocation and special studies. Responses, 10,000; Burden hours, 5,050.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building Washington, DC 20503, and Mr. Daniel Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302, telephone (202) 746–0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD (FM&P), Room 3C800, Pentagon, Washington, DC 20301–4000, telephone (202) 695–0643. This collection is not for contract.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

February 25, 1986.

[FR Doc. 86–4392 Filed 2–27–86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 20, 1985.

The site for the meeting of the USAF Scientific Advisory Board Ad Hoc Committee on Unmanned Air Reconnaissance Vehicles, previously scheduled for Wright-Patterson AFB, OH, March 11–13, 1986, has been changed to the ANSER Corporation, Crystal Gateway 3, Suite 800, 1215 Jefferson Davis Highway, Arlington, Virginia.

As previously announced, this meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–4296 Filed 2–27–86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Application for Establishment of an Army Senior Reserve Officers' Training Corps Unit, College level institutions desiring to host an Army ROTC unit must complete the DA Form 918 to make application and commit themselves to an agreement with the US Army. Responses: 16. Burden hours: 160.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0993.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Ms. Angela R. Petrarca, DAIM–ADI–M, Room 1C638, The Pentagon, Washington, DC 20310–0700, telephone (202) 695–1671.

February 25, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer.

[FR Doc. 86–4327 Filed 2–27–86; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Request for Army Reserve Retirement Pay, DA Form 4240.

The information provided on DA Form 4240, enables the Army to process requests for retirement pay from Army reservists not on active duty at age 60. Retired Army reservists, Responses: 5,000. Burden hours: 1,500.

ADDRESS: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0993.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Ms. Angela R. Petrarca, DAIM–ADI–M, Room 1C638, The Pentagon, Washington, DC 20310–0700, telephone (202) 695–1671.

February 25, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86–4328 Filed 2–27–86; 8:45 am]

BILLING CODE 3810-01-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: Monday & Tuesday, 17–18 March 1986

Times of Meeting: 0830–1630 hours (Mon), 0830–1600 hours (Tue)

Places: Ballistic Research Laboratory, APG, Maryland

Agenda: The Army Science Board AHSG on Ballistic Research Laboratory Effectiveness Review will visit the cite 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. 86–4516 Filed 2–27–86; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Public Information Collection Requirement Submitted to OMB for review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) As estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Final Accounting Report by Trustee of Incompetent Navy Personnel, NAVJAG 5800/13, NAVJAG 5800/13A.

The information provided by the report is used by the Fiduciary Affairs Branch, Civil Affairs Division to monitor the proper expenditure of trustee funds. Lack of such information would prevent proper monitoring of the expenditure of trustee funds. Individuals Responses 600, Burden hours 1,200.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503 and Mr. Daniel J. Vitiello, DOD Clearance, Officer, WHS/DIOR, 1215 Jefferson-Davis Highway, Suite 1204, Arlington, VA 22202–4302, telephone (202) 746–0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Ms. Valeria Childress, Department of the Navy, Judge Advocate General, 200 Stovall Street, Alexandria, Virginia 22332, (202) 325–9752.

February 24, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86–4330 Filed 2–27–86; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

Advisory Council on Education Statistics (ACES); Meeting

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: March 17–18, 1986.

ADDRESS: 1200 19th Street, NW., Room 823, Washington, D.C., 20208.

FOR FURTHER INFORMATION CONTACT: Iris Silverman, Executive Director, Advisory Council on Education Statistics, 1200 19th Street, NW. (Brown Building), Room 600–D, Washington, D.C. 20208. Telephone: (202) 254–5284.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the Center for Statistics (CS) in the Office of Educational Research and Improvement and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council is open to the public. The proposed agenda includes the following:

- A symposium on standards.
- A discussion of elementary and secondary school data redesign.
- A discussion of *The Condition of Education*, 1986 Edition.
- Such old and new business as the Chairman or membership may put before the Council.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 1200 19th Street, NW. (Brown Building), Room 600–D, Washington, D.C. 20208.

Dated: February 21, 1986.

Chester E. Finn, Jr.,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 86–4313 Filed 2–27–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA C&E–85–035; OFP Case No. 65003–9294–01,02–12]

Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978; Occidental Chemical Corp.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order Granting to Occidental Chemical Corporation an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On September 30, 1985, Occidental Chemical Corporation (Occidental) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) seeking a permanent exemption for a major fuel burning installation (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, (FUA or the Act), which prohibit the use of petroleum and natural gas as a primary energy source in certain new MFBI's. The procedure for petitioning and criteria for an exemption from the prohibitions of FUA are contained in 10 CFR Parts 500, 501 and 503 published on June 6, 1980, at 45 FR 38276 and 38302.

Occidental requested a permanent fuels mixture exemption in order to burn petroleum and natural gas in a mixture with a methane-rich by-product stream. The stream will be an unavoidable by-product of the cracking process used to produce ethylene and propylene from the feedstocks ethane and propane. The mixture will be utilized in two (2) new package boilers to be erected at Occidental's Lake Charles, Louisiana, plant which is part of a petrochemical complex acquired from Cities Service Company and inactive since the beginning of 1982.

Pursuant to section 212(d) of the Act, and 10 CFR 503.38, and subject to specified terms and conditions stated herein, ERA hereby issues this order granting a permanent fuels mixture exemption to Occidental to permit the use of petroleum and natural gas in a mixture with a methane-rich by-product stream in their two (2) new boilers designated as Boiler #1 and Boiler #2. As specified in the terms and conditions, the amount of petroleum and natural gas used in the exempted units shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in each unit.

In accordance with section 702(a) of FUA, this order shall take effect on April 29, 1986.

FOR FURTHER INFORMATION CONTACT:

George C. Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA–045, Washington, D.C. 20585, Telephone: (202) 252–1774

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone: (202) 252–6947

The public file containing a copy of this Order as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E–190, Washington, D.C. 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m. except Federal holidays.

SUPPLEMENTARY INFORMATION: Under the authority of section 212(d) of the Act, 10 CFR 503.38 sets forth eligibility

criteria and evidentiary requirements governing a permanent exemption for the use of petroleum or natural gas in a mixture with alternate fuels. Under 10 CFR 503.38(d), a certification alternative is available for MFBI's which will not burn more than 25 percent petroleum or natural gas in a mixture with an alternate fuel. Occidental utilized the certification alternative in its permanent fuels mixture exemption petition.

In accordance with the procedural requirements of FUA and 10 CFR 503.3(d), ERA published notice of its acceptance of Occidental's petition in the Federal Register on November 15, 1985, at 50 FR 47252. The notice of acceptance provided a 45-day comment period during which interested persons could submit written comments on the petition for exemption or could request that a public hearing be convened. The period expired on December 30, 1985.

No comments were received on ERA's acceptance of Occidental's petition nor was a public hearing requested.

As required by section 701 (f) and (g) of the Act, ERA provided copies of Occidental's petition to the Environmental Protection Agency and the Federal Trade Commission for their comments. No comments were received from those agencies.

Decision and Order

Based upon review of the entire record of this proceeding, ERA has determined that Occidental has satisfied the certification requirements of 10 CFR 503.38(d). Therefore, pursuant to section 212(d) of the Act, and subject to the terms and conditions stated below, ERA hereby grants Occidental a permanent fuels mixture exemption to permit the use of petroleum and natural gas in a mixture with methane-rich by-product stream. The total amount of petroleum and natural gas used in the exempted units shall not exceed 25 percent of the total annual Btu heat input of the primary energy sources used in each unit.

Terms and Conditions

Section 214(a) of FUA and 10 CFR 503.12(a) provide ERA the authority to attach terms and conditions to any order granting an exemption. Accordingly, this order is granted subject to the following terms and conditions.

(1) The amount of petroleum and/or natural gas to be used in a mixture with an alternate fuel in Boiler #1 and Boiler #2 will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of those units.

(2) Prior to operating the boilders under this exemption, Occidental will secure applicable environmental permits and approvals pursuant to, but not limited to, the following: Clean Air Act, Clean Water Act, Rivers and Harbors Act, Coastal Zone Management Act and the Resource Conservation and Recovery Act.

Effectiveness of Order

This order shall take effect on April 29, 1986.

Judicial Review

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review in the United States Court of Appeals for the circuit wherein such person resides, or has his principal place of business, at any time before the 60th day after the date of publication of this order in the Federal Register.

Issued in Washington, D.C. on February 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-4335 Filed 2-27-86; 8:45 am]

BILLING CODE 6450-01-M

Eton Trading Corp. and Eton Enterprises, Inc.; Amended Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of an Amended Proposed Remedial order which was issued to Eton Trading Corporation and Eton Enterprises, Inc. This Proposed Remedial Order alleges pricing violations in the amount of $9,182,412.70 plus interest in connection with the purchase and resale of crude oil during the period June 1980 through December 1980.

A copy of the Amended Proposed Remedial Order, with confidential information deleted, may be obtained from the Office of Freedom of Information Reading Room; U.S. Department of Energy; Forrestal Building, Room 1E-190; 1000 Independence Avenue SW.; Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals; U.S. Department of Energy; Forrestal Building, Room 6F-078; 1000 Independence Avenue SW.; Washington, DC 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 14th day of January, 1986.

Ben Lemos,

Director, Office of Field Operations, Dallas Economic Regulatory Administration.

[FR Doc. 86-4423 Filed 2-27-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-029; OFP Case No. 55080-9289-20-24]

Powerplant and Industrial Fuel Use; Crown Zellerbach Corp.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order Granting to Crown Zellerbach Corporation, Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to Crown Zellerbach Corporation (Crown) ("the petitioner"). The permanent cogeneration exemption permits the use of natural gas or No. 2 fuel oil as the primary energy source for a 45 MW combined cycle cogeneration facility designed to produce electricity and process steam at the Crown papermill facility located in St. Francisville, Louisiana. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on April 29, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Steven Mintz, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, D.C. 20585, Telephone (202)252-9506

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone (202)252-6947

SUPPLEMENTARY INFORMATION: On August 6, 1985, Crown petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas and petroleum in a 45 MW combined cycle cogeneration facility consisting of gas turbine and generator, a heat recovery steam generator and ancillary equipment.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including Crown's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on September 30, 1985 (50 FR 39754), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on November 14, 1985; no comments were received and no hearing was requested.

NEPA compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that Crown has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to Crown to permit the use of natural gas or No. 2 fuel oil as the primary energy source for its papermill cogeneration facility in St. Francisville, Louisiana.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, D.C., on February 21, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-4426 Filed 2-27-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA C&E-86-30; OFP Case No. 51209-9309-20, 21-24]

Powerplant and Industrial Fuel Use; Gulf States Utilities Co

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of acceptance of petition for exemption and availability of certification by Gulf States Utilities Company, for its Louisiana station, Baton Rouge, Louisiana, and a proposed rescission of an order granting a permanent peakload exemption for a prior use portion of that facility.

SUMMARY: On January 14, 1986, Gulf States Utilities Company (GSU), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for a proposed electric powerplant to be located at its Louisiana Station, Baton Rouge, Louisiana, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. § 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

The proposed powerplant, for which the petition was filed and GSU is planning to construct, is a cogeneration facility at the existing Louisiana Station powerplant in Baton Rouge, Louisiana. The facility will consist of two gas turbine electric generating units, each with an associated heat recovery steam generator (HRSG). The fuels for the gas turbine/HSRG units will be natural gas and process gas from the adjacent Exxon refinery/chemical plant complex. The units will provide electric energy and steam to the Exxon Complex. The cogeneration facility is referred to as the "Gas Turbine/HRSG Project".

One of the gas turbine units for the project will be an existing Westinghouse Model 501D5 gas turbine unit, which will be moved from its current location at GSU's Roy S. Nelson Station in Westlake, Calcasieu Parish, Louisiana. This turbine was installed in 1982 as a new peakload powerplant and was granted a Permanent Peakload Exemption under the Fuel Use Act (Docket No. ERA-FC-80-043; ERA Case No. 51209-1393-27-22). At this time, the second turbine unit has not been selected but is expected to be similar in size and configuration. The Gas Turbine/HRSG Project will generate up to 258 megawatts (MW) of electric power (two units, each generating 129 MW) and up to 1,200,000 lb/hr of steam for use at the Exxon Baton Rouge complex. Preliminary engineering for the project has begun, and on site construction is scheduled to begin in October 1986. Disassembly and movement of the existing Westinghouse turbine from Nelson Station to Louisiana Station is expected to begin in mid-1986. Start of operation is scheduled for March 1987.

The petition for exemption was filed with a request that ERA, pursuant to 10 CFR 501.100 *et seq.*, rescind a permanent peakload exemption granted by ERA to GSU on May 18, 1981, applicable to their Roy S. Nelson Station in Westlake, Louisiana. GSU's Request for Rescission is contingent upon the granting by ERA of the permanent exemption for its Louisiana Station pursuant to 10 CFR 501.32. Thus, if ERA determines to deny GSU's petition pursuant to 10 CFR 502.32, ERA will treat the Request for Rescission as withdrawn. However, if ERA grants the petition pursuant to 10 CFR 503.32, the Rescission Order will be effective contemporaneously.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination of the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and

501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E–190, Washington, D.C. 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before April 14, 1986. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA–045, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Docket No. ERA–C&E–86–30 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

George G. Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA–045, Washington, D.C. 20585, Phone (202) 252–1774

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue, SW, Washington, D.C. 20585, Phone (202) 252–6947

SUPPLEMENTAL INFORMATION: GSU proposes to install a cogeneration system at their Louisiana Station, Baton Rouge, Louisiana, which will generate electrical power and produce steam for sale to Exxon's nearby refinery complex. The proposed cogeneration system will be operated by GSU.

The cogeneration facility is classified as an electric powerplant unde FUA because more than 50 percent of its net annual electric generation will be sold.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of §503.37(a)(1), GSU has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), GSU has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact anaylsis, as required under 10 CFR 503.13.

Rescission Request: ERA hereby accepts GSU's Request for Rescission of Permanent Peakload Exemption granted May 18, 1981. GSU's request for rescission is based on its determination that significantly changed circumstances as defined in 10 CFR 501.102(b) exist with respect to the applicability of the Peakload exemption to GSU. Accordingly, pursuant to 10 CFR 501.101(f), GSU has submitted documentation supporting its Request for Rescission.

NEPA Compliance: In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.;* and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) and Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that GSU is entitiled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C., on February 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–4425 Filed 2–27–86; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–C&E–86–13; OFP Case No. 64012–9295–22–24]

Powerplant and Industrial Fuel Use; Klondike Equity Enterprises, Inc.; Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting to Klondike Equity Enterprises, Inc. Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Adminstration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to Klondike Equity Enterprises, Inc. (KEE or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a 27.6 MW (net, approximate) combined cycle cogeneration facility designed to produce electricity and process steam at the Klondike III facility located in Orange County, California. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on April 29, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Steven Mintz, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA–045, Washington, DC 20585, Telephone (202) 252–9506

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue, SW.,

Washington, DC 20585, Telephone (202) 252–6947.

SUPPLEMENTARY INFORMATION: On October 21, 1985, KEE petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in a 27.6 MW (net, approximate) combined cycle cogeneration facility consisting of a gas turbine and generator, a heat recovery steam generator, a steam turbine and generator, an absorption refrigeration package, and ancillary equipment. It is expected that more than 50 percent of the net annual electric power produced by KEE will be sold to San Diego Gas & Electric, making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will also produce thermal energy for an absorption refrigeration system, water heating, and comfort heating system at the adjoining recreational complex.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including KEE's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on November 25, 1985 (50 FR 48459), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on January 9, 1986; no comments were received and no hearing was requested.

Nepa Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that KEE has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to KEE to permit the use of natural gas as the primary energy source for its cogeneration facility at Klondike III in Orange County, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register**.

Issued in Washington, DC, on February 21, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–4427 Filed 2–27–86; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–C&E–86–18; OFP Case No. 64012–9295–23–24]

Powerplant and Industrial Fuel Use; Klondike Equity Enterprises, Inc.; Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting to Klondike Equity Enterprises, Inc., exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to Klondike Equity Enterprises, Inc. (KEE or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the primary energy source for 27.6 MW (net, approximate) combined cycle cogeneration facility designed to produce electricity and process steam at the Klondike V facility located in Santa Ana, California. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on April 29, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Steven Mintz, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–045, Washington, DC 20585, Telephone (202) 252–9506

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue SW., Washington, DC 20585, Telephone (202) 252–6947.

SUPPLEMENTARY INFORMATION: On October 28, 1985, KEE petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in a 27.6 MW (net, approximate) combined cycle cogeneration facility consisting of a gas turbine and generator, a heat recovery steam generator, a steam turbine and generator, an absorption refrigeration package, and ancillary equipment. It is expected that more than 50 percent of the net annual electric power produced by KEE will be sold to Southern California Edison Company, making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will also produce thermal energy for an absorption refrigeration system, water heating, and comfort heating system at the adjoining recreational complex.

Basis For Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including KEE's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil and natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility will not be

technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on December 9, 1985 (50 FR 50197), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on January 23, 1986; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that KEE has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to KEE to permit the use of natural gas as the primary energy source for its cogeneration facility at Klondike V in Santa Ana, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

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

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-4428 Filed 2-27-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 9063-001]

Fluid Energy Systems, Inc.; Surrender of Preliminary Permit

February 21, 1986.

Take notice that Fluid Energy Systems, Inc., Permittee for the proposed West Walker River Power Project No. 9063, has requested that its preliminary permit be terminated. The preliminary permit was issued on August 22, 1985, and would have expired on July 31, 1988. The project would have been located on West Walker River in Mono County, California.

The Permittee filed the request on January 22, 1986, and the preliminary permit for Project No. 9063 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4383 Filed 2-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 7182-000 and 5865-000]

Jerald & Lois Simms, David Cereghino, Availability of Environmental Assessment And Finding of No Significant Impact

February 21, 1986

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission, (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

EXEMPTIONS

Project No.	Project name	State	Water body	Nearest town	Applicant
7182-000	Davis Creek	WA	Davis Creek	Packwood	Jerald & Lois Simms.
5865-000	John Day Creek	ID	John Day Creek	Riggins	David Cereghino.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared.

Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4384 Filed 2-27-86; 8:45 am]

BILLING CODE 6717-01-M

Long Lake Energy Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

[Docket No. QF86-515-000 et al.]

February 21, 1986.

On February 4, 1986, Long Lake Energy Corporation (Applicant), of 420 Lexington Avenue, Suite 440, New York, New York 10170 submitted for filing five (5) applications for certification of facilities as qualifying small power production facilities pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

Each of the hydroelectric small power production facilities location, water resources, FERC project number and electric power production capacity are listed below.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

Docket No.	Location	Resources	FERC Project No.	Capacity
QF86-515-000	Lewis County, NY	Moose River	4349	11.8 MW
QF86-516-000	Jefferson County, NY	Black River	5763	6.0 MW
QF86-517-000	Oswego and Onondaga Counties, NY	Oswego River	4113	4.0 MW
QF86-518-000	Jefferson County, NY	Black River	4715	17.9 MW

[FR Doc. 86-4385 Filed 2-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-145-000, et al.]

Electric Rate and Corporate Regulation Filings; Bangor Hydro-Electric Co. et al.

February 21, 1986.

Take notice that the following filings have been made with the Commission:

1. Bangor Hydro-Electric Company

[Docket No. ER86-145-000]

Take notice that on February 13, 1986, Bangor Hydro-Electric Company (BH) tendered for filing notice of a revised rate schedule. The revision affects the rate schedule filed by BH on November 1, 1985 between BH and Central Vermont Public Service Corporation (CVPS) providing for the sale of non-firm energy by BH to CVPS.

Comment date: March 5, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Boston Edison Company

[Docket No. ER86-299-000]

Take notice that on *February 14, 1986,* Boston Edison Company (Edison) tendered for filing a supplemental Exhibit A to a Service Agreement for Cambridge Electric Light Company (CEL), under its FERC Electric Tariff, Original Volume No. III, Non-Firm Transmission Service (the Tariff). The Exhibit A specifies the amount and duration of transmission service required by CEL under the Tariff.

Edison requests waiver of the Commission's notice requirements to permit the Exhibit A to become effective as of the commencement date of the transaction to which it relates, December 1, 1985.

Edison states that it has served the filing on Cambridge Electric Light Company and the Massachusetts Department of Public Utilities.

Comment date: March 6, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Central Hudson Gas & Electric Corporation

[Docket No. ER86-306-000]

Take notice that Central Hudson Gas & Electric Corporation (Central Hudson) on Feb. 18, 1986 tendered for filing as a supplement to its Rate Schedule FERC No. 22 a letter of agreement and notification dated January 27, 1986 between Central Hudson and New York State Electric and Gas Corporation. Central Hudson states that this letter provides for a decrease in the monthly facilities charge from $6,981.25 to $6,903.08 in accordance with Article IV.1 of its Rate Schedule FERC No. 22, a decrease in the monthly Transmission Charge from $5,860.55 to $5,675.81 in accordance with Articles V and VI of its Rate Schedule FERC No. 22 and an increase in the annual Operation and Maintenance Charge from $3,237.42 to $3,402.53 in accordance with Article IV.2. of its Rate Schedule FERC No. 22. Central Hudson requests waiver of the notice requirement of Subsection 35.3 of the Commission's Regulations to permit this proposed increase to become effective January 1, 1986.

Copies of filing by Central Hudson were served upon: New York State Electric and Gas Corporation, 4500 Vestal Parkway, East, Binghamton, NY 13902.

Comment date: March 6, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Commonwealth Edison Company

[Docket No. ER86-163-001]

Take notice that on January 30, 1986, Commonwealth Edison Company (Edison) tendered for filing six copies of the previously filed Rate 78B, Wholesale Service and Rider 8A, Allowance for Customer-owned Transformers and Rider 19, Industrial Development, as currently available to qualifying industrial customers in its retail service area. This filing was made pursuant to Commission order dated January 3, 1986 in Docket No. ER86-163-000.

Comment date: March 5, 1986, in accordance with Standard Paragraph H at the end of this notice.

5. Montaup Electric Company

[Docket No. ER86-288-000]

Take notice that on Feb. 14, 1986 Montaup Electric Company ("Montaup" or "the Company") tendered for filing amendments to its fuel adjustment clause applicable to all-requirements service to its affiliates Eastern Edison Company ("Eastern Edison") in Massachusetts and Blackstone Valley Electric Company ("Blackstone") in Rhode Island and contract demand service to three non-affiliated customers: The Town of Middleborough in Massachusetts and Pascoag Fire District and Newport Electric Corporation in Rhode Island. The amendments provide for treatment of test power from the Millstone No. 3 and Seabrook No. 1 generating units in accordance with *Pennsylvania Power & Light Company,* Docket Nos. ER82-493-000 and ER82-494-000, Opinion No. 170, 23 F.E.R.C. ¶ 61,395 (June 22, 1983). The effect of this treatment and associated accounting is to defer the flow-through of fuel cost savings from each unit until the unit goes into commercial service and, thereafter, to pass the savings through to ratepayers over the service life of the unit. The customers, however, receive a current pass through of savings to the extent construction work in progress ("CWIP") in each unit is included in rate base.

The savings will begin to occur at Millstone No. 3 and Seabrook No. 1 whenever net positive amounts of test energy are generated. This is expected to occur for a period of a month or more preceding the commercial operation

date of each unit. Millstone No. 3 is currently scheduled to enter commercial service on May 1, 1986 but the schedule may be advanced. Seabrook No. 1 is presently scheduled to enter commercial service on November 1, 1986.

The Company requests that the present filing be made effective whenever net positive test generation occurs at Millstone No. 3. The Company will notify the Commission promptly when that event occurs.

The Company's filing has been served on the affected customers, the Massachusetts Department of Public Utilities and the Rhode Island Department of Public Utilities and Carriers.

Comment date: March 6, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Niagara Mohawk Power Corporation

[Docket No. ER86-298-000]

Take notice that Niagara Mohawk Power Corporation (Niagara), February 14, 1986, on tendered for filing as a rate schedule, an agreement between Niagara and the Power Authority of the State of New York (PASNY) dated December 12, 1985.

Niagara presently has on file an agreement with PASNY dated January 25, 1956. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. No. 38. This new agreement is being transmitted as a supplement to the existing agreement.

The original January 25, 1956, agreement states that Niagara will provide transmission for the Power Authority of the State of New York to effect the delivery of electric power and energy to the State of Vermont, the city of Plattsburg, and the U.S. Air Force base at Plattsburgh.

This supplement revises the rate for transmission as provided for in terms of the original agreement. Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of January 1, 1986.

Copies of the filing were served upon the following:

Power Authority of the State of New York, 10 Columbus Circle, New York, NY 10019

Public Service Commission, State of New York, Three Rockefeller State Plaza, Albany, NY 12223.

Comment date: March 6, 1986, in accordance with Standard Paragraph E at the end of this document.

Niagara Mohawk Power Corporation

[Docket No. ER86-308-000]

Take notice that Niagara Mohawk Power Corporation (Niagara), on February 18, 1986 tendered for filing as a rate schedule, an agreement between Niagara and Long Island Lighting Co. (LILCO) dated May 15, 1985.

Niagara presently has on file an agreement with LILCO dated February 14, 1975 last amended October 1, 1984. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. No. 91 with Supplement 6. The new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the transmission rate for transmitting FitzPatrick power and energy from the Power Authority of the State of New York to Long Island as provided for in the terms of the original agreement. Niagara requests the Commission to allow said agreement to become effective as of September 1, 1985.

Copies of this filing were served upon the following:

Long Island Lighting Company, 250 Old Country Road, Mineola, NY 11501

Public Service Commission, State of New York, Three Rockefeller State Plaza, Albany, NY 12223.

Comment date: March 6, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Southwestern Electric Power Company

[Docket No. ER86-304-000]

Take notice that on February 18, 1986, Southwestern Electric Power Company ("SWEPCO"), with the concurrence of the City of Siloam Springs, Arkansas ("Siloam Springs"), tendered for filing proposed rate increases applicable to Siloam Springs. The proposed changes would increase revenues from jurisdictional sales by $53,000 based on a test year ended March 31, 1986. The rate increase is intended to compensate SWEPCO for its investment and expenses with respect to placing SWEPCO's new generating plant, Dolet Hills Unit No. 1 in rate base in the spring of 1986. SWEPCO requests an effective date of March 1, 1986, and accordingly, seeks waiver of the notice requirements of the Federal Power Act.

Copies of the filing have been served on Siloam Springs and on the Arkansas Public Service Commission.

Comment date: March 6, 1986, in accordance with Standard Paragraph E at the end of this document.

9. Southern California Edison Company

[Docket No. ER86-307-000]

Take notice that, on February 18, 1986, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following agreement, which has been executed by Edison and Deseret Generation and Transmission Co-operative ("Deseret").

EDISON-DESERET
ECONOMY ENERGY AGREEMENT
("AGREEMENT")

Under the terms of the Agreement, Economy Energy may be sold by one Party and purchased by the other Party to make more efficient use of the Parties' electrical systems.

Edison requests, to the extent necessary, Waiver of Notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: March 6, 1986, in accordance with Standard Paragraph E at the end of this document.

10. Public Service Company of Colorado

[Docket No. ER86-286-000]

Take notice that Public Service Company of Colorado (Public Service) on February 6, 1986 tendered for filing a proposed change in its Power Purchase and Interchange Agreement (Agreement) with Colorado-Ute Electric Association, Inc. (Colorado-Ute). Public Service states that the proposed change is a Supplement to Public Service's Agreement with Colorado-Ute, dated April 30, 1982, on file with the Commission under Public Service's FERC Rate Schedule No. 37.

Public Service states that the Supplement to the Agreement with Colorado-Ute provides for the elimination of the Stockade delivery point and for various increases and reductions in load at the other delivery points.

Public Service states that copies of the filing were served upon all parties to the Agreement and affected state commissions.

Comment date: March 6, 1986, in accordance with Standard Paragraph E at the end of this notice.

11. Puget Sound Power and Light Company

[Docket No. ER86-303-000]

Take notice that Puget Sound Power & Light Company of Bellevue, Washington (Puget Power), on February 14, 1986, tendered for filing a change in rates applicable to electric service rendered to nine wholesale customers under its

existing Wholesale for Resale Power Contracts. Puget Power's filing would change both of its wholesale rate schedules, one for large customers and the other for small customers. Puget Power states that the proposed changes would increase revenues from the nine wholesale customers by $215,313 based on the twelve-month period ending December 31, 1984.

Puget Power states that proposed rate increase is necessary in order to recover a portion of the $464,934 overall revenue deficiency which exists.

Copies of the filing were served upon Puget's wholesale customers.

Comment date: March 6, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4387 Filed 2-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-286-000, et al.]

Natural Gas Certification Filings; Northwest Central Pipeline Corp. et al.

February 21, 1986.

Take notice that the following filings have been made with the Commission:

1. Northwest Central Pipeline Corporation

[Docket No. CP86-286-000]

Take notice that on January 23, 1986, Northwest Central Pipeline Corpration (Application), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP86-286-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 25,000 Mcf of gas per day with Pacific Gas and Electric Company (PG&E), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to exchange up to 25,000 Mcf of gas per day which it proposes to gather for PG&E in the Northeast Wamsutter area in Sweetwater and Carbon Counties, Wyoming, by causing thermally equivalent volumes of gas to be delivered to Northwest Pipeline Corporation in the Moxa area in Lincoln County, Wyoming, for redelivery to PG&E.

It is explained that Applicant and PG&E have entered a twenty-year gas gathering and exchange agreement dated December 31, 1979, as amended, and that the exchange of gas would be made on a thermally equivalent basis, free of transportation charges to either party. It is stated that under the agreement PG&E would pay applicant its cost of service for gathering such gas.

It is further explained that Applicant would have Northwest gather gas for it in the Moxa area and that, after being gathered, such gas would be transported by Northwest for PG&E and delivered to its market area. It is stated that PG&E has entered into such a transportation agreement with Northwest.

Applicant further requests authorization to file annually tariff revisions by January 31 of each year reflecting any changes, additions or deletions, of delivery points.

Comment date: March 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Panhandle Eastern Pipe Line Compny

[Docket No. CP86-298-000]

Take notice that on January 30, 1986, Panhandle Eastern Pipe Line Company (Panhandle), 3000 Bissonnet, Houston, Texas 77251-1642, filed in Docket No. CP86-298-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to a small local general service customer, the City of Sunray Utilities (Sunray), in Texas and the construction and operation of certain related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sunray currently is purchasing gas from Panhandle pursuant to an emergency sale initiated December 12, 1985, for sixty days, it is explained. Panhandle further states that such sale is concurrently being extended from February 11, 1986, to April 10, 1986. Panhandle contends that Sunray is experiencing a rapid decline in production from its well supply and has requested to purchase up to 1,500 Mcf maximum daily quantity of gas on a long-term basis, as an alternative source of gas supply to avoid any interruption of service to its customers upon expiration of the emergency sale. Sunray would purchase the gas from Panhandle under its Rate Schedule SG-3, for a primary term ending October 31, 1993, it is asserted.

Panhandle also requests authorization to construct and operate measuring and regulating facilities at an estimated cost of $15,000, to effectuate the proposed deliveries. Panhandle also indicates that the volumes requested would not have substantial impact on its other customers.

Comment date: March 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP86-251-001]

Take notice that on February 3, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86-251-001 an amendment to its pending application filed in Docket No. CP86-251-000 pursuant to section 7(c) of the Natural Gas Act so as to request authorization to (1) increase sales of natural gas on an interim daily basis to two of Applicant's existing resale customers, Consolidated Edison Company of New York, Inc. (Con Ed), and Boston Gas Company (Boston Gas), and/or transport of identical volumes at the resale customers' option and (2) construct and operate facilities necessary to deliver these volumes, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that the increased natural gas service obligation for these resale customers would total 15.460 million cubic feet of natural gas per day (Mcfd). It is explained that the resale customers proposed associated sales/transportation volumes are 5,000 Mcfd for Con Ed and 10,460 Mcfd for Boston

Gas. Applicant states these resale customers are currently stockholders/members of Boundary Gas, Inc. (Boundary), and that all deliveries would be made at its existing delivery points.

Applicant states that the proposed service would be provided under the same terms and conditions as proposed in Docket No. CP86–251–000. Specifically, Applicant proposes that interim sales and/or transportation service would continue only until firm deliveries commence of Canadian gas to these customers from Boundary through facilities for which authorization is sought in Docket No. CP81–107–000, *et al.* Applicant states that the sales would be made at its existing Rate Schedule CD–5 or CD–6 rates and asserts that these rates would not materially change as a result of this application. It is further stated that rates for interim transportation service charged in lieu of sales service rates would be Applicant's generally applicable transportation rates for comparable service, but not less than the sum of the demand and non-gas commodity components of Applicant's Rate Schedule CD–5 or CD–6 rates (plus fuel). After the proposed interim service ends, Applicant proposes that the facilities constructed for the interim sales and/or transportation service would be used to transport Boundary gas volumes. Applicant explains that transportation rates for the firm transportation of Boundary gas volumes would be calculated to return the incremental cost of the facilities constructed to perform it, including the undepreciated cost of facilities constructed for the interim natural gas service proposed herein.

To accomplish the proposed increased deliveries, Applicant proposes to construct and operate 13.7 miles of 30-inch mainline loop in New York, Pennsylvania and Massachusetts and to replace 5.1 miles of lateral or delivery pipeline in Massachusetts. Applicant says that no additional compression is required to perform the service. Applicant estimates the total costs of these facilities to be $17,456,000.

Comment date: March 14, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Wisconsin Gas Company

[Docket No. CP86–297–000]

Take notice that on January 30, 1986, Wisconsin Gas Company (Applicant), 626 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, filed in Docket No. CP86–297–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon an arrangement to sell to and exchange natural gas with Northern States Power Company—Wisconsin (NSP-Wisconsin) in return for half the equivalent volume of liquefied natural gas (LNG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant reports that it entered into a sale and exchange agreement with NSP-Wisconsin on July 16, 1973, whereunder Applicant would take LNG from NSP-Wisconsin and would deliver twice the equivalent volumes of vaporous natural gas back to NSP-Wisconsin in exchange, using the facilities of Midwestern Gas Transmission Company (Midwestern) and ANR Pipeline Company (ANR) to ship the gas. It is explained that to perform its own portion of this exchange arrangement, ANR executed a separate contract with Midwestern and ANR on August 30, 1973, as amended on June 1, 1978, and on March 31, 1983.

Applicant reports that on September 18, 1985, it entered into a new agreement with NSP-Wisconsin, which provided that Applicant would now purchase LNG from NSP-Wisconsin for cash in lieu of vaporous natural gas. This new arrangement would replace the previously-certificated sale and exchange arrangement, which expired of its own terms on March 31, 1984, says Applicant.

Applicant states that in conformity with the above transactions, it also executed an agreement with Midwestern and ANR on December 2, 1985, terminating their own extant exchanges as of that date.

Applicant notes that NSP-Wisconsin filed an application on October 23, 1985, in Docket No. CP76–84–002, requesting authorization to sell LNG to Applicant for cash in accordance with their new contract. It is further indicated that on January 14, 1986, Midwestern filed a petition in Docket No. CP86–267–000 for permission and approval to abandon its gas exchange arrangement with Wisconsin Gas and ANR.

Applicant also requests that its operations continue to be declared exempt from the provisions of the Natural Gas Act, pursuant to section 1(c) thereof.

Comment date: March 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20460, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–4386 Filed 2–27–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP86–47–000]

Northwest Alaskan Pipeline; Tariff Changes

February 21, 1986.

Take notice that on February 11, 1986, Northwest Alaskan Pipeline Company ("Northwest Alaskan"), 295 Chipeta Way, Salt Lake City, Utah 84108–0900, tendered for filing in Docket No. RP86–47 the following tariff sheets to its FERC Gas Tariff Original Volume No. 2:

Second Revised Sheet No. 100
Second Revised Sheet No. 101
Second Revised Sheet No. 110
First Revised Sheet No. 114B
First Revised Sheet No. 114C
First Revised Sheet No. 114D
First Revised Sheet No. 114E
First Revised Sheet No. 114F
First Revised Sheet No. 114G

Original Sheet No. 114H
Original Sheet No. 114I
Second Revised Sheet No. 115
Second Revised Sheet No. 123
Second Revised Sheet No. 150
Second Revised Sheet No. 160
Second Revised Sheet No. 173
Original Sheet No. 173A
Original Sheet No. 173B
Second Revised Sheet No. 176
Second Revised Sheet No. 176A
Original Sheet No. 176B
First Revised Sheet No. 186A

Northwest Alaskan states that it is submitting these sheets to reflect changes in the commodity charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. ("Pan-Alberta") and resold to Northern Natural Gas Company ("Northern") under Rate Schedule X-1.

Northwest Alaskan states that it is submitting the above tariff sheets pursuant to the provisions of the amended purchase agreement dated February 1, 1986, between Northwest Alaskan and Northern.

These changes are beneficial to Northern in that the commodity charges for gas purchased in excess of the minimum daily volume will be substantially reduced.

Northwest Alaskan requests that the above sheets become effective on the date on which all necessary Canadian regulatory approvals have been obtained.

Northwest Alaskan states that a copy of this filing is being served on Northwest Alaskan's customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 28, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4375 Filed 2-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-5-20-002 and TA86-6-20-003]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

February 21, 1986.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on February 12, 1986, tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Substitute Eighth Revised Sheet No. 211
Second Substitute Nineteenth Revised Sheet No. 213
Second Substitute Twentieth Revised Sheet No. 213

Algonquin Gas states that such tariff sheets are being filed to reflect a decrease in its Rate Schedule STB and S-IS Space Charges as reflected in Texas Eastern Transmission Corporation's ("Texas Eastern") underlying Rate Schedule SS-II and ISS-III.

Algonquin Gas requests that the Commission accept Substitute Eighth Revised Sheet No. 211 and Second Substitute Nineteenth Revised Sheet No. 213 to be effective January 1, 1986; and that the Commission accept Second Substitute Twentieth Revised Sheet No. 213 to be effective February 1, 1986.

Algonquin Gas requests that the Commission grant such special permission as may be necessary to adjust the next month's billing subsequent to Commission approval to effectuate the results of the proposed rate changes as of January 1, 1986.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 28, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4376 Filed 2-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5080-002]

Donnie McFadden dba Buckeye Land Co.; Surrender of Exemption

February 21, 1986.

Take notice that Donnie McFadden dba Buckeye Land Company, Exemptee for the Billingsley Creek Project No. 5080, has requested that his exemption be terminated. The exemption for Project No. 5080 was issued December 15, 1981. The project would have been located on Billingsley Creek in Gooding County, Idaho.

The Exemptee filed the request on January 31, 1986, and the exemption for Project No. 5080 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4382 Filed 2-27-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-4-37-000, 001]

Northwest Pipeline Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

Take notice that on February 14, 1986, Northwest Pipeline Corporation ("Northwest") submitted for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGA"), of its FERC Gas Tariff, First Revised Volume No. 1. Such change in rates is for the purpose of: (1) Reflecting the changes in Northwest's estimated cost of purchased gas; (2) reflecting the change in unrecovered purchased gas costs since Northwest's PGA filing dated February 14, 1985; and (3) projecting incremental surcharges to be assessed Northwest's affected direct and sales for resale customers pursuant to Order No. 49.

The current PGA adjustment, for which notice is given herein, aggregates to a decrease of 2.689¢ per therm (including the special surcharge of 0.319¢ (not applicable to Rate Schedule PL-1)) in the commodity rate for all rate schedules, unless noted above, affected by and subject to the PGA. There is no change in the demand rate. The annual jurisdictional change in the Northwest's

rates is a decrease of approximately $63,292,772. Northwest proposes to refund through its twelve-month surcharge the adjusted balance of $28,751,562 in its current deferral subaccount of FERC Account No. 191 as of December 31, 1985. The proposed rate changes have been reflected on Twenty-Sixth Revised Sheet No. 10 and Eighth Amended Substitute Nineteeth Revised Sheet No. 10 applicable to consenting and nonconsenting parties respectively.

Northwest also tendered for filing and acceptance Twelfth Revised Sheet No. 10–B reflecting revised projected incremental surcharges and Fifth Revised Sheet No. 127–A reflecting revised tariff language to allow for the elimination of the effects of concurrent exchange imbalance. Northwest requests an effective date of April 1, 1986 for all tendered tariff sheets.

A copy of this filing has been mailed to all parties of record in Docket No. RP72–154–000 to all jurisdcational customers, and to affected state regulatory commissions.

Any persons desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 28, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–4377 Filed 2–27–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP–86–38–000]

Southern Natural Gas Co.; Refund Report

February 21, 1986.

Take notice that on January 13, 1986, Southern Natural Gas Company (Southern) tendered for filing a refund report in accordance with section 17.4 of its FERC Gas Tariff, Sixth Revised Volume No. 1. Southern reports that it has refunded $7,795,273.05 in lump sum payment to its jurisdictional customers representing their proportionate share of certain refunds received by Southern from Chevron U.S.A., Inc., Exxon Company, U.S.A. and Terra Resources, Inc., for overcollections by those suppliers attributable to periods prior to January 1, 1980.

Southern indicates that copies of this filing have been sent to each customer receiving a refund and to each interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20406, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before February 28, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–4378 Filed 2–27–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86–1–42–004]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

February 21, 1986.

Take notice that Transwestern Pipeline Company (Transwestern) on February 10, 1986 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Substitute 9th Revised Sheet No. 74
Substitute 4th Revised Sheet No. 75

On January 30, 1986, Transwestern filed with the Federal Energy Regulatory Commission (Commission) revised tariff sheets incorporating the new methodology for treating monthly concurrent exchange imbalances as adopted by the Commission in orders issued January 15, 1986 in Docket Nos. TA85–2–11–002, *et al.*, and TA85–2–15–000, –002 and –003. Subsequent to the filing of January 20, 1986, Transwestern became aware of certain typographical errors contined on such tariff sheets. The instant filing is being made for the sole purpose of correcting such typographical errors.

The proposed effective date of the above tariff sheets is March 1, 1986.

Copies of this filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 28, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–4379 Filed 2–27–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85–2–11–003, TA86–1–11–002, and TA86–2–11–002]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

February 21, 1986.

Take notice that on February 6, 1986, United Gas Pipe Line Company (United) tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Seventy-Second Revised Sheet No. 4
Fifth Revised Sheet No. 74–B
Sixth Revised Sheet No. 74–F
First Revised Sheet No. 74–F1

According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until February 13, 1986.

United states that the tariff sheets are being filed pursuant to the requirements of the Commission's January 22, 1986, order on rehearing in the captioned dockets.

United reports that it mailed copies of the proposed tariff sheets to its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)) All such motions or protests should be filed on or before February 28, 1986. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4380 Filed 2-27-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59754 FRL-2975-6]

Polyester of Benzenedicarboxylic Acids and Alkanepolyols; Certain Chemical Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) permanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of one such PMN and provides a summary of it.

DATE: Close of Review Period: for Y 86-82: March 11, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division [TS-794], Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, exlcuding legal holidays.

Y 86-82

Manufacturer. Confidential.

Chemical. (G)J Polyester of benzenedicarboxylic acids and alkanepolyols.

Use/Production. (G) Resin for industrial enamels. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 12 workers, up to 10 hrs/da, up to 50 day/yr.

Environmental Release/Disposal. No release. Disposal by publicly owned treatment works (POTW).

Dated: February 21, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-4252 Filed 2-27-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-5162 FRL-2975-5]

Certain Chemical Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of twenty-one PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86-541, 86-542, 86-543 and 86-544, May 18, 1986

P 86-545, 86-546, 86-547, 86-548, 86-549, 86-550, 86-551, 86-552, 86-553, 86-554, 86-555, 86-556, 86-557, 86-558, and 86-559, May 19, 1986

P 86-560 and 86-561, May 20, 1986.

Written comments by:

P 86-541, 86-542, 86-543, and 86-544, April 18, 1986

P 86-545, 86-546, 86-547, 86-548, 86-549, 86-550, 86-551, 86-552, 86-553, 86-554, 86-555, 86-556, 86-557, 86-558, and 86-559, April 19, 1986

P 86-560 and 86-561, April 20, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-51612]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room E-201, 401 M Street SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-541

Manufacturer. Confidential.

Chemical. (G) Alkyl heterocyclic carbamoly halide.

Use/Production. (S) Site-limited captive intermediate for the manufacture of a pesticide. Prod. range: 3,000 kg/yr.

Toxicity Data. Acute oral: 500 mg/kg; Irritation: Skin—Slight to moderate, Eye—Moderate to severe; Inhalation: Negative; Ames test: Non-mutagenic.

Exposure. Manufacture: dermal, a total of 10 workers, up to 3 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. Negligible release to air.

P 86-542

Manufacturer. Mallinckrodt, Inc.

Chemical. (S) N-nitrosophenylhydroxylamine, ethanol amine salt.

Use/Production. (S) Industrial monomer stabilizer. Prod. range: Confidential.

Toxicity Data. Acute oral: 419 mg/kg; Acute dermal: 2.91 gm/kg; Irritation: Skin—Irritant, Eye—Severe; Inhalation: 7.4 mg/1.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. No release.

P 86-543

Importer. Orient Chemical Corporation.

Chemical. (G) Quaternary ammonium salt.

Use/Import. (S) Commercial component of electrographic toner. Import range: 1,000–5,000 kg/yr.
Toxicity data. No data submitted.
Exposure. Processing: Inhalation, a total of 10 workers, up to 1 hr/da, up to 50 da/yr.
Environmental Release/Disposal. No release.

P 86–544

Importer. American Hoechst Corporation.
Chemical. (S) Butanedioic acid, sulfo-1, 4-bis(3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) ester, sodium salt.
Use/Import. (S) Industrial synthetic fiber lubricant additive, consumer surface tension depressant for window and glass cleaners, and commercial floor polish. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86–545

Manufacturer. Essex Speciality Products, Inc.
Chemical. (G) Alkoxysilane-isocyanate terminated polyether based urethane prepolymer.
Use/Production. (S) Polymer used in sealant manufacture. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture.
Environmental Release/Disposal. No release.

P 86–546

Manufacturer. Essex Specialty Products, Inc.
Chemical. (G) Alkoxysilane terminated polyisocyanate.
Use/Production. (G) Site-limited intermediate used in polymer manufacture. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture.
Environmental Release/Disposal. No release.

P 86–547

Manufacturer. Confidential.
Chemical. (G) Oxime terminated polyurethane.
Use/Production. (G) Industrial paint ingredient. Prod. range: 100,000–1,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 52 workers, up to 8 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. 2 to 169 kg/batch released to land. Disposal by incineration and landfill.

P 86–548

Manufacturer. Confidential.
Chemical. (G) Alicyclic aliphatic polyester.
Use/Production. (G) Polymeric resin used in manufacturing non-consumer use coating products. Prod. range: 30,000–350,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 30 workers, up to 8 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. 4 to 130 kg/batch released to land. Disposal by incineration and landfill.

P 86–549

Manufacturer. Confidential.
Chemical. (G) Acrylate modified alicyclic urethane.
Use/Production. (G) Site-limited and industrial isolated intermediate. Prod. range: 15,000–30,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 18 workers, up to 4 hrs/da, up to 45 da/yr.
Environmental Release/Disposal. Trace to 53 kg/batch released to land. Disposal by incineration and landfill.

P 86–550

Manufacturer. Confidential.
Chemical. (G) Styrenated acrylic polymer.
Use/Production. (S) Industrial, commercial and consumer paint resin. Prod. range: 150,000–300,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 44 workers, up to 8 hrs/da, up to 45 da/yr.
Environmental Release/Disposal. 5 to 97 kg/batch released to land. Disposal by incineration and landfill.

P 86–551

Manufacturer. Confidential.
Chemical. (G) Polyurethane of isophorone diisocyanate.
Use/Production. (G) Industrial coating resin. Prod. range: 50,000–250,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 30 workers, up to 8 hrs/da, up to 220 da/yr.
Environmental Release/Disposal. 3 to 150 kg/batch released to land. Disposal by incineration and landfill.

P 86–552

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Hydrocarbon modified maleated rosin ester.
Use/Production. (S) Industrial resin component in production of ink vehicle varnishes. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers, up to 4 hrs/da, up to 750 da/yr.
Environmental Release/Disposal. 24 kg/batch released to air with 500 gm/day to land. Disposal by sanitary landfill and mechanical filter system.

P 86–553

Manufacturer. Givaudan Corporation.
Chemical. (S) Benzoic acid, 4-[[(methylphenylamino)methylene]]-ethyl ester.
Use/Production. (S) Industrial, commercial and consumer ultra violet absorber. Prod. range: Confidential.
Toxicity Data. Acute oral: 200–300 >g/kg; Irritation: Skin—Slight, Eye—Non-irritant; Skin sensitization: Negative; Phototoxicity test: Not phototoxic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

P 86–554

Manufacturer. Alcolac Inc.
Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-(1-oxo-2-propenyl)-omega-(dodecyloxy)-.
Use/Production. (S) Aqueous thickeners. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture.
Environmental Release/Disposal. 2 to 4 kg/batch released to aqueous. Disposal by POTW.

P 86–555

Manufacturer. Confidential.
Chemical. (G) Acrylourethane.
Use/Production. (G) Coatings/adhesives for open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–556

Importer. Confidential.
Chemical. (G) Butylaminosilane.
Use/Import. (S) Industrial and commercial silicone rubber chain extender. Importer range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 5 workers, up to 1.0 hr/da.
Environmental Release/Disposal. 0.4 kg/samples released to air. Disposal by approved landfill, Resource Conservation and Recovery Act (RCRA) and commercial solvent disposer.

P 86–557

Manufacturer. Confidential.
Chemical. (G) 2,4-diamino-5-[[(p-acetylaminophenylazo) sulfocarbopolycyclic azo]-

hydroxysulfocarbopolycyclic azo]-benzenesulfonic acid, salt.

Use/Production. (S) Site-limited isolated intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Confidential.

P 86-558

Manufacturer. Confidential.

Chemical. (G) 2,4-diamino-5-[[(p-acetylaminophenylazo) sulfocarbopolycyclic azo]-hydroxysulfocarbopolycyclic azo]-benzenesulfonic acid, substituted alkylamine salt.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 3 workers.

Environmental Release/Disposal. Disposal by navigable waterway.

P 86-559

Manufacturer. Foote Mineral Company.

Chemical. (G) Lithium hyperoxoperborate.

Use/Production. (G) Self contained rebreather device. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-560

Manufacturer. Confidential.

Chemical. (G) Urethane oligomer.

Use/Production. (S) Site-limited and industrial coatings. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 8 workers, up to 8 hrs/da.

Environmental Release/Disposal. No release.

P 86-561

Manufacturer. Confidential.

Chemical. (G) Modified styrenated acrylic water resin.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

Dated: February 21, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-4253 Filed 2-27-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-82024A FRL-2977-6]

Comprehensive Assessment Information Rule; Extension of Participation Deadline for CAIR Form Pretest

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of CAIR form pretest participation deadline.

SUMMARY: EPA is extending the period in which persons may volunteer to participate in the Comprehensive Assessment Information Rule (CAIR) form pretest. This is being done to ensure that all persons interested have adequate time to contact EPA's contractor, Science Applications International Corporation (SAIC), for information on the conduct of the pretest.

DATE: Persons wishing to participate in this pretest should notify SAIC no later than March 14, 1986.

ADDRESS: Send written requests to participate, or call SAIC at the following location: Ms. Carolyn Bosserman, Science Applications International Corporation, 8400 Westpark Drive, McLean, VA 22102 (703-821-4812).

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, 401 M Street SW., Washington, DC 20460. Toll free: (800-424-9065). In Washington, DC: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: The Notice of the CAIR form pretest was published in the Federal Register of January 24, 1986 (51 FR 3251). EPA is conducting this pretest to determine potential problems with the form and provide EPA with an opportunity to improve the form before the CAIR is promulgated. In order to develop a pretest which will be representative of the industry as a whole, EPA is interested in having the widest variety of companies participate. To ensure this, EPA has decided to extend the deadline for requesting participation in the pretest. EPA's contractor, SAIC, who is approved to receive confidential business information, will be conducting the pretest, and any data received during the pretest will not be revealed either to EPA or the public. EPA encourages all companies interested in participating to contact SAIC. However, the selection of companies will be made at random by SAIC, so EPA cannot guarantee that all volunteers will be able to participate in the pretest due to limitations on the number of total participants. SAIC will be accepting responses to this notice until March 14, 1986.

Dated: February 25, 1986.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division.

[FR Doc. 86-4476 Filed 2-27-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2975-9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 10, 1986 through February 14, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. DS-COE-G34032-TX, Rating EC2, Galveston Mulitpurpose Deepwater Port and Crude Oil Distribution System Construction, Additional Information on Worst Case Oil Spill Analysis and Environmental Impacts of Bulk Commodities Activities, Permit Applications, TX. Summary: EPA has environmental concerns regarding the proposed actions compliance with the Prevention of Significant Deterioration (PSD) regulations exemption and conditions established on September 21, 1981. EPA requests that clarifying information be included in the final supplemental EIS to more fully assess the PSD compliance issue under applicable Federal and State air quality pollution control regulations.

ERP No. D-FHW-B40063-00, Rating LO=Alter. 1, 2, and Truck Diversion Alter.; EO=Alter. 3, 4, 5, A, B, F; DEIS=2; US 6 Improvement, I-52/I-395 in Killingly, CT to I-295 in Johnston, RI, 404 Permit, CT and RI. Summary: EPA recommends that the proposed alternative consist of diversion of hazardous trucks from the Scituate Reservoir watershed in conjunction with construction of drainage and safety improvements on Route 6. From the standpoint of public health, EPA strongly objects to alternatives that involve a major widening and upgrading of Route 6 or new alignments. EPA

objects to the lack of consideration of alternatives outside the watershed; and in addition has asked for more information on secondary impacts, mitigation, and air quality.

ERP No. D-FHW-K40115-CA, Rating EC2, CA-4 Freeway Construction, Wilson Way to CA-99, CA. Summary: EPA is concerned that the air quality analysis was limited to carbon monoxide emissions and did not provide other baseline air quality data or a mitigation plan.

ERP No. D-SFW-L64032-AK, Rating EO2, Yukon Flats Nat'l Wildlife Refuge, Comprehensive Conservation Plan and Wilderness Designation, AK. Summary: EPA is concerned that Alternatives B and C could result in serious adverse impacts, including significant restrictions to subsistence uses; significant long-term water quality degradation; and significant adverse effects on wetlands and associated fish and wildlife species. Implementation of either Alternative D or Alternative E would substantially reduce these concerns.

ERP No. DS-UNS-C11004-00, Rating EC2, Stapleton—Ft. Wadsworth Complex Surface Action Group Homeporting Facility, Development Plans Modification and Family Housing Alternatives at Staten Island, NY, RI, and MA. Summary: EPA is concerned that the proposed project modifications may cause adverse impacts to air quality and environmentally sensitive resources. EPA requests that additional information be presented in the final supplemental EIS to address these issues.

Final EISs

ERP No. F-ARS-E65033-FL, Florida Nat'l Forests, Land and Resource Mgmt. Plan, FL. Summary: EPA has no serious overall objections to the preferred plan. Specific concerns were expressed, however, relative to the potential impacts of timber management in wetlands areas, restoration of titi acreage to pine plantation, and reconstruction of road 13.

ERP No. F-BLM-L82007-00, Northwest Area Noxious Weed Control Program, ID, WA, MT, OR, and WY. Summary: Revisions to the final EIS document adequately respond to EPA concerns.

ERP No. F-COE-E36137-MS, Pearl River Basin Flood Control Plan, MS. Summary: EPA has reviewed the final EIS and has no objections to the project.

ERP No. F-COE-K36085-HI, Kahawainui Stream Flood Damage Reduction Plan, HI. Summary: EPA believes that the selected alternative does not comply with Clean Water Act 404(b)(1) guidelines, and requests that alternative plans #1 and #3 be considered. EPA also requests that design phase planning address impacts to water quality, and incorporate mitigation to address water quality impacts.

Dated: February 25, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86-4575 Filed 2-27-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2975-8]

Environmental Impact Statements; Availability of Weekly Receipts

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements filed February 18, 1986 Through February 21, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860059, DSuppl, FHW, CA, CA-15 Reconstuction, I-805 to I-8, New Preferred Alternative, San Diego County, Due: April 25, 1986, Contact: Michael Cook (916) 551-1307.

EIS No. 860060, DSuppl, SFW, AK, Tetlin National Wildlife Refuge Comprehensive Conservation Plan and Wilderness Review, Oil and Gas Exploration and Leasing, Due: April 14, 1986, Contact: Bill Knauer (907) 786-3399.

EIS No. 860061, Final, FHW, AK, Raspberry Road Reconstruction, Jewel Road to Minnesota Drive, Due: March 31, 1986, Contact: Tom Neunaber (907) 586-7428.

EIS No. 860062, Draft, BOP, OR, Sheridan Federal Correctional Institution Complex, Construction and Operation, Yamhill County, Due: April 14, 1986, Contact: Loy Hayes (202) 272-6535.

EIS No. 860063, Draft, COE, CA, Santa Barbara County Streams, Flood Control Plan, Mission Creek, Santa Barbara County, Due: April 14, 1986, Contact: John Kennedy (213) 798-2314.

EIS No. 860064, Draft, COE NY, Sauquoit Creek Flood Control Plan, Oneida County, Due: April 14, 1986, Contact: Robert Dieterich (212) 264-4662.

EIS No. 860065, Draft, SCS, TX, Choctaw Creek Watershed Protection, Flood Prevention and Recreation Plan, Grayson County, Due: April 14, 1986, Contact: Dale Fischgrabe (817) 774-1216.

EIS No. 860066, Final, DOE, AZ, NV, Mead-Phoenix 500kV Direct Current Transmission Line, Construction, Operation and Maintenance, Due: March 31, 1986, Contact: Gary Frey (303) 231-1527.

Amended Notice

EIS No. 860046, Draft, FHW, AZ, Arizona Forest Highway/AZ-67 Reconstruction, Jacob Lake to Grand Canyon National Park, published FR 02-21-86—Incorrect Title.

Dated: February 25, 1986.

David G. Davis,

Acting Dirctor Office of Federal Activities.

[FR Doc. 86-4572 Filed 2-27-86; 8:45 am]

BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

Organization; Farm Credit System Capital Corporation

AGENCY: Farm Credit Administration.

ACTION: Notice; Charter and Articles of Incorporation of the Farm Credit System Capital Corporation.

SUMMARY: On February 24, 1986, the Farm Credit Administration ("FCA") chartered the FARM CREDIT SYSTEM CAPITAL CORPORATION ("CORPORATION") pursuant to Title IV, Part D1, section 4.28A of the Farm Credit Act of 1971, as amended ("Act"), to supersede and succeed the assets and liabilities of the Farm Credit System Capital Corporation ("Predecessor Corporation") a service corporation chartered by the Farm Credit Administration on June 6, 1985, pursuant to Title IV, Part D, sections 4.25 to 4.27 of the Act. Congress established the CORPORATION under the Farm Credit Amendments Act of 1985, Pub. L. 99-205 (1985), to carry out a program of financial and technical assistance to Farm Credit System institutions experiencing financial difficulties. The Chairman also dissolved and revoked the charter of the Predecessor Corporation. The texts of the Charter and Articles of Incorporation of the CORPORATION and Certificate of Dissolution of the Predecessor Corporation are set forth below:

FARM CREDIT ADMINISTRATION

McLean, Virginia

Charter

Farm Credit System Capital Corporation

The Chairman of the Farm Credit Administration Board hereby charters a corporation pursuant to section 4.28A, Title IV, Part D1 of the Farm Credit Act of 1971, as amended ("the Act"), to be known as the FARM CREDIT SYSTEM CAPITAL CORPORATION ("CORPORATION"). The CORPORATION hereby supersedes, succeeds to the assets of, and shall be

liable for and assume all debts, obligations, contracts, and other liabilities of the Farm Credit System Capital Corporation ("Predecessor Corporation") chartered by the Governor of the Farm Credit Administration under Title IV, Part D of the Act on June 6, 1985, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the Predecessor Corporation. All officers, employees, and agents of the Predecessor Corporation shall be employees and agents of the said CORPORATION and continue to perform the same duties in managing the business and assets of the Predecessor Corporation as set forth in the Articles of Incorporation until directed otherwise by the board of directors of the CORPORATION or the new chief executive officer.

The Chairman of the Farm Credit Administration Board grants this Federal charter to the FARM CREDIT SYSTEM CAPITAL CORPORATION, incorporating an attached original of the Articles of Incorporation of same, and said CORPORATION is hereby authorized to exercise all powers duly conferred under the Act, and the regulations of the Farm Credit Administration promulgated thereunder, and the Articles of Incorporation of the CORPORATION, as same shall be in effect. All capital stock and other equities of the Predecessor Corporation shall be converted into Class D stock of the CORPORATION in a like value and amount as provided in the Articles of Incorporation and bylaws of the CORPORATION.

IN WITNESS WHEREOF, the Chairman has executed this charter and caused the seal of the Farm Credit Administration to be affixed hereto this 24th day of February 1986.

Farm Credit Administration Board.

By: Donald E. Wilkinson,

Acting Chairman.

Attest: Marvin Duncan.

ARTICLES OF INCORPORATION OF FARM CREDIT SYSTEM CAPITAL CORPORATION

Article I—Name

The name of the Corporation shall be "Farm Credit System Capital Corporation" (hereinafter "Corporation").

Article II—Statutory Authority

The Corporation is established pursuant to Title IV, Part D1 of the Farm Credit Act of 1971, as amended ("Act"), as an institution of the Farm Credit System ("System") and an instrumentality of the United States to the same extent as the Federal land banks, the Federal intermediate credit banks, and the banks for cooperatives (collectively "System banks") and subject to the same examination and regulation by the FCA. All powers and authorities stated in these Articles of Incorporation and the bylaws adopted by the board of directors of the Corporation can only be exercised in accordance with any limitations or restrictions herein stated or in FCA regulations or the Act then in effect.

Article III—Duration and Office

Section 1. Duration. The corporate existence of the Corporation shall commence on the issuance of charter by the Chairman of the Farm Credit Administration Board ("FCA Board") of the Farm Credit Administration ("FCA") and shall continue until liquidated in accordance with ARTICLE IX of these Articles of Incorporation.

Section 2. Principal Office. The principal office of the Corporation and such other offices shall be located in such place(s) as designated by the board of directors ("Board").

Article IV—Successor Corporation

Section 1. Succession. As provided in section 4.28H of the Act, the Corporation succeeds to assets and liabilities of the Farm Credit System Capital Corporation ("Predecessor Corporation"), chartered by the FCA on June 6, 1985 pursuant to Title IV, Part D, sections 4.25 to 4.27 of the Act, which charter was revoked on the date of the chartering of the Corporation. The Corporation shall continue all existing contractual obligations, security instruments, and title instruments as obligations and instruments of the Corporation. All stocks in the Predecessor Corporation shall be converted in like value and amount of a special class of Corporation stock provided therefor in the Corporation bylaws and FCA regulations. The Corporation shall account separately for the instruments and obligations assumed from the Predecessor Corporation. Any surplus funds available after the obligations and instruments have been fully performed shall be distributed pro rata to the stockholders of the Predecessor Corporation based on their relative contribution to the Predecessor Corporation. Any losses occurring from these instruments and obligations shall be borne by the stockholders of the Predecessor Corporation up to the amount of investment in such stock and any remaining losses borne by the Corporation.

Section 2. Initial Management. The chief executive officer of the Predecessor Corporation shall become a manager of the Corporation and shall report to, and be subject to the supervision and direction of, the FCA until such time as the Board meets and directs the operations of the Corporation. At that time, the Board shall appoint an acting or a chief executive officer, as soon as practicable, at which point the position and functions of the manager shall terminate.

Article V—Purposes and Powers

1. Purposes. The Corporation is formed for the sole purpose of implementing a program of financial and technical assistance to System institutions and their borrowers which are experiencing financial difficulties as provided in section 4.28B of the Act and the FCA regulations.

2. Powers. The Corporation shall have the following powers, including those provided in the Act and FCA regulations, to effectuate the purposes of the Corporation.

(a) To operate under the direction of its Board; and

(b) To adopt, alter, and use a corporate seal, which shall be judicially noted; and

(c) To provide for a president, one or more vice presidents, a secretary, a treasurer, and such other officers, employers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons; and adopt a salary scale for officers and employees of the Corporation in accordance with the directives of the Board; and

(d) To prescribe by the Board its bylaws, not inconsistent with law, which shall provide for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; the manner in which its officers, employees, and agents are selected; its property is acquired, held, and transferred; its loans, commitments, and other financial assistance are made; its general business is conducted; and the privileges granted by law are exercised and enjoyed; and

(e) To enter into contracts and make advance, progress, or other payments with respect to such contracts; and

(f) To contract with System institutions for local administration, servicing, and restructuring of loan and loan-related assets and management of acquired properties of the Corporation; and

(g) To sue and be sued in its corporate name and complain and defend, in any court of competent jurisdiction, State or Federal; and

(h) To acquire, hold, lease, mortgage, exchange, improve, manage, operate, maintain, or dispose of, at public or private sale, real and personal property, and guarantee, sell, or exchange any securities or obligations, and otherwise exercise all the usual incidents of ownership or property necessary and convenient to its business; and

(i) To authorize, through the Board, the issuance and sale of obligations, including notes, bonds, debentures, capital notes, and voting or nonvoting securities, to the Secretary of the Treasury or the Farm Credit Administration, under such terms and conditions as shall be determined; and

(j) To obtain insurance against loss; and

(k) To modify or consent to modification with respect to the rate of interest, time or payment of any installment of principal or interest, security, or any other term of any contract or agreement to which it is a party or in which it has an interest under the Act; and

(l) To borrow from any commercial bank on its own individual responsibility on such terms and conditions as it may determine with the approval of the FCA; and

(m) To join with System banks in the issuance of Systemwide obligations, assume liability of Systemwide obligations, be jointly and severally liable with System banks on Systemwide obligations, and satisfy the collateral requirements with respect thereto, in accordance with the Act and FCA regulations; and

(n) To require other institutions of the System through purchase of stock, in, or obligations of, the Corporation, to make funds available to the Corporation to enable it to make financial assistance available to System institutions as provided in paragraph (o) below. The Corporation may also assess at such times and under such circumstances as it deems appropriate, System institutions for the purpose of covering its operating expenses not to include interest costs. The guidelines to be used by the Corporation in obtaining funds from System institutions for the purpose of aggregating resources to assist other System institutions, to the extent practicable, shall give priority to obtaining funds through the use of transactions that require the Corporation, on reasonable terms, to repay the contributed funds from surpluses accumulated by the Corporation, and otherwise shall be in conformity with FCA regulations; and

(o) To administer financial assistance under regulations of the FCA; and

(p) To purchase at fair market value from any other System institution, on the request of such institution, loans (or interests in loans) that have been placed in nonaccrual status and assets (or interests in assets) in the account for acquired property; and

(q) To require System institutions to sell to the Corporation loans, assets, and interests described in paragraph (p) as a condition to receiving financial assistance from the Corporation; and

(r) To exercise all the rights and privileges of any System institution with respect to any loan which it has acquired or in which it has participated, including the adjustment of interest rates, compromise of indebtedness, waiver of default, and other such rights and privileges; and

(s) To assume debt or other liabilities from System institutions in connection with the acquisition of loans or interests therein or other assets from such institutions; and

(t) To refinance, reamortize, guarantee, or compromise indebtedness, and otherwise provide debt adjustment assistance, with respect to any loan to a borrower or a System institution purchased under paragraph (p) or participated in by the Corporation, and, after a determination by the Corporation that the borrower could not reasonably be anticipated to meet loan servicing charges under a refinanced, reamortized, or otherwise restructured loan under reasonable terms and conditions acceptable to the Corporation, liquidate any such loan; and

(u) To purchase from associations undergoing liquidation all assets which are performing loans not voluntarily purchased by other associations; and

(v) To deposit its securities and its current funds with any member of the Federal Reserve System or any insured State nonmember bank as defined in section 2 of the Federal Deposit Insurance Act and pay fees therefor and receive interest thereon as may be agreed; and

(w) To render or provide financial or technical or other related assistance to System institutions experiencing financial difficulties; and

(x) To exercise such incidental powers as may be necessary to carry out its powers, duties, and functions in accordance with the Act and FCA regulations.

Article VI—Stockholders and Stock

Section 1. Qualifications and Liability of Stockholders. All System banks shall be holders of Class A voting stock as provided in the Bylaws and the FCA regulations. The Corporation shall also be authorized to issue nonvoting stock to the FCA and the Secretary of the Treasury of the United States in accordance with the Act and FCA regulations. All other classes of stock shall be nonvoting and may be held by eligible System institutions as shall subscribe to, or are assessed for, such stock in accordance with the Bylaws, the FCA regulations, and the Act. The liability of each of the stockholders of the Corporation for the debts and obligations of the Corporation shall be limited to the subscription price for the shares of stock purchased by such stockholder and no stockholder by reason of its status as such shall be responsible for the claims of creditors of the Corporation.

Section 2. Capital Stock. The Corporation is authorized to issue classes of stock, as provided in the Bylaws, in such numbers and at such times as the Board may determines. The Board is also authorized to fix and establish the following in relation to any issuance of stock under the Bylaws in accordance with the FCA regulations:

(a) The maximum number of shares of that class or series, the distinctive designation of that class or series, and the par or stated value thereof;

(b) Whether shares of that class or series shall be entitled to receive dividends (which shall be noncumulative), the rate or rates of such dividends, the conditions and the times of such dividends and the preference to, or relation to, the dividends payable on any other classs or classes, or any other series of the same or any other class or clssses, of capital stock of the Corporation.

(c) The rights of the shares of that class or series in the event of voluntary or involuntary liquidation, dissolution or winding up of the Corporation, or upon any distribution of assets;

(d) Whether the shares of that class or series shall have conversion privileges and, if so, the terms and conditions of such conversion privileges;

(e) Whether the shares of that class or series shall be redeemable, and, if so, the price at and the terms and conditions upon which such shares be redeemable;

(f) Such other preferences and relative, paticipating, optional or other special rights and qualifications, limitations or restrictions thereof.

Notwithstanding the fixing of the maximum number of shares constituting a particular class or series upon the issuance thereof, the Board may at any time thereafter authorize the issuance of additional shares of the same class or series or may reduce the maximum number of shares constituting such class or series.

Section 3. Earnings. The Board, in its discretion, may determine that all activities of the Corporation shall be conducted on a cooperative basis for the mutual benefit of its stockholders as patrons or on a non-cooperative basis, or that certain activities of the Corporation shall be conducted on a cooperative basis and other activities shall be conducted on a non-cooperative basis. The Board may declare dividends from earnings available therefor payable to the holders of any one or more classes or series of capital stock of the Corporation in such amounts, at such times, upon such conditions, with such qualifications and on such other terms as may be determined by the Board subject to the FCA regulations relating thereto, but any dividends declared on any class or series shall be payable ratably on each share of such class or series outstanding.

Section 4. Book entry form. Any or all classes and series of capital stock shall be in book entry form, and ownership shall be confirmed by the Corporation upon the request of the holder.

Section 5. Repurchases. Subject to the FCA regulations, the Corporation may repurchase from surplus available therefor any or all shares of capital stock of the Corporation at such times, for such consideration and on such other terms as the Board may determine and, if the terms of the stock do not permit otherwise, the holders of such shares may agree.

Article VII—Board of Directors

Section 1. Authority. Subject to the limitations expressed in these Articles of Incorporation, the FCA regulations, the Act, and other applicable law, the business and affairs of the Corporation shall be directed by the Board.

Section 2. Membership. As provided in the Act and the FCA regulations, the initial Board shall be comprised of two (2) members appointed by the Chairman of the FCA Board and three (3) members elected by all of the System banks from each of the following categories:

(a) one member from an institution and a Farm Credit district that, at the time of the election, is or is projected by the FCA Board to be a net contributor to the Corporation;

(b) one number from an institution and a Farm Credit district that, at the time of the election, is or is projected by the FCA Board to be a net recipient to the Corporation;

(c) one member without regard to the restriction of paragraphs (a) or (b).

Section 3. Expanded Membership. In the event the Secretary of the Treasury purchases any obligation of the Corporation under section 4.28J of the Act, and for so long as such obligation remains outstanding, the Board shall be expanded by two members. One member shall be appointed by the Secretary of Agriculture, and one member shall be selected by the other members of the Board, including the appointee of the Secretary of Agriculture. The latter selection shall not be a borrower from, shareholder in, or employee or agent of any System institution, or a government employee.

Section 4. Term. The initial term of the first appointed director and the director elected to the position in section 2(c) above shall be one year. The terms for every other elected or appointed director shall be two years. Thereafter, each elected or appointed director shall serve two years. All directors shall serve until his or her successor becomes appointed or elected and qualified, unless the office becomes vacant or the director is removed, dies, resigns, or is otherwise unable to serve in accordance with the Bylaws or the FCA regulations. Any appointed or elected director may serve any number of terms, unless removed.

Section 5. Bylaw provision. Bylaws from time to time in affect may contain provisions, not inconsistent with these Articles of incorporation, the FCA regulations, and the Act, regarding the election or appointment, classification, resignation or removal, qualifications, indemnification, procedures and conduct, management and control of the business of, or the rights, powers, and duties of the Board. The authority of the Board to act through committees and the notice, quorum, and vote required for action by the Board may also be as provided in the Bylaws.

Article VIII—Nominating Committee

Section 1. There shall be a Nominating Committee composed of the Chairman, or the Vice Chairman, of each System bank board of directors. The Committee shall meet as soon as practicable following the chartering of the Corporation to nominate candidates for the three Corporation directors to be elected by the voting stockholders. The Committee shall first elect a Chairman and a Vice Chairman to conduct the business of the Committee. After the initial meeting, the Committee shall meet prior to any annual or special meeting of the stockholders at which directors are to be elected.

The Committee may participate in a meeting of the Committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other.

Section 2. Quorum. A majority of the Committee shall constitute a quorum for transacting business of the Committee.

Section 3. Minutes. The Committee shall keep minutes of its proceedings which shall be maintained with the corporate records of the Corporation.

Article IX—Termination of Certain Powers; Liquidation

After December 31, 1990, all powers of the Corporation to increase the amount of direct financial assistance or the purchase of nonaccrual and related assets, directly or indirectly, to any System institution or its borrowers shall terminate. However, the Corporation shall continue to exercise those powers necessary for the management and orderly liquidation of commitments made and obligations incurred in providing such assistance. Thereafter, the Corporation shall be placed in an inactive status or liquidated upon a plan adopted by the Board of the Corporation and approved by the FCA.

Article X—Amendments

These Articles of Incorporation may be amended from time to time by the FCA Board in accordance with the Act.

FARM CREDIT ADMINISTRATION

McLean, Virginia

Certificate of Dissolution of Farm Credit System Capital Corporation

The Chairman of the Farm Credit Administration Board hereby dissolves and revokes the charter of the FARM CREDIT SYSTEM CAPITAL CORPORATION ("Predecessor Corporation") chartered by the Farm Credit Administration ("FCA") on June 6, 1985, pursuant to Title IV, Part D, sections 4.25 to 4.27 of the Farm Credit Act of 1971, as amended ("Act"). The Predecessor Corporation is superseded by the FARM CREDIT SYSTEM CAPITAL CORPORATION ("Corporation") chartered by the Chairman on this day with such powers as are provided in the Articles of Incorporation of the Corporation and the Act, and on such terms and conditions as shall be provided in the regulations of the Farm Credit Administration.

IN WITNESS HEREOF, the Chairman has executed this certificate of dissolution and caused the seal of the

Farm Credit Administration to be affixed hereto this 24th day of February 1986.

Farm Credit Administration Board.
By: Donald E. Wilkinson,
Acting Chairman.
Attest: Marvin Duncan
Marvin Duncan
Acting Chairman.
[FR Doc. 86-4446 Filed 2-26-86; 11:36 am]
BILLING CODE 6705-01-M

FEDERAL RESERVE SYSTEM

Applications To Engage de Novo in Permissible Nonbanking Activities; Bank Shares Inc.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 86-3266), published at page 5606 of the issue for Friday, February 14, 1986.

Comments on this application must be received not later than March 6, 1986.

Board of Governors of the Federal Reserve System, February 21, 1986.
William W. Wiles,
Secretary of the Board.
[FR Doc. 86-4310 Filed 2-27-86; 8:45 am]
BILLING CODE 6210-01-M

Dominion Bankshares Corp. 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 22, 1986.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation,* Roanoke, Virginia; to acquire 100 percent of the voting shares of State National Bank of Maryland, Rockville, Maryland.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Charter 17 Bancorp, Inc.,* Richmond, Indiana; to acquire 11.9 percent of the voting shares of PTC Financial Corporation, Peru, Indiana, thereby indirectly acquiring The Peru Trust Company, Peru, Illinois.

2. *Citizens Community Bankshares, Inc.,* Wittenberg, Wisconsin; to acquire 99.06 percent of the voting shares of Iron Exchange Bank, Hurley, Wisconsin. Comments on this application must be received not later than March 21, 1986.

3. *Independent Community Bancshares, Inc.,* Kiel, Wisconsin; to acquire 100 percent of the voting shares of Newton State Bank, Newton, Wisconsin. Comments on this application must be received not later than March 21, 1986.

4. *M&I Stevens Point Corp.,* Stevens Point, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of First Affiliated Bancorporation, Inc., Stevens Point, Wisconsin, thereby indirectly acquiring Bank of Park Ridge, Park Ridge, Wisconsin and The First National Bank of Stevens Point, Stevens Point, Wisconsin.

5. *Marshall & Illsley Corporation,* Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of M&I Stevens Point Corp., Stevens Point, Wisconsin, thereby indirectly acquiring Bank of Park Ridge, Park Ridge, Wisconsin and The First National Bank of Stevens Point, Stevens Point, Wisconsin.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Lafayette Bancshares, Inc.,* Lafayette, Minnesota; to become a bank holding company by acquiring 86.33 percent of the voting shares of Citizens State Bank of Lafayette, Lafayette, Minnesota.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Fredonia Bancshares, Inc.,* Nacogdoches, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Fredonia State Bank, Nacogdoches, Texas.

Board of Governors of the Federal Reserve System, March 21, 1986.
William W. Wiles,
Secretary of the Board.
[FR Doc. 86-4311 Filed 2-27-86; 8:45am]
BILLING CODE 6210-01-M

Applications To Engage de Novo in Permissible Nonbanking Activities; Independence Bancorp, Inc.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 86-3375), published at page 5803 of the issue for Tuesday, February 18, 1986.

The notice of the application by Independence Bancorp, Inc., Perkasie, Pennsylvania to engage in certain insurance activities is withdrawn. The Board has not determined that the proposed activity is closely related to banking pursuant to the Board's Regulation Y, 12 CFR 225.23.

Board of Governors of the Federal Reserve System, February 21, 1986.
William W. Wiles,
Secretary of the Board.
[FR Doc. 86-4312 Filed 2-27-86; 8:45 am]
BILLING CODE 6210-01-M

Consumer Advisory Council Meeting

The Consumer Advisory Council will meet on Thursday, March 20, and Friday, March 21. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The March 20 session is expected to begin at 1:00 p.m. and to continue until 5:00 p.m. The March 21 session is expected to begin at 9:00 a.m. and to continue until 1:00 p.m. The Martin Building is on C Street, Northwest, between 20th and 21st Streets in Washington, DC.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

1. *Board's Proposal to Revise Advertising Rules of Regulation Q.*— Report by the Council's Ad Hoc Committee on Service Charges on the Board's proposed revisions to Regulation Q's advertising rules and on other matters relating to disclosures in connection with deposit accounts.

2. *Tie-Ins in the Granting of Consumer Credit.*—Discussion of (1) the sale of credit-related insurance in consumer credit transactions, (2) the rates charged for credit-related insurance and a recent state regulation requiring certain creditors to engage in competitive bidding for credit-related insurance and (3) the results of a Board-sponsored survey to determine consumer attitudes about credit-related insurance.

3. *Delayed Availability of Funds.*—Discussion of (1) the practice by financial institutions of delaying a consumer's access to funds deposited by check and (2) two approaches being considered by the Congress to alleviate consumer concerns about this practice, one involving disclosure of hold policies to consumers and the other setting a series of availability schedules.

4. *Credit Card Interest Rates.*—Discussion of congressional proposals to establish nationwide ceilings on credit card interest rates.

5. *Reduced-Rate Financing.*—Discussion of whether recent programs offering consumers reduced-rate financing for automobile purchases lessen the value of the annual percentage rate as a tool for consumers' use in credit shopping.

6. *Disclosures for Adjustable Rate Mortgages (Tentative).*—Discussion of the usefulness of uniform disclosure requirements for adjustable rate mortgage programs.

7. *Legislative Briefing.*—Presentation to inform Council members about the legislative outlook for 1986.

8. *Regulatory Update.*—Status of recent Board regulatory actions in the area of consumer financial services.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Ann Marie Bray, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Comments must be received no later than close of business Monday, March 17, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Ms. Bedelia Calhoun, Staff Specialist, at (202) 452-3305.

Board of Governors of the Federal Reserve System, February 24, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-4309 Filed 2-27-86; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of December 16-17, 1985

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Policy Directive issued at its meeting held on December 16-17, 1985.[1]

The following domestic policy directive was issued to the Federal Reserve Bank of New York:

The information reviewed at this meeting suggests that economic activity is expanding at a relatively modest pace in the current quarter. Total nonfarm payroll employment increased further in November, though less than in October, and the civilian unemployment rate edged down to 7.0 percent. Retail sales and industrial production picked up in November after declining in October. After strengthening in October, housing starts fell appreciably in November. Incoming information generally suggests relatively sluggish business capital spending. Revised merchandise trade data for the third quarter confirm that the deficit widened further, as non-oil imports continued to increase and exports fell somewhat. Broad measures of prices and wages appear to be rising at rates close to those recorded earlier in the year.

After declining in October, M1 grew substantially in November while growth in M2 and M3 continued quite moderate. Expansion in total domestic nonfinancial debt has remained rapid. Through November, M1 expanded at a rate well above the long-run range set by the Committee, M2 grew at a rate a bit below the upper end of its range for the year, and M3 expanded at a rate near the midpoint of its range for 1985. Treasury bill rates have fallen somewhat while other short-term market interest rates have changed little on balance since the November meeting of the Committee; long-term rates have moved appreciably lower over the period. The trade-weighted value of the dollar against major foreign currencies has declined on balance since the Committee's meeting in early November, though the dollar has tended to stabilize more recently.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation further, promote growth in output on a substantial basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives the Committee at the July meeting reaffirmed ranges for the year of 6 to 9 percent for M2 and 6 to 9½ percent for M3. The associated range for total domestic nonfinancial debt was reaffirmed at 9 to 12 percent. With respect to M1, the base was moved forward to the second quarter of 1985 and a range was established at an annual growth rate of 3 to 8 percent. The range takes account of expectations of a return of velocity growth toward more usual patterns, following the sharp decline in velocity during the first half of the year, while also recognizing a higher degree of uncertainty regarding that behavior. The appropriateness of the new range will continue to be reexamined in the light of evidence with respect to economic and financial developments including developments in foreign exchange markets. More generally, the Committee agreed that growth in the aggregates may be in the upper parts of their ranges, depending on continuing developments with respect to velocity and provided that inflationary pressures remain subdued.

For 1986 the Committee agreed on tentative ranges of monetary growth, measured from the fourth quarter of 1985, of 4 to 7 percent for M1, 6 to 9 percent for M2, and 6 to 9 percent for M3. The associated range for growth in total domestic nonfinancial debt was provisionally set at 8 to 11 percent for 1986. With respect to M1 particularly, the Committee recognized that uncertainties surrounding recent behavior of velocity would require careful reappraisal of the target range at the beginning of 1986. Moreover, in establishing ranges for next year, the Committee also recognized that account would need to be taken of experience with institutional and depository behavior in response to the completion of deposit rate deregulation early in the year.

In the implementation of policy for the immediate future, the Committee seeks to decrease somewhat the existing degree of pressure on reserve positions. This action is expected to be consistent with growth in M2 and M3 over the period from November to March at annual rates of about 6 to 8 percent; while the behavior of M1 continues to be subject to unusual uncertainty, growth at an annual rate of 7 to 9 percent over the period is anticipated. Somewhat greater reserve restraint might, and somewhat lesser reserve restraint would, be acceptable depending on behavior of the aggregates, the strength of the business expansion, developments in foreign exchange markets, progress against inflation, and conditions in domestic and international credit markets. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent.

By order of the Federal Open Market Committee, February 20, 1986.

Stephen H. Axilrod,

Secretary.

[FR Doc. 86-4307 Filed 2-27-86; 8:45 am]

BILLING CODE 6210-01-M

[1] The Record of policy actions of the Committee for the meeting of December 16-17, 1985, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on February 21, 1986.

Social Security Administration

Subject: The Study of Nonresponses to Court Case Notices—New
Respondents: Individuals or households
Subject: Request for Parental Locator Services—Revision—(0960–0165)
Respondents: State or local governments
Subject: Pre-1957 Military Service-Federal Benefit Questionnaire—Extension—(0960–0120)
Respondents: Individuals or households
Subject: Overpayment Recovery Questionnaire—Extension—(0960–0037)
Respondents: Individuals or households
Subject: Time Report of Personnel Services for Disability Determination Services—Revision—(0960–0408)
Respondents: State or local governments
Subject: Missing and Discrepant Wage Reports Letter—New
Respondents: Businesses or other for-profit institutions; Small businesses or organizations
Subject: Final Rule—State Income and Eligibility Verification System—New
Respondents: State or local governments
OMB Desk Officer: Judy A. McIntosh

Health Care Financing Administration

Subject: Information Collection Requirements contained in BERC 321-F, Income and Eligibility Verification System, R-74 and IEVS State Plan Preprint, SP-1—New
Respondents: State or local Governments
OMB Desk Officer: Fay S. Iudicello

PUBLIC HEALTH SERVICES

Food and Drug Administration

Subject: Importers Entry Notice—Reinstatement—(0910–0046)
Respondents: Businesses or other for-profit

National Center for Health Statistics

Subject: 1986 National Mortality Followback Survey—NW
Respondents: Individuals or Households; Businesses or other for-profit institutions; Non-profit institutions; Small businesses or organizations
OMB Desk Officer: Bruce Artim.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn: (name of OMB Desk Officer).

Date: February 24, 1986.

K. Jacqueline Holz,
Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86–4269 Filed 2–27–86; 8:45 am]
BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 85N–0474]

Federation of American Societies for Experimental Biology; Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announced in the **Federal Register** of November 13, 1985 (50 FR 46832), that the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB), under its contract with FDA, was undertaking a study on dietary characteristics and cancer. The notice announced that an open meeting of the Scientific Steering Group, established by FASEB under the contract, would be scheduled in March 1986 and that the date and location of the meeting would be announced in the **Federal Register.** This notice announces that the meeting will be held on March 26, 1986.

DATE: The open meeting will be held on Wednesday, March 26, 1986, at 9 a.m. The executive session will be held after the open meeting.

ADDRESS: The open and executive session meetings will be held in the Milton O. Lee Bldg. at FASEB, 9650 Rockville Pike, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301–530–7030.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 13, 1985 (50 FR 46832), FDA announced that FASEB, under its contract with FDA (No. 223–83–2020), was undertaking a study on dietary characteristics and cancer. FASEB's Scientific Steering Group, established under the contract, recommended that the Life Sciences Research Office study the available information and data being generated by a major study on dietary characteristics and cancer. For complete information about this study, see 50 FR 46833. FASEB also invited submission of scientific data and information on certain specific questions related to this subject (50 FR 46833) for consideration by the Scientific Steering Group.

In accordance with 21 CFR 14.15(b)(1), notice is given that the Scientific Steering Group will hold an open meeting on March 26, 1986, during which an opportunity will be provided for the public to present written and oral views, information, and data on dietary characteristics and cancer. If time permits, after the conclusion of the open meeting the Scientific Steering Group will meet in executive session to review task orders under the contract initiated since June 1, 1984.

The conference room in which the open meeting is being held has limited seating. Therefore, advance registration is strongly encouraged (contact Kenneth Fisher—address above). Additionally, because parking space is limited, use of public transportation is encouraged.

Dated: February 24, 1986.

Adam J. Trujillo,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–4314 Filed 2–27–86; 8:45 am]
BILLING CODE 4160–01–M

[Docket No. 86M–0031]

W.L. Gore & Associates, Inc.; Premarket Approval of GORE-TEX™ Suture ePTFE Nonabsorbable Monofilament

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by W. L.

Gore Associates, Inc., Flagstaff, AZ, for premarket approval, under the Medical Device Amendments of 1976, of the GORE–TEX™ Suture ePTFE NONABSORBABLE MONOFILAMENT. After reviewing the recommendation of the General and Plastic Surgery Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by March 31, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Palmer, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301–427–7238.

SUPPLEMENTARY INFORMATION: On April 11, 1983, W.L. Gore and Associates, Inc., Flagstaff, AZ 86002, submitted to CDRH an application for premarket approval of the GORE–TEX™ Suture ePTFE NONABSORBABLE MONOFILAMENT. The device is an expanded polytetrafluoroethylene nonabsorbable monofilament surgical suture that is not dyed. The GORE–TEX™ Suture ePTFE NONABSORBABLE MONOFILAMENT is indicated for use in all types of soft tissue approximation, including use in cardiovascular surgery, but not in ophthalmic surgery, microsurgery, and neural tissue. It is recommended for use where reduced suture-line bleeding during cardiovascular anastomotic procedures is desired. The device is available in sizes designated by the applicant as CV–2 through CV–7, with and without permanently attached needles.

On June 25, 1984, the General and Plastic Surgery Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application.

On December 30, 1985, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Kenneth A. Palmer (HFZ–410), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 31, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: February 21, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–4315 Filed 2–27–86; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Availability of Funds for Community and Migrant Health Activities

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is announcing: (1) The availability of approximately $400 million for community health (CH) activities and approximately $45 million for migrant health (MH) activities funded under sections 330 and 329 of the Public Health Service Act (42 U.S.C. 254c and 254b) respectively; (2) within the aforementioned funding, the availability of up to $12 million, targeted to high need areas, for new starts and new expansion activities; (3) within the $400 million, the availability of up to $3 million for grants to provide technical and other non-financial assistance under section 330(f)(1) of the Act; and (4) the criteria that will be used in evaluating applications in FY 1986.

DATE: With the exception of 330(f)(1) applications, continuation funding applications are due 120 days to the expiration of the current grant award; applications for new starts, expansions and new and continuation 330(f)(1) awards must be delivered or postmarked by June 1, 1986, and received in time to process.

FOR FURTHER INFORMATION CONTACT: Application kits and additional information may be obtained from, and completed applications should be sent to, the appropriate Regional Administrator (see Appendix).

SUPPLEMENTARY INFORMATION:

Critieria for Evaluating CH/MH Continuation Applications

As is the practice every year, compliance with standard criteria stipulated in the regulations (42 CFR Part 51c for CH and Part 56 for MH activities) and the performance of grant recipients in using previously awarded section 330 and 329 funds will be carefully reviewed in determining whether continued Federal support will be made available. This year's reviews of Community and Migrant Health Centers (CHC/MHC) will emphasize governance, clinical and financial/administrative expectations as set out below:

- *Governance* (42 CFR 31c.304 ad 56.304)—Each governing borad must represent the population of the catchment area, with center users comprising a majority of membership of

the board. Governing boards are expected to be responsive to the communities that they serve, fulfilling all of the functions and responsibilities specified in the legislation and implementing regulations.

• *Clinical* (42 CFR 51c.102(c)(1)(i), 51c.303 (a) and (p), 56.303 (a) and (p), 56.603 (a) and (n), and 56.102(g)(1)(i)).—CHCs and MH centers and programs must provide health services so that such services are available and accessible promptly, as appropriate, and in a manner which will assure continuity of service to the residents of the center's catchment area. Primary health services must be provided for all residents of the catchment area; such services include, but are not limited to, the diagnostic, treatment, and other services rendered by physicians and physician's extenders, perinatal services, and other preventive health services. In addition, a center must provide sufficient staff, qualified by training and experience, to carry out the activities of the center. In considering which projects to fund, the Secretary will consider whether a center has an appropriate number of full-time providers on staff who provide after hours coverage, have admitting privileges and hospitalize their patients.

• *Financial/Administrative* (42 CFR 51c.303(g), 56.303 (r) ad (s), and 56.305 (a)(3))—CHCs and MH centers and programs must seek to develop and utilize to the greatest extent possible other Federal, State, and local, and private resources, and must seek to maximize non-grant revenues. In considering which projects to fund, the Secretary will consider applicants' plans to secure maximum self-sufficiency and minimize dependence upon and need for subsequent CHC and MH grants.

To determine the level of funding to be awarded, each grantee's entire section 330 and/or 329 financed program will be reviewed using a zero-based assessment process. These zero-based assessments will be used to ascertain the need for the services and to assure that costs of providing the services and the revenues generated are acceptable. The reviews will incorporate all of the considerations listed in 42 CFR 51c.305 for CH grantees and 42 CFR 56.305 or 56.604, as appropriate, for MH grantees. In order to be funded, grantees will be expected to demonstrate: (1) The need and demand for services to be funded, with special attention given to the low birth weight and infant mortality rates in the catchment area; (2) financial and administrative efficiency in the provision of services; and, (3) a clinical system consistent with the priorities mentioned above.

Criteria for Evaluating New and Expansion CH/MH Applications

Applications for funding of "new starts" for CHCs and MH centers and programs will be evaluated in accordance with the criteria set forth in 42 CFR 51c.305 for CH and 56.305 and 56.604 for MH activities. Emphasis during grant evaluation will be placed on the extent to which the need for health services will be addressed, particularly for areas in need of improved perinatal systems. It should be noted that migrant health "centers" and "programs" have different requirements under the authorizing legislation and the regulations: migrant health centers must offer a full range of specified primary and supplemental services and serve a high impact area (section 329(d)(1)(A) of the PHS Act and 42 CFR Part 56, Subpart C); migrant health "programs" may be funded in areas where there is no migrant health center and in which not more than 4,000 migratory agricultural workers and their families reside for more than two months, with a more limited range of services required than offered by migrant health centers (section 329(d)(1)(B) of the PHS Act and 42 CFR Part 56, Subpart F).

The expansion of activities for existing grantees includes, but is not limited to, the establishment of satellite clinics, the expansion of service capacity, and related activities directed toward the expansion and the improvement of the delivery of services, such as improved financial management, planning, marketing, outreach activities, and perinatal systems. The extent to which applicants for expansion funds have or plan to develop cooperative linkages and arrangements with other health care organizations, such as through rural consortia and urban networks, will be considered as applications are reviewed. See 42 CFR 51c.305 (i) and (j), 56.305(a) (6) and (7) and 56.604(a)(2) (iii) and (iv).

Criteria for Evaluating Applications To Provide Technical and Other Non-financial Assistance Under Section 330(f)(1)

A full explanation of the basis on which application will be reviewed is included in the **Federal Register** Notice, Volume 50, Number 130, Monday, July 8, 1985, page 27851. In addition, the performance of grant recipients in using previously awarded section 330(f)(1) funds will be considered in determining whether Federal support will be made available to continuation applicants.

Other Award Information

Under the terms of the Primary Care Block Grant legislation (section 1923 of the PHS Act, 42 U.S.C. 300y–2), the Department is required to solicit comments from the Governor of the State and the appropriate local officials prior to awarding CHC grants. Since these comments are an essential part of a grant application's review, CHC applicants are advised to request that such comments be sent to the appropriate regional office prior to the due date of their application.

Furthermore, all grants to be awarded under this notice are subject to the provisions of Executive Order 12372, as implemented by 45 CFR Part 100, which allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available by DHHS (standard DHHS Form No. 424) will contain a listing of States which have chosen to set up such a review system and will provide a point of contact in the States for the review. At the latest, States should receive applications from grantees at the same time that they are due in the Regional Office.

In the OMB *Catalogue of Federal Domestic Assistance*, the Community Health Center program is listed as Number 13.224; the Migrant Health Center program is Number 13.246, and; the Technical and Other Non-financial Assistance to Community Health Centers is Number 13.129.

Dated: February 24, 1986

John H. Kelso,

Acting Administrator.

Appendix—Regional Health Administrators

Mr. Edward J. Montminy, Regional Health Administrator, DHHS Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, (617) 223–6827

Vivian Chang, M.D., Regional Health Administrator, DHHS Region II, 26 Federal Plaza, New York, New York 10278, (212) 264–2560

William Lassek, M.D., Regional Health Administrator, DHHS Region III, P.O. Box 13716, Philadelphia, Pennsylvania 19101 (215) 596–6637

John M. Dyer, M.D., Regional Health Administrator, DHHS Region VI, 1200 Main Tower Building, Dallas, Texas 75202, (214) 655–3879

Mr. Youn Bock Rhee, Regional Health Administrator, DHHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291

Audrey H. Nora, M.D., Regional Health Administrator, DHHS Region VIII, 1961 Stout Street, Denver, Colorado 80294, (303) 844–6163

E. Frank Ellis, M.D., Regional Health Administrator, DHHS Region IV, 101 Marietta Tower, Suite 1202, Atlanta, Georgia 30323, (404) 221–2316

Stephen H. King, M.D., Acting Regional Health Administrator, DHHS Region V, 300 South Wacker Drive, Chicago, Illinois 60606, (312) 353–1385

Sheridan L. Weinstein, M.D., Regional Health Administrator, DHHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810

Ms. Dorthy H. Mann, Regional Health Administrator, DHHS Region X, 2901 Third Avenue, Mail Stop 405, Seattle, Washington 98121 (206) 442–0430.

[FR Doc. 86–4317 Filed 2–27–86; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF AGRICULTURE
Office of the Secretary
DEPARTMENT OF THE INTERIOR
Office of the Secretary

Wild Horse and Burro Advisory Board; Notice of Establishment

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Public Law 92–463). Following consultation with the General Services Administration, notice is hereby given that the Secretaries of the Interior and of Agriculture are establishing a wild horse and burro advisory board to provide advice concerning policy issues related to the management, protection, and control of wild free-roaming horses and burros on public lands administered by the Department of the Interior through the Bureau of Land Management and by the Department of Agriculture through the Forest Service.

Further information concerning the advisory board may be obtained from the Director, Bureau of Land Management (250), U.S. Department of the Interior, Premier Building, Room 901, Washington, D.C. 20240.

The certification of establishment is published below.

Certification

We hereby certify that the establishment of the Wild Horse and Burro Advisory Board is necessary and in the public interest in connection with the performance of duties imposed on the Departments of the Interior and Agriculture by the Wild Free-Roaming Horse and Burro Act (Public Law 92–195, as amended).

Donald Paul Hodel,

Secretary of the Interior.

Date Signed: February 12, 1986.

John R. Block,

Secretary of Agriculture.

[FR Doc. 86–4258 Filed 2–27–86; 8:45 am]

BILLING CODE 3410–01–M, 4310–10–M

Bureau of Land Management

Wild Horse and Burro Advisory Board; Call for Nominations

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nominations for the Wild Horse and Burro Advisory Board.

SUMMARY: The purpose of this notice is to solicit public nominations for the appointment of members to the Wild Horse and Burro Advisory Board.

The Board will comprise 9 members. Terms of appointment will be for 2 years, or until the Board has been terminated.

Members of the Board shall not be employees of the Federal or State Governments. To ensure Board membership that is balanced in terms of categories of interest represented and functions performed, nominees must be persons who, as a result of training, experience, and attainment, have scientific knowledge or special expertise which qualifies them to represent and provide advise on at least one of the following categories of interest: protection of wild horses and burros, wild horse and burro populations dynamics, management of wildlife, animal husbandry (as it relates to rangeland management).

At least one member will be a representative of a recognized wild horse and burro protection advocacy organization and will be appointed from among those individuals recommended by such organizations.

One member will be chosen from each of the nine categories listed below:

Wild horse and burro research
Wild horse and burro management
Wildlife management
Rangeland management
Livestock management
Animal husbandry: veterinary medicine
Animal husbandry: humane organizations
Conservation
Public at large.

The purpose of the Board will be to provide informed advice to the Secretary of the Interior, the Director, Bureau of Land Management, the Secretary of Agriculture, and the Chief, Forest Service, on matters pertaining to management and protection of wild free-roaming horses and burros on the Nation's public lands.

Members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

The Board will normally meet three times annually. Additional meetings may be called by the Director, Bureau of Land Management, or his designee in connnection with special needs for advice.

Persons wishing to nominate individuals or to be nominated to serve on the Wild Horse and Burro Advisory Board should forward the names, addresses, professions, and other biographic data on qualified nominees to the address below.

ADDRESS: The mailing address is as follows: Chief, Division of Wild Horses and Burros (250), Bureau of Land Management, Premier Building, Room 901, Washington, DC 20240.

DATE: All nominations must be received by March 28, 1986.

FOR FURTHER INFORMATION CONTACT: Chief, Division of Wild Horses and Burros.

Robert F. Burford,

Director.

[FR Doc. 86–4259 Filed 2–27–86; 8:45 am]

BILLING CODE 4310–10–M

Environmental Impact Statement; Oregon Wilderness Study Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare a Supplement to the Draft Oregon Wilderness Environmental Impact Statement (DEIS).

DATE: Comments on issues and alternatives to be addressed in the Supplemental DEIS must be received at the address listed below by April 14, 1986. Protests regarding the wilderness inventory decisions included in this notice must be received no later than March 31, 1986.

ADDRESS: Comments should be sent to: Wilderness Studies (935), Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208. Protests should be sent to: State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Jerry Magee (935), Bureau of Land Management, P.O. Box 2965, Portland,

Oregon 97208. Telephone: (503) 231-6256.

SUPPLEMENTARY INFORMATION: The Draft Oregon Wilderness Environmental Impact Statement (DEIS) was released for public review on April 30, 1985, as announced through a **Federal Register** notice of availability (50 FR 18321). The document addressed wilderness suitability and nonsuitability recommendations for 77 Wilderness Study Areas (WSAs) totaling 2,304,142 acres. The DEIS analyzed the impacts of seven alternatives ranging from All Wilderness to No Wilderness/No Action. The comment period ended August 31, 1985.

The Bureau of Land Management intends to prepare a supplement to the Oregon Wilderness DEIS to consider additional lands that are being restored or added to WSA status.

On April 18, 1985, the U.S. District Court for the Eastern District of California issued a decision in *Sierra Club* v. *Watt* concerning certain lands that were deleted from wilderness review in 1982 and 1983. The decision restored split-estate lands (where the Federal Government owns the surface and another entity owns the mineral estate) to wilderness study area (WSA) status under section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA). The court also held that the Secretary of the Interior has discretionary authority to study (under section 202 of FLPMA) or remove from study those areas less than 5,000 acres that were deleted from WSA status through **Federal Register** notices between December 30, 1982 and August 9, 1983. Subsequently, the Secretary of the Interior has directed that these areas be retained as section 202 WSAs unless changes in status of the adjacent lands (upon which most of the BLM areas under 5,000 acres depended for identification as WSAs) no longer justify such WSA status.

In addition, the Department of the Interior has agreed to re-inventory lands over 5,000 acres that are contiguous to lands under wilderness review by other agencies, but which were deleted from WSA status as a result of a determination that they did not possess wilderness characteristics on their own.

As a result of an Interior Board of Land Appeals decision, Oregon and Idaho Inventory Unit OR-3-194A/ID-16- 48A, Lookout Butte, was re-inventoried and subsequently designated as a WSA on August 28, 1985, through publication of a **Federal Register** notice (50 FR 34917).

The final category of lands to be incorporated into the Supplemental DEIS includes split-estate and full fee-estate lands, acquired since completion of the wilderness inventory phase, that are either within or adjacent to the outer boundaries of an existing WSA and within the same roadless area. The decision to add any such lands to the wilderness review effort is within BLM's discretionary authority under sections 202 and 302 of FLPMA. In some places, these acquired lands form a bridge ot other BLM-administered public lands within these same roadless area. Only those acquired lands, and any adjoining public lands, which have been found through inventory, to possess wilderness characteristics in association with the adjacent WSAs will be considered in the Supplemental DEIS.

Overall, the supplement to the DEIS will address eight WSAs containing 113,065 acres not addressed in the original DEIS, plus modifications adding a total of 213,007 acres to 58 WSAs which appeared in the DEIS. The additions bring the combined total of WSAs and acres studied in the DEIS and Supplement to 85 WSAs and 2,646,214 acres.

As a supplement to the DEIS, it is expected that the document will address the same mix of site-specific alternatives defined and analyzed in the DEIS: All Wilderness (Entire WSA recommended suitable for wilderness designation), Enhanced Wilderness (Opportunities to enhance wilderness manageability considered), Partial (Opportunities to resolve or minimize resource conflicts considered), No Wilderness/No Action (Current levels of use and management continued), and the Preferred Alternative (usually one of the four preceding alternatives, but in some cases different from all of them). For some WSAs the document may address only the All Wilderness and No Wilderness/No Action alternatives. The other alternatives will be addressed for those WSAs where such options are considered relevant for analysis. The statewide alternatives will again incorporated all of the site-specific alternatives developed for the individual WSAs.

The Supplement will address the general issue topics discussed in the DEIS (wilderness values, ecosystems and vegetation, economic value and local personal income, livestock grazing, energy and mineral development, utility corridor routing, timber production, recreation use, wildlife and management of adjacent lands). The site-specific analyses will address those relevant site-specific issues identified by BLM staff and those raised by the public either previously or during the comment period established in this notice.

The Supplement is not intended to substantially modify the DEIS to respond to public comments on the DEIS, although some revisions may be made in respond to public comments to improve clarity. Any revisions not related to either clarity or the additional study lands identified above will be defered until the final EIS, including any adjustments to the preferred alternative for individual WSAs.

Table 1 lists the study areas to be addressed in the Supplemental DEIS. It identifies by study area the acres addressed in the original DEIS, those added under section 603 of FLPMA (split-estate lands previously deleted from WSA status and the new Lookout Butte WSA), and those added under Section 202 of FLPMA (areas under 5,000 acres previously deleted from WSA status; areas over 5,000 acres that do not possess wilderness characteristics when considered apart from adjacent lands under study by another agency; and certain split-estate and full fee-estate lands acquired after the passage of FLPMA, along with adjoining public lands, found through inventory to possess wilderness characteristics warranting further study). The final column lists acreages of acquired and associated public lands, within the same roadless areas as existing WSAs, that were inventoried and found to not meet wilderness criteria for WSA status.

This announcement constitutes a final inventory decision for the acquired and associated public lands listed in Table 1. This inventory decision is subject to protest. Unless a protest is received during the 30-day protest period, which ends on March 31, 1986, this inventory decision will become final on that date.

Dated: February 21, 1986.

William G. Leavell,

State Director.

BILLING CODE 4310-33-M

Table 1. Study Areas Included in the Supplement to the Oregon Wilderness DEIS

SDEIS Study Area Number (OR-)	Name	Acres in WSA in 4/85 DEIS	Acreage Added Under Sec. 603	Acreage Added Under Sec. 202 1/	Total SDEIS Study Area Acres	Acq. & Assoc. Public Lands Not Meeting WSA Criteria (ac.)
1-2	Devils Garden Lava Bed	28,720	920	0	29,640	0
1-3	Squaw Ridge Lava Bed	27,700	620	0	28,320	0
1-22	Four Craters Lava Bed	11,960	640	0	12,600	0
1-24	Sand Dunes	16,000	400	0	16,400	0
1-58	Diablo Mountain	107,920	5,200	0	113,120	0
1-101	Abert Rim	23,280	480	0	23,760	0
1-117	Fish Creek Rim	16,070	0	620	16,690	0
1-146A	Hawk Mountain	68,360	0	1,280	69,640	0
1-146B	Sage Hen Hills	0	2/	2/	8,520	0
2-23L	Stonehouse	21,000	0	325	21,325	2
2-72C	Sheepshead Mountains	51,120	0	3,270	54,390	0
2-72D	Wildcat Canyon	32,720	0	2,110	34,830	0
2-72F	Heath Lake	20,100	0	420	20,520	0
2-72I	Table Mountain	38,600	0	1,992	40,592	0
2-72J	West Peak	7,900	0	635	8,535	0
2-73A	East Alvord	21,600	0	640	22,240	0
2-73H	Winter Range	14,800	0	640	15,440	0
2-74	Alvord Desert	111,690	107,900	31,470	251,060	230
2-77	Mahogany Ridge	27,210	160	570	27,940	0
2-78	Red Mountain	14,730	0	1,485	16,215	0
2-81	Pueblo Mountains	69,310	0	3,380	72,690	440
2-82	Rincon	97,545	0	6,420	103,965	200
2-83	Alvord Peak	14,655	0	2,170	16,825	14,790
2-84	Basque Hills	137,220	0	4,190	141,410	0
2-85F	High Steens	65,420	680	3,640	69,740	2,380
2-85G	S.Fk.Donner & Blitzen R.	35,850	0	1,705	37,555	65
2-85H	Home Creek	25,120	0	1,470	26,590	30
2-86E	Blitzen River	51,890	170	2,220	54,280	0
2-86F	Little Blitzen Gorge	9,240	140	20	9,400	0
2-87	Bridge Creek	14,060	0	485	14,545	0
2-98A	Pine Creek	0	0	200	200	0
2-98C	Sheep Gulch	0	0	720	720	0
2-98D	Indian Creek	0	0	208	208	0
3-18	Castle Rock	5,560	0	640	6,200	0
3-27	Beaver Dam Creek	19,140	80	360	19,580	0
3-31	Camp Creek	18,360	840	0	19,200	0
3-32	Cottonwood Creek	8,500	200	0	8,700	0
3-33	Gold Creek	12,920	680	0	13,600	0
3-35	Sperry Creek	5,360	0	240	5,600	0
3-47	Cedar Mountain	31,440	2,160	0	33,600	0
3-53	Dry Creek	22,540	1,000	0	23,540	0
3-56	Dry Creek Buttes	49,880	1,920	0	51,800	0
3-74	Upper Leslie Gulch	0	0	3,000	3,000	0
3-110	Lower Owyhee Canyon	71,940	1,460	1,985	75,385	0
3-111	Saddle Butte	81,300	0	5,000	86,300	0
3-114	Palomino Hills	50,560	0	3,840	54,400	0
3-118	Bowden Hills	56,140	0	3,760	59,900	0
3-120	Clarks Butte	31,450	40	0	31,490	0
3-128	Jordan Craters	27,560	240 3/	0	27,800	0
3-152	Willow Creek	28,810	0	1,755	30,565	0
3-153	Disaster Peak	30,490	90	1,460	32,040	0
3-156	Fifteenmile Creek	48,460	0	2,830	51,290	0
3-157	Oregon Canyon	40,400	20	2,480	42,900	0
3-162	Twelveemile Creek	26,960	0	1,640	28,600	0
3-173	Upper W. Little Owyhee	58,660	0	3,840	62,500	0
3-194	Lookout Butte	0	99,600 4/	0	99,600 4/	0
5-6	Lower John Day	19,532	0	240	19,772	0
5-8	North Pole Ridge	6,249	0	120	6,369	0
5-31	North Fork	10,745	0	240	10,985	0
5-33	South Fork	19,391	240	0	19,631	0
5-34	Sand Hollow	8,091	700	0	8,791	0
5-35	Gerry Mountain	19,980	720	0	20,700	0
5-43	Cougar Well	17,315	0	1,120	18,435	0
6-1	McGraw Creek	0	0	497	497	0
6-2	Homestead	6,321	600	0	6,921	0
11-1	Mountain Lakes	0	0	320	320	0
	TOTALS	2,015,844	227,900 2/	107,652 2/	2,359,916	18,137

1/ The study areas and acreages added under Section 202 of FLPMA fall into the following categories:

Under 5,000 acres: Pine Creek (OR-2-98A) - 200 acres, Sheep Gulch (OR-2-98C) - 720 acres, Indian Creek (OR-2-98D) - 208 acres, Upper Leslie Gulch (OR-3-74) - 3,000 acres, McGraw Creek (OR-6-1) - 497 acres and Mountain Lakes (OR-11-1) - 320 acres.

Over 5,000 acres: Possibly Sage Hen Hills (OR-1-146B) - 8,520 acres, if further inventory determines that the area does not possess wilderness characteristics when considered apart from adjacent U.S. Fish and Wildlife Service lands under wilderness consideration.

Acquired and Adjacent Lands: The remaining study areas listed in the table.

2/ Further inventory and a separate public review period are necessary to determine whether the Sage Hen Hills WSA will be studied under Section 603 or Section 202 of FLPMA. When determined, the 8,520 acres would be added to the appropriate column.

3/ Includes 215 acres erroneously omitted from the DEIS due to records which incorrectly depicted the lands as split-estate rather than public lands.

4/ Includes 34,400 acres in Idaho.

[FR Doc. 86-4249 Filed 2-27-86; 8:45 am]

BILLING CODE 4310-33-C

Federal-State Coal Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice is to inform the public that the Federal-State Coal Advisory Board (Board) will meet in Denver, Colorado, on April 1, 1986. The public is invited to attend. The Board will (1) discuss the Secretary's coal program decisions, (2) the timing and proposed means of implmentation of the decisions, and (3) review the Board charter with respect to its renewal.

DATE: The Board will meet at 9:00 a.m. on April 1, 1986.

ADDRESS: The Board meeting will be held at the Clarion Hotel, 3203 Quebec Street, Denver, Colorado 80207, telephone 1–800–252–7466.

FOR FURTHER INFORMATION CONTACT: Walt Rewinski or Tom Walker, Division of Solid Mineral Leasing, Bureau of Land Management (650), 18th and C Streets NW., Washington, DC 20240, telephone (202/FTS) 343–4636.

SUPPLEMENTARY INFORMATION: The Board will meet to hear a presentation on the Secretary's coal leasing decisions and the specific changes developed to improve the leasing process and increase public confidence in the program. These changes culminate a comprehensive program review which included the 1983–1984 examination of fair market value policy for Federal coal leasing by an independent commission established by the Secretary; the Office of Technology Assessment's investigation of environmental protection in the Federal coal leasing program; and the Secretary's commitment to re-examine the basis for a Federal coal leasing program.

Board members will also be briefed on the Department's proposal to restart the regional activity planning process and the implementation of the program changes. Additionally, the Board will review its charter, which expires in October 1986, and discuss possible changes in anticipation of charter renewal, which is required every two years.

The public will have an opportunity to address the Board on agenda topics during the public comment period, as noted on the agenda, below. Written copies of a speaker's remarks would be appreciated. Any comments will become a part of the record of the Board meeting. The Chairperson may impose a time limit on speakers' comments to ensure that all those wishing to address the Board are heard.

Agenda—Federal-State Coal Advisory Board Meeting

April 1, 1986

Denver, Colorado

Welcome and Introductions
- —BLM Director
- —Deputy Director for Energy and Mineral Resources
- —Board Members

Review and Approval of Meeting Agenda
Approval of 1985 Meeting Minutes
Director's Remark
Coal Program Developments
- —Summary of Secretary's coal program
- —Extent to which program changes apply
  - • Existing activity planning
  - • New activity planning
- —Program restart
  - • BLM conferences on program changes
  - • RCT meetings
  - • Long-range schedule and market analysis
- —FSCAB recommendation on data adequacy
- —RCT reports

Break
Coal Program Developments (cont'd)
Lunch
Advisory Board Charter
Public Comment Period
Break
Discussion/Recommendations
Adjourn

Robert F. Burford,

Director.

February 24, 1986.

[FR Doc. 86–4281 Filed 2–27–86; 8:45 am]

BILLING CODE 4310–84–M

[Serial No. I–14881 et al.]

Idaho; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, Department of Agriculture proposes that 332.74 acres of withdrawals for the Warm Springs Administrative Site, Snake River Administrative Site and the Swan Valley Administrative Site continue for an additional 30 years, which is the anticipated time the sites will continue to be used as administrative sites. These lands will remain closed to surface entry, and mining, but not mineral leasing.

DATE: Comments should be received within 90 days of the date of publication of this notice.

ADDRESS: Comments should be sent to; Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, Idaho State Office, 208–334–1735.

The Forest Service proposes that the existing land withdrawals made by the Secretarial Order of October 19, 1908, Executive Order 2221, of July 19, 1915, Executive Order 4951, of August 17, 1928, Public Land Order No. 107, of March 31, 1943, and Public Land Order 2970, of March 18, 1963, be continued for a period of 30 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

I–14978

Secretarial Order of October 19, 1908

Boise Meridian

T. 2 N., R. 43 E.
Sec. 32, lots 6, 7, E½SE¼.

I–14884

Executive Order 2221, dated July 19, 1915

Boise Meridian

T. 11 N., R. 32 E.
Sec. 25, SE¼SW¼, W½SE¼;
Sec. 36, NE¼NW¼.

I–14902

Executive Order 4951, dated August 17, 1928

Boise Meridian

T. 2 N., R. 43 E.
Sec. 33, lots 4, 5, SW¼SW¼.

I–14881

Public Land Order No. 107, dated March 31, 1943

Boise Meridian

T. 1 N., R. 43 E.
Sec. 1, lots 5, 6, 11, 77, 78, 91, 92.

I–012983

Public Land Order No. 2970, dated March 18, 1963

Boise Meridian

T. 1 N., R. 43 E.
Sec. 1, lots 80, 81, 82, 83.

The area involved totals 332.74 acres in Clark County.

The withdrawals are essential for protection of substantial capital improvements on the Administrative Sites. The withdrawals closed the described lands to surface entry, and mining but not mineral leasing. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the

Interior, the President and Congress, who will determine whether or not the withdrawals will be continued, and if so, for how long. The final determination on continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

Dated: February 20, 1986.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 86-9297 Filed 2-28-86; 8:45 am]

BILLING CODE 4310-GG-M

North Dakota; Resource Management Plan Alternatives

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Supplement to Notice of Intent for the Initiation of Planning Activity in Dickinson District, North Dakota.

SUMMARY: This notice supplements the "Notice of Intent for the Initiation of a Planning Activity for the North Dakota Resource Management Plan (RMP)," published in the Federal Register, Volume 49, Number 245, Pages 49382 and 49383, on Wednesday, December 19, 1984. This supplement identifies four alternatives to be considered in detail during the preparation of the RMP and accompanying Environmental Impact Statement (EIS). The four alternatives will be based on the general themes of no action, commodity resource production, balanced multiple use, and protection of natural resource amenities.

SUPPLEMENTARY INFORMATION: Alternatives to be considered in detail were not identified in the original "Notice of Intent" for the North Dakota RMP. Four alternatives have been designed to present a range of feasible management actions which address the resource management issues of coal leasing, land pattern adjustment, oil and gas leasing, and offroad vehicle use.

The "No Action Alternative" is included in accordance with 43 CFR 1502.14(d). The theme of commodity resource production will be represented by maximizing commodity production subject to legal requirements. The balanced multiple use theme will be represented by maximizing commodity production within legal requirements and resource constraints identified through consultation with state and federal resource management agencies, interest groups, and the general public. The fourth alternative emphasizes maintaining or improving amenity values. This alternative would allow development of commodity resources, but only to a level which would not adversely impact other resource values.

FOR FURTHER INFORMATION CONTACT: William F. Krech, District Manager, P.O. Box 1229, Dickinson, North Dakota 58602, Telephone: (701) 225-9148.

Dean Stepanek,

State Director.

February 21, 1986.

[FR. Doc. 86-4286 Filed 2-27-86; 8:45 am]

BILLING CODE 4310-DN-M

[NM 59498-OK and NM 59499-OK]

Public Lands Sale in Woods and Woodward Counties, OK

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Sale Notice.

SUMMARY: The Tulsa District proposes to dispose of 197.27 acres of public land in Woods and Woodward Counties, Oklahoma. The proposed sale is consistent with the Bureau's planning system and the Federal Land Policy and Management Act (FLPMA) of 1976. Public interest will be served by disposition of these isolated tracts that are difficult and uneconomical to manage as part of the public lands, and are not suitable for management by another Federal department or agency.

DATE: For a period of 45 days after the date of publication of this Notice in the Federal Register, all persons who wish to submit comments may do so in writing to the District Manager, Bureau of Land Management, 9522-H East 47th Place, Tulsa, Oklahoma, 74145. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Hans Sallani, Oklahoma Resource Area Headquarters, 405-231-5491.

The following described lands have been examined and identified as suitable for disposal by sale under Section 203 of the FLPMA of 1976 (90 Stat. 2743, 43 U.S.C. 1701) at no less than the appraised fair market value:

Tract	Legal description	Acres	Value
	Woods County (WD)		
WD-2	T. 24 N., R. 16 W., I.M., sec. 21: NE¼SW¼ and NE¼NE¼.	80.00	$16,000
WD-3	T. 24 N., R. 16 W., I.M., sec. 22: NW¼NW¼.	40.00	8,000
WD-5	T. 25 N., R. 14 W., I.M., sec. 18: Lot 3.	37.27	11,200
	Woodward County (WW)		
WW-1	T. 21 N., R. 17 W., I.M., sec. 30: NE¼SW¼.	40.00	8,000

(Containing 197.27 acres)

Patents, when issued, will contain the following reservations: 1. All minerals (or partial or specific mineral interests, where applicable) shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this Bureau of Land Management office.

2. The sale of the lands will be subject to all valid existing rights and reservations of record.

Tracts WD-2, WD-3, and WW-1 do not have legal access and the Bureau of Land Management will not guarantee access.

The identified tracts will be sold by sealed bid under competitive bidding procedures. Sealed written bids will be considered only if received by the Bureau of Land Management, Oklahoma Resource Area Headquarters, 200 N.W. Fifth Street, Room 548, Oklahoma City, Oklahoma, 73102, prior to 10:00 a.m., Monday, May 5, 1986. The tract numbers should be printed on the lower left hand corner (example: Land Sale—Tract WD-5). Each written sealed bid must be accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Department of the Interior, Bureau of Land Management, for at least twenty percent of the amount bid. The written, sealed bids will be opened and publicly declared at the beginning of each sale. If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be the highest bid shall be by supplemental sealed bids.

Once a high bid price is accepted, the successful bidder shall submit the remainder of the full bid price within 180 days of the sale. Failure to pay the full bid price shall result in cancellation of the sale for the tract, and the deposit shall be forfeited and disposed of as other receipts of sale. All bids will be either returned, accepted, or rejected within 30 days of the sale date.

If the identified tracts are not sold, they will be available for sale by sealed bid on the first Monday of each month for six months as follows: (1) June 2, 1986; (2) July 7, 1986; (3) August 4, 1986;

(4) September 8, 1986; (5) October 6, 1986; and, (6) November 3, 1986.

Jim Sims,

District Manager.

[FR Doc. 86-4285 Filed 2-27-86; 8:45 am]

BILLING CODE 4310-FB-M

[W-86514]

Realty Action; Sale of Public Lands; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—FLPMA Sale; Public Lands, Lincoln and Sweetwater Counties, Wyoming.

SUMMARY: The following public lands have been examined and found suitable for Direct Sale under section 203 of the Federal Land Policy and Management Act of 1976, at not less than the appraised fair market value of $640,000.00. The lands will not be offered for sale until sixty (60) days after the date of this notice:

6th Principal Meridian

T. 22 N., R. 111 W.,
Sec. 18: Lot 8, SE¼SW¼, S½SE¼.
T. 22 N., R. 112 W.,
Sec. 14: S½N½, S½.

The lands are proposed to be offered for sale to Exxon Corporation to be used for the operation of a natural gas processing plant and related facilities.

The sale is consistent with the Bureau's planning system. At this time, the lands are not suitable for management by the Bureau or another federal agency. It has been determined through the Riley Ridge Natural Gas Project EIS process that the public interest would be best served by offering the lands for sale.

This land sale will not be completed, and patent will not be issued until Exxon has finished and the Bureau of Land Management has approved the cultural resources mitigation reports for this sale.

The patent, when issued, will contain certain reservations to the United States and will be subject to all valid existing rights and reservations of record. Detailed information concerning these reservations, as well as conditions of the sale, are available for review at the Kemmerer Resource Area Office, Bureau of Land Management, P.O. Box 632, Kemmerer, Wyoming 83101.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws and the mining laws. The segregative effort will end upon issuance of the patent or 270 days from the date of the publication, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902-1869. Objections will be reviewed by the State Director who may sustain, vacate or modify the realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Donald H. Sweep,

District Manager.

[FR Doc. 86-4284 Filed 2-27-86; 8:45 am]

BILLING CODE 4310-22-M

Resource Management Plans; Medicine Bow and Divide Resource Areas, WY

AGENCY: Bureau of Land Management, Rawlins District Office, Rawlins, Wyoming, Interior.

ACTION: Initiation of a Resource Management Plan (RMP), request and invitation for public participation, request for coal and other resource information, and request for identification of areas of interest in federal coal leasing and development for the Medicine Bow and Divide Resource Areas, Rawlins District, Wyoming.

SUMMARY: The Rawlins District is initiating a land use planning effort to guide future management actions on approximatley 3.9 million acres of public lands and 5.1 million acres of Federal mineral estate administered by the Bureau of Land Management (BLM) within the Medicine Bow and Divide Resource Areas. The two adjacent resource areas are located in south-central and southeastern Wyoming and include Carbon, Albany and Laramie counties and eastern Sweetwater county. The single planning effort will result in two comprehensive land-use plans that will identify allowable land and resource uses and general management practices for each resource area.

An interdisciplinary team has been formed to develop the RMP. Disciplines to be represented include geology, petroleum and mining engineering, range conservation, wildlife biology, forestry, economics, recreation, lands, hydrology, soils, air quality, sociology, and archaeology.

Public participation will be solicited and provided throughout the planning process by: **Federal Register** announcements, discussions with interested and affected parties, press releases and notices, individual mailings to all parties who have expressed an interest, and public meetings and hearings. Anyone interested in having his or her name placed on the mailing list should contact the Team Leader at the address listed below.

The BLM initiated the scoping process for this planning effort in September 1985 by conducting an assessment of the current management in the two Resource Areas. This assessment has substantiated that an RMP must be developed for each of the resource areas and has identified several problems, concerns and conflicts among the following resource and resource use categories:

1. Mineral exploration and development,
2. Livestock grazing management and wild horse management,
3. Scenic and recreation values and recreational uses,
4. Special management area designation for areas with unique resource values, inlcuding wilderness study areas,
5. Wildlife habitat,
6. Forestry management activities,
7. Fire management activities.

The various problem areas identified relate to three general preliminary issues that each plan should address:

1. Management of vegetative resources for both consumptive (e.g., grazing including wild horses, timber harvesting, mineral development activities, etc.) and nonconsumptive uses (e.g., watershed protection, maintenance of cover for wildlife, etc.);
2. Special management determinations to protect environmentally sensitive areas of unique resource values, including Wilderness Study Areas; and
3. Management determinations to protect or improve water and air resource values.

To complete the scoping, the BLM is requesting the public to help (1) identify additional problems, concerns, conflicts, and management opportunities that should also be addressed in the planning process; and (2) to participate throughout the planning process.

This notice includes a request for any available resource information and data pertaining to the two resource areas and the above mentioned disciplines. The purposes of this request are:

1. To assure that the Environmental Impact Statement (EIS) and subsequent RMP's cover the fullest possible range of consideration for resource and land uses and management alternatives.

2. To fulfill the "call for coal resource information" requirement in 43 CFR

3420.1–2. This call is issued to (a) obtain any available data on the location quality and quantity of Federal coal with development potential, and (b) identify areas where there is substantiated interest in future leasing and development of Federal coal, and the interested parties. Parties interested in future leasing and development of Federal coal in the two resource areas will be expected to provide coal resource data (and other resource data, regarding item 3 below) for their areas of interest. This particularly concerns areas where there is little or inadequate existing data, which would require inventory and data collection during the early planning stages. The lack of participation by interested parties may result in the omission of their areas of interest from further consideration for coal leasing.

3. To obtain any available information and resource data pertinent to conducting the coal screening requirements in 43 CFR 3420.1–4(e). Specifically, this concerns information needed for adequate application of the 20 coal unsuitability criteria (43 CFR 3461.1) and for adequate evaluation of any other multiple use resource values that would be in conflict with coal development (43 CFR 3420.1–4(e)(3)).

4. To identify any apparent "qualified surface owners" as defined in section 714 of the Surface Mining Control and Reclamation Act and in 43 CFR 3400.0–5(gg). This will help to initiate any necessary consultation with surface owners as required by 43 CFR 3420.1–4(e)(4).

DATES: Identification of problems, conflicts, concerns, and management opportunities and development of planning criteria for this planning effort began in September 1985. Commencing immediately, the BLM is requesting any information and resource data that can be provided relative to all items discussed above. The BLM is also requesttng all parties interested in or who wish to participate in the planning effort, particularly in the ongoing scoping of the plans, to contact the planning Team Leader at the address and phone number below. This should be done as soon as possible to help assure timely notification of the upcoming scoping meetings to be held at various locations in and around the planning areas. Public meetings will be announced through the **Federal Register**, local news media and public mailings.

ADDRESS: Medicine Bow and Divide RMP Team Leader, P.O. Box 670, Rawlins, Wyoming 82301, (307) 324–7171.

FOR FURTHER INFORMATION CONTACT: Steve Howell, Team Leader, at the above address.

SUPPLEMENTARY INFORMATION: Copies of the preliminary problems, concerns, conflicts, management opportunities, issues and planning criteria are available at the BLM District Office, P.O. Box 670, 1300 N. 3rd Street, Rawlins, Wyoming 82301.

Hillary A. Oden,

State Director.

[FR Doc. 86–4436 Filed 2–27–86; 8:45 am]

BILLING CODE 4310-22-M

[CA–15531]

Realty Action; Noncompetitive Sale of Public Land in Los Angeles County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action—Noncompetitive sale of public land in Los Angeles County, California to the city of Los Angeles.

SUMMARY: The following described public land has been examined and found suitable for disposal by noncompetitive sale under section 203 (a)(1) and section 209 (a) and (b) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750 and 2757; 43 U.S.C. 1713 and 1719):

San Bernardino Meridian, California

T. 2S., R. 13W., SBM,

Sec. 4, Lots 3 & 4.

Containing 4.00 acres more or less.

The subject land is located in the City of Los Angeles, California. The land is being offered by direct sale to the City of Los Angeles for not less than the appraised fair market value of $343,000.

Purpose

The sale of this land will provide clear title to numerous innocent purchasers of private property by removing a cloud from their titles. This sale is consistent with Federal and local government planning.

The subject land is to be sold directly to the City of Los Angeles for the appraised market value of $343,000 by direct sale pursuant to 43 CFR 2711.3–3(a)(5).

A certified check, postal money order, bank draft or cashier's check, made payable to the Department of the Interior, Bureau of Land Mangement for the entire amount of $343,000 shall be received at the place of sale, California Desert District Office, 1695 Spruce Street, Riverside, California 92507, by 1:00 p.m. on May 30, 1986. The payment shall be enclosed in a sealed envelope clearly marked "Public Land Sale, CA–15531, Los Angeles County, California".

Failure to submit the full purchase price as specified above shall result in cancellation of the sale of the above described land.

The subject land is prospectively valuable for oil and gas. It has been determined that this land contains no other known mineral values. Therefore, as a condition of sale, a $50.00 nonrefundable fee for conveyance of the remaining mineral estate is required.

The patent, when issued, will contain the following reservations:

1. A right-of-way shall be reserved to the United States for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. (a) The United States reserves all oil and gas in the land so patented subject to disposition under the general leasing laws.

(b) The United States reserves to itself, its permittees, licensees, and lessees the right to prospect for, mine and remove the oil and gas owned by the United States udner applicable law and such regulations as the Secretary of the Interior may prescribe. This reservation includes all necesary and incidental activities conducted in accordance with the provisions of the mineral leasing laws in effect at the time such activities are undertaken, including, without limitation, necessary access and exit rights, all drilling and storage and transportation facilities deemed necessary and authorized under law and implementing regulation.

(c) Unless otherwise provided by separate agreement with the surface owner, permittees, licensees and lessees of the United States shall reclaim disturbed areas to the extent prescribed by regulations issued by the Secretary of the Interior.

(d) All causes of action brought to enforce the rights of the surface owner under the regulations above referred to shall be instituted against permittees, licensees, and lessees of the United States; and the United States shall not be liable for the acts or omissions of its permittees, licensees and lessees.

Publication of this Notice of Realty Action in the **Federal Register** shall segregate the subject public land from appropriation under the public land laws, including the mining laws. The segregative effect of this Notice of Realty Action shall terminate upon issuance of patent or other document of conveyance to such lands upon publication in the **Federal Register** of a termination of the segregation or 270

days from the date of publication, whichever occurs first.

Further information concerning this sale, including the land report, environmental assesment and appraisal, is available for review at the Indio Resource Area Office, 1695 Spruce Street, Riverside, California 92507.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District, at the above address. Objections will be reviewed by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: February 24, 1986.

Richard M. Barbar,

Acting District Manager.

[FR Doc. 86-4473 Filed 2-27-86; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Development Operations Coordination Document; Texaco USA

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Texaco USA has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4903, Block 30, Main Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Venice and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on February 14, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Rules and Production, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit, Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685).

Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: February 20, 1986.

J. Rogers Pearcy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-4293 Filed 2-27-86; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending 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, Washigton, DC 20503, telephone 202-395-7313.

Title: 30 CFR 602 Helium Distribution Contracts

Abstract: Respondents supply information which will be used by the Bureau of Mines Division of Helium Field Operations to (a) determine legitimacy of applicants for distribution contracts, (b) estalished accountability of helium transfer between distributors, and (c) report annual sales, transfers, and purchases of Bureau helium as certification of compliance with 30 CFR Part 602. The Bureau will use information supplied on the three forms as described to implement and manage an effective helium distribution system in accordance with 30 CFR Part 602.

Bureau Form Number: 6-1575-A, 6-1580-A, and 6-1581-A.

Frequency: Annually.

Description of Respondents: Industrial gas suppliers who elect to distribute Bureau of Mines helium.

Annual Responses: 48.

Annual Burden Hours: 24.

Bureau clearance officer: James T. Hereford 202-634-1125.

Dated: February 14, 1986.

Robert C. Horton,

Director, Bureau of Mines.

[FR Doc. 86-4292 Filed 2-28-86; 8:45 am]

BILLING CODE 4310-53-M

Office of Surface Mining; Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review 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 for the paperwork Reduction Act 44. U.S.C. Chapter 35. Copies of the proposed collection of information and related forms and explanatory material many be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7313.

Title: 30 CFR Part 772 Requirement of Coal Exploration.

Abstract: Sections 507(b), 508(a), and 516(b) of Pub. L. 95–87 require applicants for underground mine permits to provide a description of each existing structure proposed to be used in the mining and reclamation operation and a compliance plan for structures proposed to be modified or constructed for use in the operations. This information is used by the regulatory authority in determining if the applicant can comply with the applicable performance and environmental standards.

Bureau Form Number: None.

Frequency: On occasion.

Description of respondents: Coal Mine Operators.

Annual Responses: 2,250.

Annual Burden Hours: 77,500.

Bureau Clearance Officer: Darlene Grose Boyd 202–343–5547.

Dated: February 14, 1986.

Carson W. Culp,

Assistant Director, Budget and Administration.

[FR. Doc. 86–4291 Filed 2–27–86; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

Import Investigations; Certain Dried Salted Codfish From Canada; Request for Comments Concerning the Institution of a Section 751(b) Review Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Request for comments regarding the institution of a section 751(b) review investigation concerning the Commission's affirmative determination in investigation No. 731–TA–199 (Final), Certain Dried Salted Codfish from Canada.

SUMMARY: The Commission invites comments from the public on whether changed circumstances exist which warrant the institution of an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) to review the Commission's affirmative determination in investigation No. 731–TA–199 (Final) regarding certain dried salted codfish from Canada, provided for in item 111.22 of the Tariff Schedules of the United States. The purpose of the proposed section 751(b) review investigation, if instituted, would be to determine whether an industry in the United States would be materially injured, would be threatened with material injury, or the establishment of an industry would be materially retarded, by reason of imports of certain dried salted codfish from Canada if the antidumping duty order is modified or revoked with respect to such merchandise, provided for in item 111.22 of the Tariff Schedules of the United States.

FOR FURTHER INFORMATION CONTACT: David Coombs, Office of Investigations, U.S. International Trade Commission (202–523–1376). Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION: On June 27, 1985, the Commission determined pursuant to section 735(b) of the Tariff Act of 1930, that the establishment of an industry in the United States is threatened with material injury by reason of imports of certain dried salted codfish from Canada which have been found by the Department of Commerce to be sold at less than fair value.

On February 6, 1986, the Commission received a request to review its affirmative determination in investigation No. 731–TA–199 (Final). The request was filed pursuant to section 751(b) of the Tariff Act of 1930 by Freeman, Wasserman, & Schneider on behalf of BMT Commodity Corp. and Delca Distributors, Inc., an importer and seller, respectively, of certain dried salted codfish from Canada.

Written comments requested: Pursuant § 207.45(b)(2) of the Commission's rules of practice and procedure (19 CFR 207.45(b)(2)), the Commission requests public comments concerning whether the following changed circumstances alleged in the request for review are sufficient to warrant institution of a review investigation: (1) Codfish Corp., the only known potential producer, ceased production in November 1984, has not recommenced production, and filed for bankruptcy on November 18, 1985, (2) the continuing unavailability of a domestic source of supply has resulted in American consumers paying higher prices for imported codfish as a result of the dumping duties and in a decline in demand for codfish in Puerto Rico as the competitive gap widens between dried salted codfish and other less expensive sources of protein such as chicken and pork, and (3) even if Codfish Corp. were producing, it could not attain the level of production necessary to be a viable producer.

Additional information: Under § 201.8 of the Commission's rules of practice and procedure (19 CFR 201.8), the signed original and 14 true copies of all written submission must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436. All comments must be filed no later than 30 days after the date of 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 business confidential treatment under § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). Such request should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must be clearly marked at the top "Confidential Business Data." The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

Copies of the request for review of the injury determination and any other public documents in this matter are available to the public during official working 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.

Issued: February 25, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–4336 Filed 2–27–86; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMRCE COMMISSION

Intent To Engage In Compensated Intercorporate Hauling Operations; AMEDCO Inc., et al.

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 59 U.S.C. 10524(b).

1. Parent corporation and address of principal office: AMEDCO Inc., P.O. Box 14351A, St. Louis, MO 63178.

2. Wholly-owned subsidiaries which will participate in the operations, and their States of incorporation:

Name	State or jurisdiction of incorporation
Acme Metal Co.	Tennessee.
AMEDCO Casket Stamping Co.	Missouri.
AMEDCO Contract Inc.	Do.
AMEDCO Controls Inc.	Do.
AMEDCO Funeral Supply Inc.	Delaware.
AMEDCO Health Care Inc.	Missouri.
AMEDCO Steel Inc.	Oklahoma.
American Funeral Computer Services Inc.	Illinois.
Avalon Casket Co.	Tennessee.
Belmont Casket Co.	Missouri.
Central States Rebar, Inc.	Texas.

Name	State or jurisdiction of incorporation
Edwards Equipment Co.	Missouri.
Gold Shield Gasket Co.	Do.
Halmark Casket Co.	Do.
Health Facilities Design Associates, Inc.	Nebraska
L.H. Kellogg Chemical Co.	Minnesota
Lewis Industries, Inc.	Delaware
Lockwoven Company Inc.	Missouri.
Mac-O-Mo inc.	Do.
Marshfield Casket Company Inc.	Do.
Midwest Products Inc.	Do.
Oxycon Inc.	Ohio.
Ozark Casket Supply Inc.	Missouri.
Preference Casket Mfg. Co.	Do.
Professional Securities Corp.	Do.
Royal Bond Inc.	Do.
S&D Medical Products Inc.	Do.
Smith & Davis Manufacturing Co.	Do.
Spartan Casket Shell, Inc.	Delaware.
Steel Processing & Supply Co.	Texas.
Universal Flowers Inc.	Missouri.
Wallace Metal Products Inc.	Texas.
York Casket Co.	Delaware.

1. Parent corporation and address of principal office: Masco Corporation, 21001 Van Born Road, Taylor, Michigan 48180.

2. Wholly-owned subsidiaries [1] which will participate in the operations, and their States of incorporation:

American Metal Products Company, Delaware
Aqua Glass Corporation, Tennessee
Tombigbee Transport Corporation, Tennessee
Baldwin Hardware Corporation, Pennsylvania
Brass-Craft Manufacturing Company, Michigan
Brass-Craft Holding Company, Michigan
Brass-Craft Western Company, Texas
Thomas Mfg. Company, Inc. of Thomasville, North Carolina
Evans Rule Company, Inc., New Jersey
Taylor Investments, Inc., New Jersey
E-R Rule Co. of Puerto Rico, Inc., New Jersey
Fulton Manufacturing Corporation, Delaware
Marvel Metal Products Co., Delaware
Masco Building Products Corp., Delaware
Masco Corporation of Indiana, Indiana
Delta Faucet Company, Michigan
Merillat Industries, Inc., Michigan
Peerless Sales Corporation, California
Reese Service Center of California, Inc., California
Trayco, Inc., Michigan

3. Divisions of parent corporation and location of principal office:

American Metal Products, California
Auto Flo Company, Michigan
Compac Corporation, New Jersey
Davis Manufacturing Company, Michigan
Gamco Products Company, Kentucky

4. Divisions of Masco Building Products Corp. and location of principal office:

Artistic Brass Division, California
Bowers Division, California
Plumbing Fixtures Division, California
Sponge Cushing Division, Illinois
Thermador/Waste King Division, California
Wieser Lock Division, California

5. Divisions of Masco Corporation of Indiana and location of principal office:
Delta Faucet Company, Indiana
EPIC, Incorporated, Indiana
Peerless Aire Company, Indiana
Peerless Faucet Company, Indiana
Reese Products Company, Indiana

1. The name of the parent corporation is NL Industries, Inc., 3000 North Belt East, P.O. Box 60087, Houston, TX 77205.

2. The names of the wholly-owned subsidiaries or divisions which will participate in the proposed operations are as follows:

Name	Address	State of incorporation
NL Acme Tool, Inc.	P.O. Box 60087, Houston, TX 77205.	*NL Acme Tool, Inc.* & *NL Sperry-Sun, Inc.* at *Delaware corporations*, and are *Subsidiaries*, of NL Industries, Inc.
NL Sperry-Sun, Inc.	P.O. Box 60087, Houston, TX 77205.	
NL Atlas Bradford.	P.O. Box 60087, Houston, TX 77205.	All of the following listed companies are *Divisions* of *NL Industries, Inc., a New Jersey corporation.*
NL Erco.		
NL Chemicals.	P.O. Box 60087, Houston, TX 77205.	
NL Shaffer	P.O. Box 60087, Houston, TX 77205.	
NL Treating Chemicals.	P.O. Box 60087, Houston, TX 77205.	
NL McCullough.	P.O. Box 60087, Houston, TX 77205.	
NL Logging Systems.	P.O. Box 60087, Houston, TX 77205.	
NL MWD	P.O. Box 60087, Houston, TX 77205.	
NL Hycakog	P.O. Box 60087, Houston, TX 77205.	
NL Rucker Products.	P.O. Box 60087, Houston, TX 77205.	
NL Baroid	P.O. Box 60087, Houston, TX 77205.	

1. Parent corporation and address of principal office: Pepsico, Inc., 700 Anderson Hill Road Purchase, N.Y. 10577.

2. Wholly-owned subsidiaries which will participate in the operations, and state of incorporation of each subsidiary:

(1) Ainwick Corp. (OR)
(2) Alexandra Equities, Inc. (DE)
(3) Allegheny Pepsi Cola Bottling Co. (MD)
(4) Arizona Speciality Breads, Inc. (CA)
(5) Beverages, Foods & Services Industries, Inc. (DE)
(6) Big Sur Restaurant Inc (KS)
(7) Blankinship-Pehle, Inc. (TX)
(8) Buckeye PH, Inc. (OH)
(9) Chesapeake Bay Pizza Hut, Inc. (MO)
(10) Collin Leasing Corp. (DE)
(11) Crunch Barrel Foods Corp. (DE)
(12) D&E Foodservice, Inc. (SC)
(13) Davlyn Realty Corp. (DE)
(14) Equity Beverages, Inc. (DE)
(15) Export Development Corp. (DE)
(16) Fiesta Cantina of Ohio, Inc. (OH)
(17) Franchise Services, Inc. (DS)
(18) Franchise Services of Kansas, Inc. (CA)
(19) Fresno H&B, Inc. (CA)
(20) Frito-Lay, Inc. (DE)
(21) Frito-Lay of Puerto Rico, Inc. (DE)
(22) Golden Bear Family Restaurants, Inc. (IL)
(23) Golden Bear Properties, Inc. (DE)
(24) HIS Pizza Corp. (TX)
(25) J&G Productsd, Inc. (KS)
(26) KAKAP, Inc. (CA)
(27) La Petite Boulangerie, Inc. (DE)
(28) La Petite Boulangerie, Inc. (CA)
(29) California Exceptional Breads, Inc. (CA)
(30) Lake Michigan Management Co., Inc. (WI)
(31) Mexhut, Inc. (DE)
(32) Mexichip, Inc. (DE)
(33) MexSport, Inc. (DE)
(34) Mimoca, Inc. (CA)
(35) Mountaineer Pizza Hut Inc. (WV)
(36) National Beverages, Inc. (FL)
(37) Oriole Pizza Hut, Inc. (MD)
(38) PBG Beverage Distributors, Inc. (DE)
(39) PepsiCo Food Systems, Inc. (DE)
(40) PesiCo Captial Res., Inc. (DE)
(41) PepsiCo Overseas Corp. (DE)
(42) PepsiCo Services Corp. (DE)
(43) PepsiCo World Trading Co., Inc. (DE)
(44) Pepsi-Cola Co. (DE)
(45) Pepsi-Cola Bottling International, Inc. (NV)
(46) Pepsi-Cola Bottling Co. of Los Angeles (CA)
(47) Pepsi-Cola Bottling Co. of Logan (WV)
(48) Pepsi-Cola Bottling Co. Inc. of Indianapolis (IN)
(49) The Pepsi-Cola Bottling Co., Moundsville W. Va., Inc. (WV)
(50) Pepsi-Cola Equipment Corp. (NY)
(51) Pepsi-Cola International Limited (U.S.A.) (DE)
(52) Pepsi-Cola Metropolitan Bottling Co., Inc. (NY)
(53) Pepsi-Cola Americana S.A. (DE)
(54) Pepsi-Cola Manufacturing Co., Inc. (DE)
(55) Pepsi-Cola Sweeteners, Inc. (DE)
(56) PAGAM Corp. (DE)
(57) Petal, Inc. (DE)
(58) Pizza Hut, Inc. (DE)
(59) Pizza Hut of America Inc. (DE)
(60) Pizza Hut of Charles Co., Inc. (MD)
(61) Pizza Hut of Dallas Inc. (TX)
(62) Pizza Hut of Dorchester Co., Inc. (MD)
(63) Pizza Hut of Duncan Inc. (OK)
(64) Pizza Hut of East Wicomico Co., Inc. (MD)
(65) Pizza Hut of Garrett Co., Inc. (MD)
(66) Pizza Hut of Las Vegas (NV)
(67) Pizza Hut of Oregon, Inc. (OR)
(68 Pizza Hut of Port Lavaca, Inc. (TX)
(69) Pizza Hut of Pueblo, Inc. (CO)
(70) Pizza Hut of St. Mary's County, Inc. (MD)
(71) Pizza Hut of Talbot County, Inc. (MD)
(72) Pizza Hut of the Hills, Inc. (TX)
(73) Pizza Hut of Utah, Inc. (UT)
(74) Pizza Hut of Wicomico Co., Inc. (MD)

[1] Directly owned subsidiaries appear at the left hand margin, first tier and second tier subsidiaries are indicated by single and double indentation, respectively, and are listed under the names of their respective parent companies.

(75) Pizza Hut of Zion, Inc. (IL)
(76) Pizza-2-U (NM)
(77) Potomac Pizza Hut, Inc. (MD)
(78) Pub Beverages, Inc. (DE)
(79) Pub Realty, Inc. (CA)
(80) Purchase Leasing Corp. (DE)
(81) Redux Realty, Inc. (DE)
(82) Sabritas S.A. de C.V. (DE)
(83) Somers Leasing Corp. (DE)
(84) Southern Pizza Huts, Inc. (LA)
(85) Taco Bell Corp. (CA)
(86) Taco Bell Royalty Co. (CA)
(87) Temanti S.A. de C.V. (MX)
(88) Pepsi-Cola Bottling Co. of Puerto Rico (DE)
(89) Pepsi-Cola Interamerica, S.A. (DE)
(90) Pizza Hut of San Diego Inc. (CA)
(91) PepsiCo Services International (DE)

1. Parent corporation and address of principal office: Pressure Vessel Service, Inc., d/b/a/ PVS Chemicals Chemicals, Inc., 11001 Harper Avenue, Detroit, Michigan.

2. Wholly—owned subsidiaries which will participate in the operations, and states of incorporations:

(i) Bay Chemical Company—Michigan;
(ii) Waste Acid Services, Inc.—Michigan;
(iii) Chemical Transport Services, Inc.—Michigan;
(iv) PVS Chemicals, Inc. (Illinois)—Michigan;
(v) PVS Chemicals, Inc. (New York)—Michigan;
(vi) PVS Chemicals, Inc. (Ohio)—Michigan;
(vii) Fanchem, Ltd.—Ontario, Canada;
(viii) PVS Chemicals, Inc. (Michigan)—Michigan.

1. Red Cross Stores, Inc. is the parent company and has its principal office at 5901 Shallowford Road, Chattanooga, TN 37422.

2. The Wholly-owned subsidiaries which will participate in the operations are Chattanooga Fixtures & Distribution Company and Red Food Stores (Georgia), Incorporated.

1. Parent corporation and address of principal office: Thrifty Corporation, 3424 Wilshire Boulevard, Los Angeles, California 90010.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation: Thrifty Jr. Inc., California.

James H. Bayne,

Secretary.

[FR Doc. 86-4338 Filed 2-27-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-28 (Sub-10x)]

Central of Georgia Railroad Co. Abandonment Exemption in Barbour County, Al; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—Exempt Abandonments to abandon its 6.1-mile line of railroad between milepost L-349.0 near White Oak and milepost L-355.1 near Clayton in Barbour County, Al.

Applicant, has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail serice on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment will be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective March 30, 1986, (unless stayed pending reconsideration). Petitions to stay must be filed by March 20, 1986, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by March 20, 1986, with: Office of the Secretary, Case Control Branch Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Nancy S. Fleischman, 1050 Connecticut Avenue, NW, Suite 740, Washington, DC 20036.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned on environmental or public use conditions.

Decided: February 24, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-4341 Filed 2-27-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30300]

CSX Corp.; Control; American Commercial Lines, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Oversight proceeding.

SUMMARY: The Commission is instituting the oversight proceeding ordered in Finance Docket No. 30300, *CSX Corporation—Control—American Commercial Lines, Inc.*, —— I.C.C.2d —— (September 7, 1984). Comments are invited regarding any adverse or beneficial effects of the acquisition.

DATE: Comments must be filed with the Commission and served on CSX Corporation no later than April 30, 1986.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

ADDRESSES: Send and original and 10 copies of all pleadings, referring to Finance Docket No. 30300, to: Office of the Secretary Case Control Branch, Interstate Commerce Commission Washington, DC 20423.

Send 1 copy to applicant's representative: R. Eden Martin, 1722 Eye Street, NW., Washington, DC 20006.

A copy of applicant's report to the Commission on this transaction is available from applicant's representative.

SUPPLEMENTARY INFORMATION: In *CSX Corporation—Control—American Commercial Lines, Inc., supra, (CSX/ACL)*, we authorized the acquisition of control by CSX Corporation (CSX), a non-carrier holding company that controls serveral class I railroads, of American Commercial Lines, Inc. (ACL) and its water carrier subsidiary, American Commercial Barge Lines Company (ACBL). The acquisition was consummated on October 12, 1984.

We imposed reporting and oversight conditions on our authorization to monitor the impact of the acquisition on competition. This notice impact of the acquisition on competition. This notice institutes the first proceeding under the oversight condition.

As noted in Appendix E to *CSX/ACL*, after receipt of public comments, the proceeding will be assigned to an Administrative Law Judge (ALJ).

The ALJ shall prepare a report to the Commission on the oversight proceeding. The Commission will issue a decision by August 31, 1986, on whether to reopen the proceeding or take any other action based on the ALJ's report.

Decided: February 24, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86-4340 Filed 2-27-86; 8:45 am]

BILLING CODE 7035-01-M

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for

review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275–6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1325, 12th and Constitution Avenue NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance:—Extension
Bureau/Office:—Bureau of Accounts
Title of Form:—Classification Index Survey Form for Railroad companies that do not file an Annual Report with the ICC
OMB Form No.:—3120–0077
Agency Form No.:—RCS
Frequency:—Annually
Respondents:—Railroad Industry
No. of Respondents:—400
Total Burden Hrs.:—100

Type of Clearance:—Reinstatement
Bureau/Office:—Bureau of Accounts
Title of Form:—Quarterly Report of Results of Operation
OMB Form No.:—3120–0002
Agency Form No.:—QFR
Frequency:—Quarterly
Respondents:—Transportation Industry
No. of Respondents:—1,166
Total Burden Hrs.:—19,822

James H. Bayne,

Secretary.

[FR Doc. 86–4339 Filed 2–27–86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act and Clean Water Act; Lowell, IN et al.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on February 11, 1986, a proposed consent decree in *United States* v. *Town of Lowell, et al.*, Civ. No. H83–0425, was lodged with the United States District Court for the Northern District of Indiana. This agreement resolves a judicial enforcement action brought by the United States against the Towns of Lowell and Cedar Lake for violations of the Clean Air Act and Clean Water Act at the Town of Lowell's wastewater treatment plant in Lowell, Indiana.

The proposed Consent Decree provides that the Towns of Lowell and Cedar Lake will implement several immediate modifications to the operation of the Lowell wastewater treatment plant to assure that as much wastewater as possible receives at least primary treatment. By May 31, 1986, the defendants will complete a sewer system evaluation study as well as a study of the feasibility of installing temporary storage facilities for excess wastewater. By September 1, 1986, the defendants will submit a program for eliminating bypasses around the wastewater treatment plant and for achieving compliance with the plant's NPDES permit. Final compliance with the terms and conditions of the NPDES permit is required by June 30, 1988. Finally, the agreement provides that the Towns of Lowell and Cedar Lake will each pay a $20,000 civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Town of Lowell, et al.*, D.J. Ref. 90–5–1–1–1957.

The proposed consent decree may be examined at the office of the United States Attorney or the regional office of the Environmental Protection Agency as follows:

U.S. Attorney: U.S. Attorney, Northern District of Indiana, Federal Building, Fourth Floor, 507 State Street, Hammond, Indiana 46320

EPA: Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.20 (.10 per page reproduction fee) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–4289 Filed 2–27–86; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extension, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirements.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Department of Labor, Jim Rhodes and/or Jim Lemke on AC 202–523–6308. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–1301, Washington, DC 20210. Comments should also be sent to the OMB

reviewer, Nancy Wentzler, Telephone 202 395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Occupational Safety and Health Administration

Maritime—Material Handling Hooks and Unfired Pressure Vessels 1218–0052; OSHA 237
Recordkeeping
Businesses or other for profit; Federal agencies or employees; small businesses or organizations
900 respondents; 1,350 hours; 0 forms

. To ensure that hooks that are used for materials handling and unfired pressure vessels that have not been rated by the manufacturer or a standards organization and are used by shipyard personnel are examined and tested before use.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in August, 1985 and approved by OMB in September, 1985.

Occupational Safety and Health Administration

Manlifts
1218–0055; OSHA 200
On occasion
Businesses or other for profit; small businesses or organizations
3,000 respondents; 52,500 hours; 0 forms

OSHA is requiring this information to be collected by employers for determining the cumulative maintenance status of a manlift and for taking the necessary preventive action to assure employee safety.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in August, 1985 and approved by OMB in September, 1985.

Occupational Safety and Health Administration

Installation and Operation of Resistance Welding Equipment
29 CFR 1910.252(c)(6)
29 CFR 1910.252(c)(6)
1218–0056; OSHA 219
Recordkeeping
Businesses or others for profit; non-profit institutions; small businesses or organizations
150,000 respondents; 50,000 hours; 0 forms

The information is needed to assure the effectiveness of the regulation. The recordkeeping provides the Agency with adequate information to indicate the equipment is maintained properly and may prevent severe physical harm or death.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in August, 1985 and approved by OMB in September, 1985.

Occupational Safety and Health Administration

Portable Fire Extinguishers; Hydrostatic Test Record
1218–0114; OSHA 205
On occasion
State or local governments; businesses or other for profit; federal agencies or employees; small businesses or organizations
7,058,824 respondentes; 2,964,706 hours; 0 forms

Requires that portable fire extinguishers be hydrostatically tested every 5 to 12 years depending upon the type of shell construction. A record of the test containing the date of test, the test pressure, and the name of the individual or agency doing the test.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in August, 1985 and approved by OMB in September, 1985.

Occupational Safety and Health Administration

Records of Inspection of Critical Components on Cranes
1218–0116; OSHA 206
Recordkeeping
Businesses or other for profit; small businesses or organizations
660,000 responses; 330,000 hours; 0 forms

OSHA requires a record of periodic thorough inspection of overhead and gantry cranes and mobile cranes. The inspections are to determine the condition of hooks, hoist chains and brakes to prevent injury to employees due to component failure during use.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in August, 1985 and approved by OMB in September, 1985.

Occupational Safety and Health Administration

Record of Inspection and Maintenance of Presses
1218–0117; OSHA 215
Recordkeeping
State or local governments; businesses or other for profit; small businesses or organizations
1,517,240 hours, 0 forms

In order to ensure workplace safety it is the responsibility of the employer to establish and follow a program of regular inspections of power presses and forging machines. The parts, equipment and safeguards must be in a safe operating condition. The employer shall maintain records of these inspections and the maintenance work performed.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in August, 1985 and approved by OMB in September, 1985.

Occupational Safety and Health Administration

Records of Inspection of Running Ropes on Cranes and Derricks
1218–0120; OSHA 209
Recordkeeping
Businesses or other for profit; small businesses or organizations
780,000 responses; 390,000 hours; 0 forms

OSHA requires a record of periodic thorough inspection of running ropes on cranes, mobile cranes, and derricks. The inspections are to determine the condition of the wire ropes to prevent injury due to rope failure during use.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submissin is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in August 1985 and approved by OMB in September 1985.

Occupational Safety and Health Administration

Records of Inspection of Idle Ropes on Cranes and Derricks
1218–0118; OSHA 208
Recordkeeping
Businesses or other for profit; small businesses or organizations
6,800 responses; 3,400 hours; 0 forms

OSHA requires a record of periodic thorough inspection of idle ropes on overhead and gantry cranes, mobile cranes, and derricks. The inspections are to determine the condition of the wire ropes to prevent injury to employees due to rope failure during use.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in August 1985 and approved by OMB in September 1985.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package orignally submitted in August 1985 and approved by OMB in September 1985.

Occupational Safety and Health Administration

Electrical Component Inspection (explosives haulage trucks used underground)
1218–0122; OSHA 236
Recordkeeping
Businesses or other for profit; small businesses or organizations
1 respondent; 8 hours; 0 forms

A record of electrical system checks on explosives haulage trucks is required to ensure elimination of ignition sources that would cause fires or explosions when employees are underground.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in Auguest 1985 and approved by OMB in September 1985.

Occupational Safety and Health Administration

Inspection Report (Critical Components for Cranes)
1218–0123; OSHA 231
Recordkeeping

Occupational Safety and Health Administration

Service Station Inventory Records for Flammable Liquids Tanks
1218–0119; OSHA 203
Recordkeeping
State or local governments; businesses or other for profit; federal agencies or employees; small businesses or organizations
11,133 respondents; 2,371,329 hours; 0 forms

Requires the maintenance and reconciliation of inventory records for Class I liquid storage tanks to detect underground leaks to avoid fires and explosions.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in August 1985 and approved by OMB in September 1985.

Occupational Safety and Health Administration

Powered Platforms for Exterior Maintenance
1218–0121; OSHA 201
On occasion
Businesses or other for profit; small businesses or organizations
19,500 respondents; 243,750 hours, 0 forms

OSHA is requiring this information to be collected by employers for determining the cumulative maintenance status of powered platform and for taking the necessary preventive action to assure employee safety.

Businesses or other for profit; small businesses or organizations
110,000 responses; 660,000 hours; 0 forms

The employer is required to record the condition of items critical to the continued safe use of mobile cranes observed during monthly inspections. Use of the records to determine service and maintenance schedules ensures a safer workplace.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in August, 1985 and approved by OMB in September, 1985.

Occupational Safety and Health Administration

Hoist Inspection Record
1218–0124; OSHA 232
Recordkeeping
Businesses or other for profit; small businesses or organizations
1,200 respondents; 9,600 hours; 0 forms

Records of inspections and test of hoist facility are required to ensure corrective procedures in a timely manner to minimize hazards to employees while in, on, or around the hoist and its proximity.

This information collection was approved by OMB for a period of two months which was extended for an additional three months at OSHA's request. This submission is a request for extension of the clearance with no change in either the collection of information or in the clearance package originally submitted in August, 1985 and approved by OMB in September, 1985.

Signed at Washington, DC, this 25th day of February 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 86–4404 Filed 2–27–86; 8:45 am]

BILLING CODE 4510–26–M

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29

CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I.

Florida:
FL86-38 (Jan. 3, 1986) ..... p. 193.
Massachusetts:
MA86-2 (Jan. 3, 1986) ..... pp. 364-365.
MA86-3 (Jan. 3, 1986) ..... pp. 376-377.
Pennsylvania:
PA86-1 (Jan. 3, 1986) ..... pp. 793-795.
PA86-10 (Jan. 3, 1986) ..... p. 880.

Volume II.

Michigan:
MI86-1 (Jan. 3, 1986) ..... p. 385.
Minnesota:
MN86-6 (Jan. 3, 1986) ..... p. 505.
MN86-8 (Jan. 3, 1986) ..... pp. 531-537.
Ohio:
OH86-1 (Jan. 3, 1986) ..... pp. 662-666, pp. 668-669.
OH86-3 (Jan. 3, 1986) ..... pp. 697-702.
Wisconsin:
WI86-15 (Jan. 3, 1986) ..... pp. 1011-1012.
Listing by Location (Index) ..... pp. xxii-xxiv, pp. xlvii-xlviii.
Listing by Decision (Index) ..... pp. xlix-lvi.

Volume III.

California:
CA86-2 (Jan. 3, 1986) ..... p. 54.
Oregon:
OR86-2 (Jan. 3, 1986) ..... p. 272.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 21st day of February 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-4183 Filed 2-27-86; 8:45 am]

BILLING CODE 4510-27-M

Pension and Welfare Benefits Administration

[Application No. D-3684]

Employee Benefit Plans; Prohibited Transactions/Exemptions; Pooled Pension Fund Management Corp. (PPFMC) in Baton Rouge, LA

In the **Federal Register** dated March 16, 1984 (49 FR 9978), the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The notice of pendency concerned an application filed on behalf of PPFMC, the sponsor of a number of pooled mortgage funds.

Notice is hereby given that the Department does not, at this time, contemplate granting the requested exemption.

Accordingly, the notice of pendency is hereby withdrawn.

If the Department proposes, at a future date, to grant the exemption, notice of the pendency thereof will be published in the **Federal Register** giving interested persons an opportunity to comment on the proposal and, if appropriate, to request a hearing thereon.

Signed at Washington, DC, this 24th day of February, 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86-4398 Filed 2-27-86; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-5914 et al.]

Proposed Exemptions; Tuohy, Wells, Kimble, Goolsbee, Hardy, Harvey & Associates, Inc. Profit Sharing Plan et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below.

Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Tuohy, Wells, Kimble, Goolsbee, Hardy, Hervey & Associates, Inc., Profit Sharing Plan (the Profit Sharing Plan) and Tuohy, Wells, Kimble, Goolsbee, Hardy, Hervey & Associates, Inc., Pension Plan (the Pension Plan; Together, the Plans) Located in Kansas City, Missouri

[Application No. D-5914]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale by the Plans of certain improved real property (the Property) to Westport Management Services, Inc. (the Buyer), a party in interest with respect to the Plans, provided that the sale price is at least fair market value on the date of sale; and (2) the concurrent extension of credit from the Plans to the Buyer, provided that the terms are no less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated third party.

Summary of Facts and Representations

1. The Buyer is a wholly-owned subsidiary of Tuohy, Wells, Kimble, Goolsbee, Hardy, Hervey & Associates, Inc., doing business as Westport Anesthesia Services, Inc. (the Employer). The primary business of the Employer is providing medical services in the field of anesthesiology. The primary business of the Buyer is providing management, billing and accounting services to the Employer. As of July 31, 1985, the Employer had net assets of approximately $257,000, and the Buyer had net assets of approximately $270,000.

2. As of July 31, 1985, the Profit Sharing Plan had approximately 39 participants and total assets of approximately $4,451,340. As of March 12, 1985, the Pension Plan had approximately 34 participants and total assets of approximately $1,693,830. Investment decisions on behalf of both Plans are made by the Plans' four trustees (the Trustees), two of whom are shareholders of the Employer. The Trustees are Timothy F. Cussen, William H. Hervey, II, M.D., James A. Wells, M.D., and Earl L. Williams. Both Plans provide for participant directed accounts at the participant's option. In each Plan, accounts not so directed are placed in a pooled fund invested by the Trustees (the Pooled Funds). As of July 31, 1985, 1985, the Pooled Fund of the Profit Sharing Plan had assets of $779,127, and the Pooled Fund of the Pension Plan had assets of $496,108.

3. Among the assets of the Pooled Funds is the Property, of which the Profit Sharing Plan owns 75 percent and the Pension Plan owns 25 percent. The Property is a condominium located in Vail, Colorado. The Plans purchased the Property on behalf of the Pooled Funds for $235,000 on April 15, 1983 from Vail Investment Fund and Development Limited, an unrelated party.

4. The applicants represent that the income from rents has exceeded the expenses incurred by the Plans in maintaining and holding the Property, and that the value of the Property has declined since it was purchased by the Plans. An independent appraisal of the Property performed on July 23, 1984 by R.H. Reeves of Vail, Colorado established a fair market value of $215,000. Mr. Reeves represents that the value of most vacation home properties in Vail, Colorado have declined since 1980, because there has been a greater supply of such homes than there is demand for them.

5. The Buyer and the Trustees request an exemption for the sale by the Plans

of the Property to the Buyer. The purchase price will be $258,500 or fair market value at the time of sale, whichever is greater, but in no event will it be less than the Plans' total net cost of acquiring and holding the Property. Of this amount, $115,167 will be paid in cash. The remainder of the purchase price will be paid pursuant to a promissory note (the Note). The Note will be secured by a first mortgage on the Property, and the Plans will have full recourse to the Employer. The Note will be payable in monthly installments of principal and interest over a period of twenty-five years, and will initially bear interest at a rate equal to the published prime rate of Chase Manhattan Bank at the time the sale is consummated. Thereafter, the interest rate will be adjusted annually in accordance with Chase Manhattan Bank's prime rate, with a floor of no more than 3% variance from the initial interest rate.

6. The Employer has retained Olathe State Bank of Olathe, Kansas to act as the independent fiduciary (the Independent Fiduciary) for the Plans. The Independent Fiduciary represents that it is unrelated to and has no business relationship with the Employer or the Buyer. The Independent Fiduciary has agreed to supervise and effectuate the sale of the Property, to collect all funds due under the Note, to ensure that the value of the Collateral is always equal to at least 150% of the outstanding balance of the Note, and to take any steps necessary or advisable in connection with enforcing and carrying out the terms of the Note and the mortgage on behalf of the Plans.[1]

7. The Independent Fiduciary represents that it would have been willing to enter into the Note with the Buyer on the same terms. It further repesents that it has examined the financial statement of the Employer and the loan to value ratio of the Note, and it has determined that the Note is well secured. Further, it represents that the floating interest rate protects the Plans from a below-market return. Finally, the Independent Fiduciary represents that the sale would improve the liquidity of the Plans, and that the pruchase price of $43,500 over appraised value should offset any potential future appreciation lost to the Plans by virtue of the sale.

8. In summary, the applicants represented that the proposed transaction meets the statutory criteria for section 408(a) of the Act because:

(a) The sale will relieve the Plans of an unprofitable and illiquid investment;

(b) The sale price of the Property will be at or above its appraised fair market value;

(c) The Note will be secured by a first mortgage on the Property, which has an appraised fair market value of at least 150% of the amount of the Note; and

(d) The Independent Fiduciary has determined that the proposed transaction is in the best interests and protective of the Plans and their participants and will take all appropriate actions to enforce the rights of the Plans.

For Further Information Contact: Ms Linda Shore of the Department, telephone (202) 523–7901. (This is not a toll-free number.)

Gay Plumbing & Heating Company Profit Sharing Plan (the Plan) Located in Albany, Georgia

[Application No. D–6098]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of its entire interest in Ledo Properties Company (Ledo), a partnership under Georgia Law, to John L. Gay and Annette H. Gay (Mr. and Mrs. Gay), parties in interest with respect to the Plan, for the greater of $313,424 or the fair market value of the Plan's interest in Ledo as of the date of the sale.

Summary of Facts and Representations

1. The Plan is a defined contribution (profit sharing) individual account plan sponored by Gay Plumbing and Heating Co. (the Plan Sponsor), a plumbing contractor doing business in Albany, Georgia. As of May 14, 1985, the Plan had 91 participants, and as of December 31, 1984 it has assets of $334,264. The trustees of the Plan are Mrs. and Mrs. Gay.

2. On August 30, 1972 the Plan made an initial capital contribution of $100,000 to Ledo, constituting a 24.75% capital interest in the partnership. As the result of Ledo's subsequent buying out the interests of three partners, the Plan currently owns a 28.27% capital interest in Ledo (Ledo is, in practice, a general partnership, and each partner is a general partner with respect to the partnership.) Ledo owns several tracts of real property, both improved and unimproved, including a farm located in Lee and Dougherty Counties, Georgia, consisting of 577.54 acres and a separate tract consisting of 110.16 acres in Dougherty County, Georgia (the Property).

3. The Property was appraised on August 31, 1982 by Paul A. Jones, Jr., SRA (the Independent Appraiser), as having a fair market value of $1,455,000. Subsequently, the Independent Appraiser opined that the fair market value of the Property as of October 31, 1984 was $1,114,000. The Independent Appraiser states that he has no present or contemplated interest in the Property, and that neither his employment to make the appraisal nor his compensation is contingent upon the appraised value of the Property. The Independent Appraiser states that in investigating farm sales in Lee County in 1984 he found the market almost non-existent; of the four farm sales he located, two were foreclosures. The applicant represents that the lower 1984 appraised value of the Property is testimony to the condition of the farm economy in south Georgia generally. Extreme drought has been common, and the foreign investment which was a significant factor in maintaining property values for agricultural property in 1982 is today reduced considerably because of the strength of the United States dollar abroad. The applicant represents that the principal Ledo property, the farm located in Lee and Dougherty Counties, has experienced significant depreciation in recent years and does not offer the prospect for appreciation in the near future. The applicant further states that the proposed purchase price is in excess of that currently being received for comparable farmland.

4. The applicant represents that Ledo's farm property is leased to Oakland Farm, an unrelated third party, for $10,000 per annum, and that a 60 acre pecan grove is leased to Pippin Pecan Company, another unrelated third party, for $11,111 per annum. The applicant represents that the lease payments approximate the real estate taxes due annually or Ledo's farm property.

5. The applicant seeks an administrative exemption to permit the

[1] The applicants represent that the Independent Fiduciary has undertaken an investigation to determine whether the Property has been used by any parties in interest with respect to the Plans and will ensure that the Plans received or will receive at least fair market rental value for such use, plus interest at an appropriate rate. The applicants further represent that that they will file the required forms with the Internal Revenue Service and pay the applicable excise tax within 60 days of the date this exemption is granted.

Plan to sell its entire interest in Ledo to Mr. and Mrs. Gay for a total purchase price of $313,424, provided that such price is not less than the fair market value of the Plan's interest in Ledo as of the date of the sale. This purchase price was determined by adding $12,997 in current assets (cash) and $12,777 in deferred construction interest to the appraised value of $1,114,000 and subtracting the total current liabilities of $35,000. The resulting figure, $1,104,774, was then multiplied by the Plan's interest in Ledo, 28.37%, resulting in $313,424 as the fair market value of the Plan's interest as of December 31, 1984. No discount has been taken because of the lack of a potential sale of the farm property which constitutes the greater part of Ledo's holdings, nor, for the same reason, has a premium been attached to the value of the Plan's interest in Ledo, even though upon consummation of the proposed sale Mr. and Mrs. Gay will own approximately one-third of Ledo.

6. Upon the sale of the Plan's interest in Ledo, the Plan will be terminated and all the Plan assets will be distributed to the Plan participants. The applicant represents that the Plan Sponsor has significantly reduced its business activities in recent years, and that although there are 91 Plan participants, the Plan Sponsor has only 5 current employees, and finds the Plan quite costly to maintain. The Plan Sponsor represents that it will be liquidated upon termination of the Plan.

7. In summary, the applicant represents that the proposed transaction will meet the statutory criteria of section 408(a) of the Act because: (a) The Plan's interest in Ledo will be sold for no less than its fair market value at the time of the sale as determined by an independent appraiser; (b) the proposed sale represents a one-time transaction for cash which can be easily verified; (c) the proposed sale will not require the payment of any commissions by the Plan; (d) the proposed sale will enable the Plan to dispose of a non-marketable asset which produces no income, thus, facilitating the distribution of assets upon Plan termination; and (e) Mr. and Mrs. Gay, the Plan's trustees, have determined that the proposed transaction would be in the best interests and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Marprowear Corporation Profit Sharing Plan and Trust (the Plan) Located in West Orange, New Jersey

[Application No. D-6330]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of certain improved commercial real property to Martin Riback, Charles Riback and Joseph Weinberg, the trustees of the Plan (the Trustees), provided that such sale is on terms not less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution profit-sharing pension plan with seven participants and total assets of $6,984,231.23 as of December 31, 1984. Each of the Trustees is an officer and owner of more than ten percent of the stock of the Marprowear Corporation (the Employer), the sponsor of the Plan. The Employer is a closely-held New Jersey corporation engaged in the wholesale of casual clothing. All investment decisions on behalf of the Plan are made by the Trustees.

2. Among the assets of the Plan is the Ledgemont Circle Shopping Center (the Property). The Property consists of 8.58 acres of commercially-zoned land improved with a retail shopping center of approximately 60,000 square feet, located on Route 46 in Ledgewood, New Jersey. The Plan acquired the Property on May 30, 1973 for $450,000 and leased approximately 20,000 square feet (the Leased Space) of the Property to the Employer until June 30, 1984, at which time the Employer vacated such premises. The Employer represents that its lease of the Leased Space from the Plan until June 30, 1984 was exempt from the prohibitions of section 406 of the Act by virtue of section 414(c)(2) of the Act.[2]

[2] In this proposed exemption, the Department expresses no opinion as to whether the Employer's lease of the Leased Space was exempt until June 30, 1984 from the prohibitions of section 406 of the Act by virture of section 414(c)(2) of the Act.

The Trustees represent that despite their best good-faith efforts a new tenant for the Leased Space has not been located and the Leased Space has remained vacant since the Employer vacated the premises on June 30, 1984. Thus, since June 30, 1984, the Plan has not earned any income from the Leased Space, which constitutes approximately one-third of the leaseable space in the Property. Since the Property constitutes approximately 26 percent of the assets of the Plan, the lack of income from the Leased Space represents a substantial loss of potential income to the Plan's participants and beneficiaries. This substantial deficiency of performance of a major Plan asset will continue as long as the Leased Space remains vacant, which the Trustees represent is the likely future under current and foreseeable market conditions, or until the Plan disposes of the Property by selling it and investing the proceeds in alternative investments. The Trustees represent that they are not likely to locate an unrelated purchaser of the Property who would be willing to pay the Plan the full appraised fair market value of the Property because (1) outstanding leases of the remaining space in the Property would prevent a potential purchaser's control of two-thirds of the Property's space, and (2) a potential purchaser would face the same loss of income of the Leased Space until a suitable tenant could be found.

3. In order to alleviate this deficiency of the Property's performance as a major Plan asset, and to avoid the costs and problems in locating an unrelated purchaser willing to pay the full appraised fair market value of the Property, the Trustees propose to purchase the Property from the Plan in their individual capacities and are requesting an exemption to permit this transaction. The Trustees propose to pay the Plan cash in the amount of the Property's full appraised fair market value. The Property has been appraised by Irwin J. Steinberg, MAI (Steinberg), an independent professional real estate appraiser with the firm of Appraisal Group International in East Orange, New Jersey. In an update of his full narrative appraisal of September 6, 1984, Steinberg states that as of June 11, 1985 the Property had a fair market value of $1,800,000. All costs and expenses related to the sale will be borne by the Trustees. The Trustees represent that their proposed purchase of the Property from the Plan will be in the best interests and protective of the participants and beneficiaries of the Plan in that it will not only alleviate the Plan of an unproductive asset but will

also allow the Plan's assets to achieve better diversification, since the Property represents about one-fourth of the Plan's assets.

4. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408 of the Act for the following reasons: (1) The purchase price paid by the Trustees to the Plan will be the Property's fair market value according to Steinberg; (2) the proposed sale is a one-time transaction for cash; (3) all costs and expenses related to the proposed transaction will be borne by the Trustees; and (4) the proposed transaction will enable the Plan to dispose of a poorly-performing asset and to achieve better diversification of its assets.

For Further Information Contact: Mr. Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Wynne Building Corporation Employees Pension Trust (the Plan) Located in Miami, Florida

[Application No. D–6425]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to a proposed loan of $750,000 (the Loan), secured by a first mortgage on certain real property (the Property), by the Plan to Wynne Building Corporation, a Florida corporation, (the Employer), provided that the terms of the Loan are and remain at least as favorable to the Plan as an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Employer is a Florida corporation, organized on April 1, 1983, by the merger of its two predecessor corporations. The Employer had total assets of $22,670,534, as of March 31, 1985. It is a closely held corporation with 45 percent of its outstanding shares owned by Mr. Joel F. Wynne, President; 22.5 percent of its shares owned by Mr. Chester C. Wynne, Executive Vice President; 22.5 percent of its shares owned by Mrs. Dorothy Wynne, Director; and the remaining 10 percent of its shares owned by Mr. Harvey A. Newman, Vice President of the Employer. Mr. Chester C. Wynne and Mrs. Dorothy Wynne are married and parents of Mr. Joel F. Wynne. Since July 9, 1964, the Employer, and its predecessors, have acquired, developed, and managed income producing real estate. In this 21-year period, they developed 75 rental properties in Dade County, Florida, which include apartments, warehouses, and duplexes, and 4 manufactured home communities in St. Lucie County, Florida. Most of these properties are owned by the Employer and all are managed by the approximately 120 employees of the Employer. Financing for development of these properties has been obtained from either banks and savings and loan associations or from working capital and profits of the Employer.

2. The Plan is a defined benefit plan with approximately 70 participants and total assets of $3,027,827, as of June 30, 1985. Most of the Plan assets consist of 318 corporate bonds, maturing at various dates, with a total face value of $3,514,750. The trustee for the Plan, Mr. Joel F. Wynne, is also the president, a principal shareholder of the Employer. However, for the duration of the proposed loan transaction, Mr. Leo Levy, 10400 S.W. 98th Street Miami, Florida, has been retained, at the expense of the Employer, to be the independent fiduciary with respect to the funding and servicing of the proposed loan transaction. Mr. Levy, as the independent fiduciary, has been given full authority to monitor the loan transaction throughout its duration and to take any action necessry to safeguard the interests of the Plan and its participants and beneficiaries. The Loan will not be disbursed until Mr. Levy has determined that all the terms and conditions of the transaction have been fulfilled and that the transaction is in the best interests of the Plan and its participants and beneficiaries. Mr. Levy's qualifications include more than 25 years experience with an insurance company and several banks, involving investments, consulting and administering employee benefit plans.

3. The Employer and the Plan request an exemption from the prohibited transaction provisions of the Act which would permit the Plan to loan the sum of $750,000 to the Employer for its use as working capital in the acquisition and development of additional real properties. The Loan represents less than 25% of the assets of the Plan. The Loan will be evidenced by a promissory note for the principal sum of $750,000, excuted by the Employer and payable monthly to the Plan together with interest at the rate of 13.875 percent per annum until maturity in 10 years. The monthly payments of principal and interest on the Loan will be in the sum of $11,588.68 with no penalty for acceleration of payments in part or full. The Loan will be secured by a first mortgage on the Property which has the following legal description:

> East half of lot 13, all of lots 14 and 15, Block 1, CORTLAND INDUSTRIAL PARK, according to the plat thereof as recorded in Plat Book 113 at Page 52 of the Public Records of Dade County, Florida.

The street address of the Property is 12800–12811 SW. 122nd Avenue and 12210–12228 SW. 128th Street, Miami, Florida. The Property consists of 3.33 acres, which includes a 20 bay warehouse building with a gross buildable area of 51,098 square feet and a net rentable area of 49,994 square feet. The Property is fully rented, generating annual revenues of approximately $190,000. These improvements were completed in 1981 and are considered to be in good condition as attested to by a qualified independent appraiser, Mr. Phillip G. Spool, A.S.A., Real Estate Appraiser, P.O. Box 013655, Miami, Florida 33103. As of August 23, 1985, Mr. Spool determined that the Property had a market value of $1,300,000. Furthermore, the mortgage provides that the Property will have a value at all times which equals or exceeds the amount of the Loan by 150 percent. If the value of the Property should fall below 150 percent of the outstanding principal balance of the Loan, the mortgagor will have 30 days within which to repay enough of the outstanding principal balance so that the current value of the Property will again equal or exceed 150 percent of the outstanding principal balance of the Loan.

4. Mr. Levy, the independent fiduciary, represents that he is not related in any way to the Employer or its principals and that he has a thorough familiarity with requirements of the Act, having functioned under its provisions since 1974.

Further, he represents that he fully understands and acknowledges his duties, responsibilities, and liabilities in performing as a fiduciary with respect to the Plan. He represents that his qualifications to act as a fiduciary in the proposed transaction are evidenced by his experience of over 25 years in all phases of employee benefit plans, including administration, investment and consulting. Mr. Levy, after examining the Plan's investment portfolio and recognizing that it stresses safety of its principal coupled with a reasonable rate of return, finds the

proposed transaction satisfies this criterion. He also agrees to monitor the proposed transaction on behalf of the Plan and take any necessary action to foreclose in case of default. Mr. Levy states that, because of the high interest rate and the ample security involved, the proposed transaction is in the best interests of the Plan and its participants and beneficiaries.

5. In summary, the applicants represent that the proposed Loan satisfies the statutory criteria of section 408(a) of the Act because (a) the independent fiduciary with respect to the Plan has determined that the proposed transaction is in the best interests of the Plan and its participants and beneficiaries; (b) the terms of the Loan will produce a better than average rate of return; (c) the Loan will be secured at all times by collateral with a value of at least 150 percent of the outstanding principal balance of the Loan; (d) the independent fiduciary with respect to the Plan will pursue the rights of the Plan and its participants and beneficiaries in the event of default, including foreclosure on the security of the Loan; and (e) the collateral will be appraised at any time the independent fiduciary with respect to the Plan deems necessary.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Medford Radiological Group E. Doyle Profit Sharing Plan Trust (the Plan) Located in Medford Oregon

[Application No. D–6443]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale of certain works of art (the Artworks) by the Plan to Edward J. Doyle, M.D. (Dr. Doyle), a disqualified person with respect to the Plan, provided that the cash received by the Plan from the proposed sale is the higher of either $5,350 or the fair market value of the Artworks of the date of the sale.[3]

Summary of Facts and Representations

1. The Plan is a Keogh profit sharing plan in which Dr. Doyle is the sole participant, sponsor, and trustee. After Dr. Doyle incorporated his medical practice and established another employee benefit plan for his new professional corporation, the Plan ceased to be funded and was "frozen". As of December 12, 1985, the Plan had total assets of $48,000.

2. The Artworks consist of five pieces of graphic art in the form of etchings by three different artists. These include (a) two by Boulanger entitled *Single Girl on Bicycle*, valued at $850 and *La Bergere*, valued at $1,300; (b) two by Tamayo entitled *Cabeza en Rojo* valued at $1,000 and *Hombre con Baston*, valued at $1,000; and (c) one by Dali entitled *Diane de Poitiers* valued at $1,200. The Artworks were purchased from unrelated parties in June 1980 as an investment for the Plan and have remained in the possession of The Art Show, an art gallery in Bend, Oregon. These five pieces since their purchase have been on display by The Art Show in its gallery as well as at various art shows for the purpose of selling the Artworks.

3. Since there has been no success in selling the Artworks for the past five and one-half years at their appraised value, Dr. Doyle is seeking an exemption from the prohibited transactions of the Act which would permit him to purchase the Art works for cash from the Plan for their appraised value in order to permit the Plan to invest the proceeds of the sale in income producing assets. The Artworks have been appraised by Caro Hakala of the Art Show, as of November 15, 1985, to have a total current market value of $5,350.

4. In summary, the applicant represents that the proposed transaction satisifies the criteria for exemption under section 4975(c)(2) of the Code because (a) the sale will be a one-time transaction for cash with no expense incurred by the Plan; (b) the Plan will sell the Artworks at their fair market value as detemined by an independent appraiser; (c) The Art Show has been unsuccessful in its attempts to sell the Artworks on behalf of the Plan; and (d) the Plan will be able to invest the proceeds of the sale in income producing assets.

Notice to Interested Persons: Because Dr. Doyle is the applicant as well as the Plan sponsor, trustee, and sole participant, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Birr, Wilson, & Co., Inc. Employee's Profit Sharing Plan (the Profit Sharing Plan) and The Birr, Wilson & Co., Inc. Financial Security Plan for Account Executives (the Security Plan collectively, the Plans) Located in San Francisco, CA

[Application Nos. D–6477 and D–6478]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed exercise of stock options (the Options) by the Plans to purchase from Birr, Wilson & Co., Inc. (the Employer) stock in unrelated companies; and (2) the potential repurchase of the Options from the Plans by the Employer, for a period of five years from the date this proposed exemption becomes final, provided that the terms and conditions of the transactions are at least as favorable to the Plans as those obtainable in similar transactions with an unrelated party.

Temporary Nature of Exemption: This exemption, if granted, shall be effective for a period of five years commencing with the date on which the exemption becomes final.

Summary of Facts and Representations

1. The Employer is a closely held regional stock brokerage firm with its principal place of business in San Francisco, California. It also has offices in other cities in California and in New York, Idaho, Oregon, Nevada and Washington. It has seats on the New York and Pacific Stock Exchanges and is a member of the National Association of Securities Dealers, Inc. The Employer is also subject to the Securities Act of 1933, the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder, and is a registered investment adviser under the

[3] Pursuant to 29 CFR 2510.3–3(b), there is no jurisdiction under Title I of the Act for the proposed sale because Dr. Doyle is the sole participant of the Plan. However, there is jurisidiction under Title II of the Act; therefore the Department may grant an administrative exemption under section 4975(c)(2) of the Code.

Investment Advisers Act of 1940. The Employer has no obligation to pay dividents and the last cash dividend paid was $.06 per share paid in March, 1977.

2. The Profit Sharing Plan is a profit sharing plan covering employees of the Employer who are not account executives or account executive trainees. As of November 30, 1984, it has 221 participants and assets of $1,604,711.74.

3. The Security Plan is a profit sharing plan covering account executives of the Employer who are compensated primarily on a commission basis. As of November 30, 1984, it had 135 participants and assets of $4,522,837.29.

4. The trustee of both Plans is Security Pacific National Bank (the Trustee). Most investment decisions are made by the Employee Plan Committee (the Committee), which is currently comprised of officers and/or directors of the Employer.

5. As an underwriter, the Employer frequently purchases and will continue to purchase warrants (the Warrants) to acquire shares of stock in issuers for whom it is performing underwriting services. The Employer acquires these Warrants for a cash purchase price equal to what it believes to be the fair market value of the Warrants.

6. The Employer has recently declared and will continue to declare dividends in the form of options (the Options) to purchase shares of stock in the companies from which the Employer has acquired the Warrants. The Plans, as shareholders of the Employer, have been, and will be granted the Options.

7. The Options become exercisable on the dates on which the Option holder receives notification from the Employer that the Options are exerciseable. The Options will remain exercisable for a period of thirty days following the dates of the original exercise notices. The Options may be exercised only by purchasing all of the stock which the Option holder has a right to purchase. The Employer may, in its absolute discretion, give the Option holder the exercise notice any time during the exercise notice period, but in any event must give such exercise notice not later than the final date of the exercise notice period.

8. The applicant represents that the decision of when to give the exercise notice to Option holders will be based on the Employer's evaluation of factors which will include, but not be limited to, the current market price of the shares which could be acquired pursuant to the Options, the time remaining on the Options and the expectation of market performance in relation to the time remaining on the Options.

9. The applicant represents that the Employer may exercise its Warrants at a price generally equal to 100% to 120% of the initial offering price for the shares of stock involved. The Options may be exercised by the Trustee at a price equal to the price at which the Employer may acquire its shares pursuant to its Warrants.

10. No commissions will be paid by the Plans in connection with their acquisition of shares pursuant to the Options.

11. The purchase price under each Option is subject to adjustment if the issuing company pays a dividend in shares of its common stock, subdivides (split) its outstanding shares of common stock, combines (reverse split) its outstanding shares of common stock, or issues by reclassification of its shares of common stock any shares or other securities, or distributes to holders of its common stock any securities of itself or of any other entity. If any of the foregoing events were to occur, the number of shares of common stock or other securities which the Trustee is entitled to purchase pursuant to the Option immediately prior to the occurrence of any of the foregoing events shall be adjusted so that the Trustee will be entitled to receive upon exercise the number of shares of common stock or other securities which it would have owned or would have been entitled to receive after the occurrence of any of the events described above had the Option been exercised immediately prior to the happening of such event, and the exercise price per share shall be correspondingly adjusted. No adjustment in the number of shares and/or the exercise price shall take place unless such adjustment would require an increase or decrease of at least 1% in the exercise price or the number of shares which could otherwise be acquired pursuant to the Option. Notwithstanding the foregoing, any adjustment which is not required pursuant to the terms of the Option agreements shall be carried forward and taken into account in the event of any subsequent adjustment.

An adjustment made pursuant to the Option agreements shall become effective immediately after the record date in the case of a stock dividend, or other distribution, subdivision, combination or reclassification of the shares. If the issuing company is consolidated or merged with or into another corporation or if all or substantially all of its assets are conveyed to another corporation, each Option holder will be permitted to purchase the kind and number of shares of stock or other securities receivable upon such consolidation, merger or conveyance based on the number of shares of common stock which could have been purchased under the Option immediately prior to such consolidation, merger or conveyance.

12. The Employer, at any time prior to the exercise of the Options, may repurchase the Options from the Trustee in the event the Employer sells or otherwise disposes of its Warrants or the Employer exercises the Warrants and sells or otherwise disposes of all of the shares acquired pursuant to the Warrants. In the event the Employer exercises its repurchase rights as described above, it will pay each Option holder cash in an amount determined in accordance with a formula contained in the Option agreements, which assures that the Plans receive their proportionate share of the proceeds of the sale or other disposition of either the Warrants or the shares. The Plan will bear no expenses with respect to such a repurchase.

13. The decision of whether or not the Plans will exercise the Options will be made by the investment advisor(s) appointed by the Committee. The Employer currently anticipates that the investment advisor will be Roger E. Engemann & Associates, Inc. (Engemann) of Pasadena, California. Engemann is a registered investment advisor under the Investment Advisors Act of 1940 and is not related to the Company in any respect other than in its capacity as investment advisor to the Plan. The applicant represents however, that Engemann may, in certain cases, choose to have the Employer execute brokerage transactions on behalf of his clients. In determining whether the Options should be exercised, Engemann will give appropriate consideration to those facts and circumstances which Engemann knows or should know are relevant to the exercise of the Options in question. This consideration will include, but will not necessarily be limited to, a determination that the exercise of the Options is reasonably designed, as part of the portfolio of the Plans, to further the purposes of the Plans, taking into consideration the risk of loss and the opportunity for gain or other return associated with the exercise of the Options and the effect that the exercise of the Options will have on the portfolio with regard to diversification; the liquidity and current return of the portfolio relative to the anticipated cash flow requirements of the Plans; and the projected return of the

portfolio relative to the funding objectives of the Plans.

14. The applicant represents that the value of the Options currently held is less than .1% of the value of the aggregate assets of the Plans as of November 30, 1984, and if the Options are exercised and the exercise price equals the fair market value of the stock purchased, that the value of such stock would equal no more than 1% of the value of the Plans' assets.

15. In summary, the applicant represents that the criteria of section 408(a) of the Act are satisfied in the subject transactions because: (a) The terms of the Options granted to the Plans are and will be the same as those granted to all shareholders of the Employer; (b) the Plans will be able to exercise the Options at the same price at which the Employer exercises its Warrants; (c) an independent fiduciary, Engemann, will decide whether it is in the Plans' interests to exercise the Options; (d) in the event the Employer repurchases any Option, the Plans will receive their full share of the proceeds and bear no expense with respect to such resale; and (e) failure to grant the exemption will prevent the Plans from benefitting from these and future dividends issued to stock holders of the Employer or from the repurchase of the Options by the Employer.

For Further Information Contact: David Lurie of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an adminstrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 25th day of February, 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86-4399 Filed 2-27-86; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 86-23; Exemption Application No. D-5413 et al.]

Grant of Individual Exemptions; UPS Company Defined Benefit Pension Plan and Trust et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

UPS Company Defined Benefit Pension Plan and Trust (the Plan) Located in Torrance, CA

[Prohibited Transaction Exemption 86-23; Exemption Application No. D-5413]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the periodic purchases by the Plan of undivided interests in a parcel of property (the Property) located in Malibu, California from Mr. Hiram C. Sloan (Mr. Sloan), provided the Plan pays no more for such interests in the Property than their fair market value on the date of the purchase; and (2) the leasing of the Plan's interest in the Property by the Plan to Mr. Sloan, UPS Company or Malibu Paradigm, under the terms set forth in the notice of proposed exemption, provided such terms are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 30, 1985 at 50 FR 53218.

For Further Information Contact: Mr. Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

H&E Electric Supply Company Employees Retirement Plan and Trust (the Plan) Located in Carlsbad, NM

[Prohibited Transaction Exemption 86–24; Exemption Application No. D–5462]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the leasing of certain real property by the Plan to H&E Electric Supply Company, the sponsor, provided that the terms and conditions of the leasing are as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

Effective Date: This exemption is effective April 2, 1985.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 30, 1985, at 50 FR 53218.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8194 (This is not a toll free number.)

Thomas E. Moore, Jr., M.D. Corporate Pension Plan (the Plan) Located in San Francisco, CA

[Prohibited Transaction, Exemption 86–25; Exemption Application No. D–5835]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the past sale of 5.5 ounces of gold bullion and 204 ounces of gold coin (the Gold) by the Plan to Dr. Thomas E. Moore, Jr. (Dr. Moore); and (2) the proposed sale of the Gold by the Plan to Dr. Moore provided that the terms of the past transactions were as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party and provided the terms of the proposed transaction is also as favorable to the Plan as those obtainable in an arm's-length transaction.

Effective Date: The effective date for transaction (1) of this exemption will be April 2, 1984.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 19, 1985 at 50 FR 47641.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8194. (This is not a toll-free number).

Standard Precast, Inc. Profit Sharing Plan (the Plan) Located in Jacksonville, FL

[Prohibited Transaction Exemption 86–26; Exemption Application No. D–5947]

Exemption

The restrictions of section 406 (a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the lease of certain real property by the Plan to Standard Precast, Inc. provided the terms of the lease are at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

Effective: This exemption is effective December 1, 1984.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 6, 1985 at 50 FR 46197.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

James P. Gills, M.D., P.A. Pension Plan and Trust (the Plan) Located in Clearwater, FL

[Prohibited Transaction Exemption 86–27; Exemption Application No. D–5981]

Exemption

The restrictions of section 406 (a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of certain real property by the Plan to St. Luke's Clinic Properties, a party in interest with respect to the Plan, provided that the terms of the proposed sale are as favorable to the Plan as an arm's-length transaction with an unrelated party at the time of consummation.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 15, 1985 at 50 FR 47300.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Operating Engineers Pension Trust (the Plan) Located in Pasadena, CA

[Prohibited Transaction Exemption 86–28; Exemption Application No. D–6171]

Exemption

The restrictions of section 406 (a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1)(A) through (E) of the Code, shall not apply to the proposed purchase by the Plan, for the total cash consideration of $962,457, of certain real property (the Subject Property) from the International Union of Operating Engineers, Local Union No. 12 (the Union), provided the price paid for the Subject Property is not more than its fair market value at the time the transaction is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 16, 1985 at 50 FR 37597.

Written Comments. The Department received one written comment to the notice of proposed exemption and no requests for a public hearing. The written comment contained numerous objections to the granting of the proposed exemption. Folowing are the objections articulated by the commentator (the Commentator) and the responses given by the Plan trustees (hereinafter, the Applicants or the Trustees) to the issues raised.

1. *Control of the Trustees.* The Commentator says he is opposed to most transactions entered into between the dominant Trustee of the Plan, whom the Commentator describes as a Union Trustee, and the Plan's administrative corporate president. The Commentator states that he believes this Trustee is in full control of the Plan's six other Trustees since he can terminate and replace these officials without the approval and vote of the Plan's participants. The Applicants have, however, countered this objection by asserting that control of the Plan by an official of a labor organization is prohibited since the Plan is administered in accordance with the

statutory requirements of the Labor Management Relations Act of 1947, as amended.

2. *Move of Union Offices.* The Commentator questions the motivations of the individuals responsible for the Union's move from its present location to another. The Commentator essentially objects to the necessity for the move and he believes there will be an expenditure of Plan funds to finance the move. The Commentator further believes that if the officials advocating the move were compelled to refraim from using Plan money to fund real estate transactions, the Plan asset total as well as the benefits paid to participants would be increased.

The Applicants have responded to the Commentator's questions by explaning that the Union leases space from the Plan under a pre-Act written lease providing for the payment of rent by the Union to the Plan. The Applicants represent that if the Union were to vacate this space, any moving expenses the Union incurred would be paid by the Union and not by the Plan.

Additionally, the Applicants note that the considerations involved in relocating the administrative offices of the Plan have been described in documents submitteed in support of the exemption application. According to the Applicants, the Plan has been successful in achieving gains of its real estate investments and the results have been beneficial to the Plan. Since the Subject Property is adjacent to property where the Union intends to locate its headquarters, the Applicants explain that the proximity between Plan and Union offices will probably override any future office relocations.

3. *Investment Performance of the Plan.* The Commentator is doubtful about the investment performance of the Plan since he believes the Plan has been mismanaged by the Applicants. He also expresses the general view that pension plans have no need for tax shelters and that they should be self-perpetuating and augmented only by interest earnings.

The Applicants have responded to the Commentator's concerns by asserting that the Plan has had an outstanding record of performance under their administration and by presenting documentary evidence. The Applicants explain that independently audited financial statements for the Plan show net assets in excess of $708 million and a 12.44 percent net return on investment as of June 30, 1985. The Applicants also document and describe certain commercial loans and participation interests in commecial loans in which the Plan has invested favorably. Additionally, the Applicants document and describe the Plan's performance in securities investments. Using an independent investment performance analysis obtained on behalf of the Plan from Merrill Lynch Capital Markets, the Applicants state that the Plan's investment performance in corporate equities and bonds for the period December 1979 to June 1985 ranked first and thirty-first, respectively, among the one hundred portfolios compared.

4. *Terms of Sale.* The Commentator raises several objections to the terms of the proposed transaction. He initially questions the representation in the notice of proposed exemption that the Plan will pay no real estate fees or commissions in connection with the transaction. He states that he cannot believe this representation since he feels someone is ultimately benefitting from the use of Plan funds. The Applicants, however, counter this objection by reaffirming that the Plan will pay no real estate fees or commissions to any party.

The Commentator also queries why the Plan did not purchase the Subject Property in December 1984 directly from M.J. Brock (Brock), a real estate developer and contributing employer. According to the Applicants, the Plan did not purchase the Subject Property from Brock because Brock is a party in interest. The Applicants also explain that Brock would not have waited to sell the Subject Property while an exemption application was being processed by the Department. The Applicants further state that unless the Plan purchased the entire property owned by Brock and obtained a second exemption permitting the sale of a portion to the Union, Brock would have been required to await the recording of a new boundary line for the Subject Property. The Applicants explain that such delays would not have been acceptable to Brock and the transaction could not have been consummated. The Applicants conclude by stating that the Commentator has no reason for complaining that the Plan did not purchase the Subject Property directly from Brock because the Plan will be paying the same price Brock has been paid for the property.

The Commentator also questions the accuracy of the dimensions of the property retained by the Union and that of the Subject Property but the Applicants assert that the square footages are precise. In addition, the Commentator wishes to know the identities of the unrelated parties from whom the Plan purchased a parcel of land containing 18,000 square feet (the Trust Property) and he also insists upon a disclosure of the purchase price paid. The Applicants have responded to these inquiries by explaining that the Plan acquired the Trust Property at a purchase price of $30 per square foot on December 27, 1984 from James M. Jones and Lillias V. Jones, who are husband and wife and unrelated parties. The Commentator further questions where the Union obtained the funds to purchase the Subject Property from Brock but the Applicants consider this matter irrelevant to the merits of the exemption application.

The Department has considered the entire record, including the comment letter received from the Commentator and the Applicants' response to the comment letter. Based on its review, the Department has determined to grant the exemption as it has been proposed.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

John H. Ten Pas, M.D. Retirement Trust (the Plan) Located in Grand Haven, MI

[Prohibited Transaction Exemption 86–29; Exemption Application No. D–6418]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of 10.04 acres of vacant land located in Robinson Township, Michigan, from the individual segregated account of John H. Ten Pas (Ten Pas) in the Plan to Ten Pas, provided the Plan receives no less than fair market value at the time of sale. Section 408(d)(3) of the Act provides that the Department does not have the authority to grant an exemption under section 408(a) of the Act for the sale of any property of a plan to an owner-employee. Therefore, the Department cannot grant an exemption under Title I for the subject sale. However, the Department can grant an exemption under Title II of the Act, pursuant to section 4975(c)(2) of the Code.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on December 30, 1985 at 50 FR 53221.

For Further Information Contact: Mr. Paul Kelty of the Department, telephone (202) 523–8882. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogatioon of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an adminstrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 25th day of February, 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86-4400 Filed 2-27-86; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel, Performing Acts-Theater Section; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Performing Arts-Theater Section) to the National Council on the Arts will be held on March 19-20, 1986 from 9:00 a.m.-5:30 p.m., and March 21, 1986 from 9:00 a.m. to 5:00 p.m., Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 19, 1986 from 9:00 a.m. to 10:30 a.m. and March 21, 1986 from 2:00 p.m. to 5:00 p.m. Topics for discussion will be Program review and updates and guidelines and policy issues.

The remaining sessions of this meeting on March 19, 1986 from 10:30 a.m. to 5:30 p.m., March 20, 1986 from 9:00 a.m. to 5:30 p.m. and March 21, 1986 from 9:00 a.m. to 2:00 p.m. are for the purpose of Application review, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86-4350 Filed 2-27-86; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel, Art in Public Places Section; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Art in Public Places Section) to the National Council on the Arts will be held on March 18-20, 1986 from 9:00 am-6:00 pm, Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86-4351 Filed 2-27-86; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Responses to Safety Recommendations; Availability

Recommendation No.	Respondent	Date	Subject
A-84-128	Federal Aviation Administration (FAA).	1/8/86	Underwing emergency exits on F-27 airplanes; interference from adjacent passenger seats.
A-85-88 through -90	FAA	1/13/86	Continuous flow oxygen masks.
A-76-21, -23, -27, and A-77-58	FAA	1/13/86	Continuous flow oxygen masks.
A-84-48, -93 and -94	FAA	1/13/86	Alcohol use by pilots.
A-85-73 through -76	FAA	1/13/86	Fuel contamination problems on Pilatus Britten-Norman BN-2, BN-2A, BN-2B, BN-2T, and BN-2A Mk III model airplanes engaged in commuter/air taxi operations.
A-85-31	FAA	1/13/86	Attachment of wing extension assembly intercostals on Piper Model PA-60-601B, -601P, and -602P Aerostar airplanes.
A-85-81 through -86	FAA	1/13/86	Tire explosions in wheel wells of B-727 airplanes; brake lining cups; hydraulic system lines, electrical wiring and control system cables located in wheel wells.
A-85-87	FAA	1/13/86	Hobbs, Datcon, and similar hourmeter oil pressure switches mounted directly to the engine

Recommendation No.	Respondent	Date	Subject
A-83-6	FAA	1/13/86	Fuel system modification for Cessna single-engine airplanes with rubberized bladder-type fuel cells for detection and/or elimination of water from the fuel.
A-85-91 and -92	FAA	1/13/86	Installation of electrical wires wires and cables adjacent to the titanium bleed air ducts on Lockheed L-1011 airplanes.
A-84-9	FAA	1/13/86	Deficiencies detected during surveillance activities.
A-77-70	FAA	1/13/86	Installation of approved shoulder harnesses at all seat locations in general aviation aircraft.
A-84-72	FAA	1/14/86	Expanded radar coverage for Miami ARTCC.
A-85-77	FAA	1/14/86	Individual fuel line drain valves in Piper Apache Model PA-23-150, PA-23-160, and PA-23-235 airplanes; optional auxiliary fuel cells; operating information regarding the use of fuel additives in piston-powered airplanes for cold weather operation.
A-82-118	FAA	1/17/86	Minimum airspeeds and appropriate flight precautions during flight in icing conditions.
A-85-10	FAA	1/17/86	Inspection of fuel tank filler cap and adapter assemblies in Mooney Model M20B, M20C, M20D, M20E, M20F, M20G, M20J, (201) and M20K (231) airplanes.
A-85-108 through -111	FAA	1/17/86	Engine exhaust leakage; silicon oil separator drain hoses, fuel metering unit tee fittings on Cessna Model T303 airplanes.
A-84-111 through -115	FAA	1/17/86	Hazardous Inflight Weather Advisory Service Program.
A-85-50 and -52	FAA	1/21/86	Ignition switch on Fairchild Swearingen model SA-226 airplanes.
A-85-126	FAA	1/27/86	Seat/restraint systems.
A-84-130 through -133	FAA	1/27/86	Inclusion of bracing position in passenger safety information cards.
A-85-117	FAA	2/4/86	Requirement that required flight crewmembers of U.S.-registered civil aircraft keep the shoulder harness fastened while at their stations.
A-85-2	FAA	2/4/86	Modification of horizontal stabilizer attachment structure of EMB-110P1 and -110P2 model airplanes.
A-85-33	FAA	2/4/85	Face-to-face and/or interphone coordination between local and ground controllers.
A-84-108	U.S. Department of Commerce Nat'l Oceanic and Atmospheric Administration.	2/5/86	Severe clear air turbulence.
A-81-15	FAA	2/10/86	Cessna aircraft seat locking in all seat positions.
A-85-5 and -6	FAA	2/10/86	Engine fire detection and extinguishing systems on Boeing 747 series airplanes equipped with Pratt & Whitney JT9D engines.
A-85-69 through -71	FAA	2/11/86	Crash design guidelines for seats, restraint systems, fuel systems and structures.
HIGHWAY			
H-82-35	State of New Mexico	10/2/85	Citizen reporting of drunk drivers.
H-85-22	State of North Carolina	12/3/85	Child passenger safety.
H-85-49 and -50	State of New Mexico	12/19/85	Improved reporting of alcohol involvement in highway crashes.
H-85-22	Commonwealth of Massachusetts	12/19/85	Child passenger safety.
H-71-37, H-72-18, H-72-22 and H-74-25.	National Highway Traffic Safety Administration.	12/27/85	Standards for overhead surfaces on passenger buses; occupant survivability standards; information-gathering programs.
H-83-48	Department of California	12/31/85	Schoolbus passenger briefing.
H-76-25 and -26	National Highway Traffic Safety Administration.	1/2/86	Comparison skid testing; commercial vehicle tires and ASTM E-274 skid-test tire.
H-85-49 and -50	State of Florida	1/3/86	Improved reporting of alcohol involvement in highway crashes.
H-85-49 and -50	State of Nevada	1/5/86	Improved reporting of alcohol involvement in highway crashes.
H-83-25	Federal Highway Admin.	1/6/86	Corrosion-induced cargo tank structural failures.
H-85-49 and -50	State of Hawaii	1/7/86	Improved reporting of alcohol involvement in highway crashes.
H-85-22	Ohio Department of Highway Safety	1/8/86	Children passenger safety.
H-85-49 and -50	State of Mississippi	1/9/86	Improved reporting of alcohol involvement in highway crashes.
H-85-49 and -50	Commonwealth of Kentucky	1/10/86	Do.
H-85-49 and -50	State of Maryland	1/10/86	Do.
H-82-35	Commonwealth of Pennsylvania	1/10/86	Citizen reporting of drunk drivers.
H-85-22	State of West Virginia	1/14/86	Child passenger safety.
H-85-49 and -50	District of Columbia	1/14/86	Improved reporting of alcohol involvement in highway crashes.
H-85-22	State of Georgia	1/14/86	Child passenger safety.
H-85-49 and -50	State of Louisiana	1/15/86	Improved reporting of alcohol involvement in highway crashes.
H-85-22	State of Rhode Island	1/15/86	Child passenger safety.
H-85-22 and H-85—49 and -50	Missouri Dept. of Public Safety	1/16/86	Child passenger safety and improved reporting of alcohol involvement in highway crashes.
H-85-49 and -50	State of Rhode Island and Providence Plantations.	1/16/86	Improved reporting of alcohol involvement in highway crashes.
H-85-22	State of Connecticut	1/16/86	Child passenger safety.
H-85-49 and -50	State of West Virginia	1/29/86	Improved reporting of alcohol involvement in highway crashes.
H-85-8 through -15	do	2/3/86	Schoolbus inspections.
H-81-11	Federal Highway Admin	2/3/86	Brake check areas for steep highway grades.
H-85-27 thru -29	do	2/5/86	Bridge inspections.
H-85-29 and -50	Ohio Dept. of Highway Safety	2/10/86	Improved reporting of alcohol involvement in highway crashes.
H-84-70	State of Georgia	2/11/86	Vehicle licensing procedures.

The Safety Board has revised the format of these notices of availability to reduce significantly the cost of preparing and printing this information. Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, DC, 20594. Please include respondent'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 21, 1986.

[FR Doc. 86-4352 Filed 2-27-86; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-698]

Finding of No Significant Impact Amendment of Special Nuclear Material License No. SNM-770; Westinghouse Electric, Pittsburgh, PA

The U.S. Nuclear Regulatory Commission (the Commission) is considering the amendment of Special Nuclear Material License No. SNM-770 to authorize the commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material at the Waltz Mill Site in Pittsburgh, Pennsylvania

Summary of Environmental Assessment

Identification of the Proposed Action: The proposed action would allow Westinghouse Electric Corporation to install a laundry facility at the Waltz Mill Site. The facility will be used to perform the cleaning of protective clothing and other personal protective equipment used at other facilities.

The Need for the Proposed Action: Space at licensed burial facilities is a valuable and limited resource. As a result, the NRC has adopted a policy on low-level waste volume reduction to encourage licensees to establish programs to reduce the volume of waste required for disposal. The proposed laundry facility at the Waltz Mill Site is commensurate with such a policy of good volume reduction practices. By offering the laundry service to other facilities, benefits are realized in terms of (1) decontamination of protective clothing and equipment for reuse and (2) reduction in volume of contaminated material for burial.

Environmental Impacts of the Proposed Action

Construction Impacts: No new construction is planned except for general grading of the area, the installation of electrical power, some concrete pads to support the house trailers and laundry modules, and a ventilation system. Thus, the construction impact is expected to be minimal.

Gaseous Emissions: Opening of the containers and sorting of items are performed within the confines of a ventilated canopy-type hood, and the air is also exhausted through the facilities ventilation system. All of the air effluents from the laundry facility will be exhausted through HEPA filters and will be continuously monitored for beta-gamma radioactivity.

Operating experience obtained using such laundry modules at other locations has indicated that the radioactivity in the air effluents after HEPA filtration is typically less than detectable levels. The total volume of air exhausted will be increased by approximately 8 percent and there will be some small increase in total activity releases. It is expected that an increase can be easily accommodated, since even the highest dose calculated in the recent EIA due to airborne effluents was less than 1 percent of the limits specified in the Clean Air Act (40 CFR Part 61). These limits are 25 millirem/year to the whole body and 75 millirem/year to the critical organs. The recent expansion of the decontamination, disposal, and recycle service at the Waltz Mill Site does not alter the belief that doses will remain well below the EPA standards.

Non-radiological air effluents may contain small quantities of the freon cleaning solvent. These vapors will be exhausted through the HEPA filters prior to release.

Liquid Effluents: The proposed activities in the laundry facility are based on continuous recirculation and purification of the liquid utilized in the equipment. The facility is not equipped with any drain so there is no discharge of liquids directly to any waste processing system. The small quantity of liquid waste which will be generated shall be collected in small containers and either added to the liquid processing system or characterized for nuclide concentration, solidified, and shipped to an offsite burial facility. If the liquid waste is treated in the liquid waste processing facility, it will not significantly increase the volume of waste treated.

Solid Waste: Westinghouse estimates that about 250 cu. ft. of solid waste per year will be generated with the laundry facility operating at full capacity. This solid waste consists of materials such as solidified distillate bottoms, spent ion exchange resins, spent aqueous filter media, plastic, paper, and non-reusable clothing associated with the laundry operations. These materials will be collected, characterized, and shipped to an offsite burial facility.

Transportation: As a result of the addition of the laundry facility, the number of incoming and outgoing trucks from the Waltz Mill Site will increase by approximately 60 percent. Therefore, the probability of an accident involving a shipment of radioactive material will also increase.

The environmental effects of transportation accidents involving properly packaged materials has been thoroughly analyzed and documented.[1] These analyses show that the radiological risk from transportation accidents involving radioactive materials does not contribute appreciably to the accident consequences. The increase in shipments would add very little to public injuries or fatalities in case of accident.

Conclusion: The staff believes this operation can be performed at the Waltz Mill Site in an environmentally safe manner. The airborne, liquid, and solid releases from the laundry facility are expected to have an insignificant environmental impact. Therefore, the staff concludes there will be no significant impacts associated with the proposed action.

Alternative to the Proposed Action: An alternative to conducting the laundry operation at the Waltz Mill Site would be denial of the application and authorizing these operations to be performed at another location. Allowing the laundry operation to be performed at another location does not offer any environmental benefit. Although denial of Westinghouse's license amendment is an alternative available to the NRC, it would be considered only if issues of public health and safety cannot be resolved to the satisfaction of the regulatory authorities involved.

Agencies and Persons Consulted: The Commission's staff reviewed the applicant's request of October 11, 1985 and its supplement dated December 18, 1985.

Finding of No Significant Impact: The Commission's Division of Fuel Cycle and Material Safety has prepared an Environmental Assessment related to the amendment of Special Nuclear Materials License No. SNM-770. On the basis of this assessment, the Commission has concluded that the environmental impact created by the proposed licensing action would not be significant and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has determined that a Finding of No Significant Impact is appropriate. The Environmental Assessment and the above documents are available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Copies of the Environmental Assessment may be obtained by calling

[1] U.S. Nuclear Regulatory Commission, Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes, NUREG-0170, Volumes 1 and 2, Washington, DC, December 1977.

(301) 427–4510 or by writing to the Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, DC. 20555.

Dated at Silver Spring, Maryland this 24th day of February 1986.

For the Nuclear Regulatory Commission

W.T. Crow,

Acting Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 86–4409 Filed 2–27–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–289]

GPU Nuclear Corp. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Considertion Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–50, issued to GPU Nuclear Corporation (the licensee), for operation of the Three Mile Island Nuclear Station, Unit No. 1, located in Dauphin County, Pennsylvania.

In accordance with the licensee's application dated February 4, 1986, the proposed amendment would modify the Once Through Steam Generator (OTSG) tube repair criteria for TMI–1. The present TMI–1 Technical Specifications (TSs) require that defects extending greater than 40% of the tube wall thickness shall be repaired. Defects penetrating less than 40% of the tube wall thickness are acceptable regardless of their length. The licensee proposes to change the repair criteria to allow not repairing the tube, under certain circumstances, if it has a defect up to 50% tube wall penetration.

The proposed amendment has certain limitations on the 50% tube wall criteria. First, the 50% tube wall repair criteria do not apply to defects on the outer diameter (secondary side) of the tube or areas on the inner diameter (primary side) of reduced eddy current sensitivity (upper and lower tube sheet, secondary faces and support plate entry and exit locations). In these areas, the present 40% criteria will still apply. Second, in areas where the 50% tube wall criteria apply, there is a limitation on the maximum allowable length of a defect of 0.55 inches if it is between 40% and 50% penetration of the tube wall. Third, the proposed amendment is only in effect until the next scheduled refueling outage (scheduled for approximately December 1986). Based on the results of steam generator inspections, both the licensee and NRC staff will evaluate what repair criteria should apply on restart from the refueling outage.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commision's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The general 40% throughwall repair limit for the OTSG has an allowance of 10% throughwall to allow for further corrosion and 10% allowance to account for eddy current accuracies in detecting defects. The NRC staff has concluded, as stated before the Atomic Safety and Licensing Board in the TMI–1 steam generator repair hearings held in July 1984, that it is reasonably certain that corrosion is not an ongoing phenomenon on the primary side of the OTSG at TMI–1. By letter dated July 29, 1985, the licensee submitted the final report of its long term corrosion program which again concludes that the corrosion process on the primary side of the OTSG has been arrested. Although the results of this study are still under review by the NRC staff, there is reasonable assurance that in the short term the corrosion mechanism on the primary side has been arrested. In the previous TMI–1 steam generator repair hearings held in 1984, and with this application, the licensee has submitted data which indicates the inaccuracy of eddy current inspections at TMI–1 is 10% or less.

Permitting the corrosion allowance to go to zero would imply that a defect of up to 50% throughwall penetration and unlimited length would satisfy the Standard Review Plan criteria. However, before permitting a permanent change, it would be prudent to verify the corrosion rate predictions and eddy current inspection accuracy. The temporary change proposed by the licensee satisfies these concerns.

The three criteria for making a no significant hazards determination are provided in 10 CFR 50.92. Each criterion is discussed as follows:

(1) Operation of the facility in accordance with the proposed amendment should not involve a significant increase in the probability or consequences of an accident previously evaluated.

The event of concern for this amendment is a steam generator tube rupture. The proposed criteria provide assurance of OTSG tube wall integrity under normal operating and faulted conditions. In particular, the proposed amendment would satisy the recommendations of Regulatory Guide 1.121 in that it contains a margin of safety against ductile failure equal to 3.0 times normal loads. Thus, use of the proposed criteria does not involve a significant increase in the probability of occurrence of a steam generator tube rupture event.

in accordance with the recommendations of Regulatory Guide 1.121, the proposed amendment also contains a margin of safety against faulted conditions, specifically under loads associated with the main steam line break accident. Thus, use of the proposed criteria does not involve a significant increase in the consequences of an accident previously evaluated.

(2) Use of the proposed criteria should not create the possibilty of a new or different kind of accident from any accident previously evaluated.

Use of the proposed criteria has no bearing on any accident other than the steam generator tube rupture or main steam line break, discussed above. Thus, it does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Use of the proposed criteria should not involve a significant reduction in a margin of safety.

The margin of safety for the proposed revised criteria is in accordance with the licensing basis for the existing repair limit. The limiting margin of safety previously approved by NRC is not affected or reduced. The margin separating the proposed revised criteria from the analytical results from normal operating and faulted conditions is in accordance with the guidelines of Regulatory Guide 1.121 and is not significantly reduced by this amendment.

The Commission has provided examples of amendments not likely to involve significant hazards consideration (48 FR 14870). Example (vi) relates to a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are

clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The proposed amendment fits this example in that some safety margin may be reduced but the results are clearly within all acceptable criteria specified in the Standard Review Plan. The Commission, therefore, proposes to determine that this amendment does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

By March 31, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the followig message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to George F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For futher details with respect to this action, see the application for amendment dated February 4, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW. Washington, DC, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 21st day of February 1986.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, PWR Project Directorate No. 6 Division of PWR Licensing-B.

[FR Doc. 86-4405 Filed 2-27-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Decay Heat Removal Systems; Meeting

The ACRS Subcommittee on Decay Heat Removal Systems will hold a meeting on March 18, 1986, Room 1046, 1717 H Street, NW., Washington, DC.

To the extent practical the meeting may be open to public attendance, however, a portions of the meeting will be closed to discuss material relating to plant safeguards and security.

The agenda for the subject meeting shall be as follows:

Tuesday, March 18, 1986—8:30 A.M. until the conclusion of business.

The Subcommittee will continue its review of NRR resolution position for USI A-45, "Shutdown Decay Heat Removal Requirements."

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Futher information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: February 24, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-4395 Filed 2-27-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275-OLA and 50-323-OLA; ASLBP No. 86-523-030-LA]

Pacific Gas and Electric Company; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Pacific Gas and Electric Company

Diablo Canyon Nuclear Power Plant, Units 1 and 2

Facility Operating License Nos. DPR-80 and DPR-82

This Board is being established pursuant to a notice published by the Commission on January 13, 1986 in the **Federal Register** (51 FR 1451-56) entitled, "Consideration of Issuance of Amendments to Facility Operating Licenses DPR-80 and DPR-82 for Diablo Canyon Nuclear Power Plant, Units 1 and 2, Respectively, and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing." The amendments would authorize the licensee to increase the Unit 1 and Unit 2 spent fuel pool storage capacity from 270 to 1324 storage locations for each unit. The proposed expansion is to be achieved by reracking the spent fuel pools with a combination of poisoned racks and nonpoisoned racks in a two-region arrangement.

The Board is comprised of the following Administrative Judges:

B. Paul Cotter, Jr., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Mr. Glenn O. Bright, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Dr. Jerry Harbour, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Issued at Bethesda, Maryland, this 21st day of February, 1986.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 86-4396 Filed 2-27-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-414]

Duke Power Co; Catawba Nuclear Station, Unit 2; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Reglatory Commission (the Commission) has issued Facility Operating License No. NPF-48 to Duke Power Company, North Carolina Municipal Power Agency No. 1 and Piedmont Municipal Power Agency (the licensees) which authorizes operation of the Catawba Nuclear Station, Unit 2, at reactor core power levels not in excess of 3411 megawatts thermal in accordance with the provisions of the license, the Technical Specifications, and the Environmental Protection Plan with a condition limiting operation to five percent of full power (170 megawatts thermal).

The Catawba Nuclear Station, Unit 2, is a pressurized water reactor located in York County, South Carolina, approximately 6 miles north of Rock Hill, South Carolina.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on June 25, 1981 (46 FR 32974). The power level authorized by this license and the conditions contained therein are encompassed by that prior notice.

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of relief and the issuance of exemptions included in this license will have no significant impact on the environment (51 FR 5619).

For further details with respect to this action, see (1) Facility Operating License No. NPF–48; (2) the Commission's Safety Evaluation report, dated February 1983 (NUREG–0954), and Supplements 1 through 5; (4) the final Safety Analysis Report and Amendments thereto; (5) the Environmental report and supplements thereto; (6) the Final Environmental Statement, dated January 1983 (NUREG–0921); (7) the Partial Initial Decision of the Atomic Safety and Licensing Board, dated June 22, 1984; (8) the Supplemental Partial Initial Decision on Emergency Planning dated September 18, 1984; and (9) the Partial Initial Decision Resolving Foreman Override Concerns and Authorizing Issuance of Operating Licenses dated November 27, 1984.

These items are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the York Library, 138 East Black Street, Rock Hill, South Carolina 29730. A copy of the Facility Operating License NPF–48 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing-A. Copies of the Safety Evaluation Report and its supplements (NUREG–0954) and the Final Environmental Statement (NUREG–0921) may be purchased through the U.S. Government Printing Office by calling (202) 275–2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 24th day of February 1986.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Acting Director, PWR Project Directorate No. 4, Division of PWR Licensing-A, NRR.

[FR Doc. 86–4406 Filed 2–27–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Power Authority of the State of New York (the licensee) to withdraw its January 6, 1981 application for proposed amendment to the James A. FitzPatrick Nuclear Power Plant, located in Oswego County, New York. The proposed amendment would have modified the provisions in the Technical Specifications pertaining to four miscellaneous matters: the first change proposed to delete, from the Bases, the pressure setpoint for permissible entry into the Run mode, and to correct that setpoint in the Definitions to be consistent with the same setpoint in the corresponding Limiting Conditions for Operation; the second change proposed to correct an apparent error in the list of valve isolation groups which isolate on a high drywell pressure signal; the third change proposed to correct an error in the list of inputs to the Rod Worth Minimizer, and the fourth change proposed to correct specifications pertaining to the low Pressure Coolant Injection (LPCI) system that should have been modified as a result of a previously approved amendment involving the LPCI system. The Commission issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on July 20, 1983 (45 FR 33086). By letter dated December 24, 1985, the licensee withdrew its application for the proposed amendment.

For further details with respect to this action, see (1) the application for amendment dated January 6, 1981 and (2) the licensee's letter dated December 24, 1985, withdrawing the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Penfield Library, State University College of Oswego, Oswego, New York.

Dated at Bethesda, Maryland, this 21st day of February.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, BWR Project Directorate No. 2, Division of BWR Licensing.

[FR Doc. 86–4407 Filed 2–27–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-323]

Pacific Gas and Electric Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of § 50.46(a)(1) to 10 CFR Part 50 to the Pacific Gas and Electric Company (the licensee) for the Diablo Canyon Nuclear Power Plant, Unit 2 (Diablo Canyon 2 or the facility) located on the licensee's site in San Luis Obispo County, California.

Environmental Assessment

Identification of proposed action: The exemption would allow for a temporary relief from the provisions of § 50.46(a)(1) with respect to the requirement that the ECCS cooling performance be calculated on a plant specific basis using an approved ECCS evalustion model. The current calculated ECCS performance for the facility, as referenced in the Final Safety Analysis Report (FSAR), is not based on the actual operating conditions for the facility. The temporary relief would allow continued operation of the facility until a revised calculated ECCS cooling performance has been completed using an approved ECCS model and actual facility operating conditions. During the duration of the temporary relief granted by the exemption the heat flux hot channel factor, Fq, will be limited to a value of 2.30 as compared to a value of 2.32 used in the Technical Specification 3.2.2.

The Need for the proposed action: The proposed exemption is required to permit the licensee to continue operation of the facility.

Environment impacts of the proposed action: With respect to the exemption the temporary relief from the above requirement of 10 CFR 50.46(a)(1) would involve no significant change in the probability or consequences of any accident previously analyzed, and no significant increase in the amounts and no significant change in the types of effluents that may be released offsite. Further, there is no significant increase in individual or cumulative radiation exposure. Therefore, there are no unreviewed environmental questions involved.

Alternative to the proposed action: Because the staff has concluded that there is no measurable environmental impact associated with the proposed exemption, any alternative to this exemption will have either no significantly different environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts as a result of plant operations.

Alternative use of resources: This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement related to the operation of the Diablo Canyon Nuclear Power Plant, Units 1 and 2," dated May 1973.

Agencies and persons consulted: The NRC staff has reviewed the licensee's request that supports the proposed exemption. The NRC staff did not consult other agencies or persons.

Finding of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for the exemption dated February 21, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 25th day of February 1986.

For the Nuclear Regulatory Commission.

Jan A. Norris,

Acting Director, PWR Project Directorate No. 3, Division of PWR Licensing–A.

[FR Doc. 86–4408 Filed 2–27–86; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–269, 50–270 and 50–287]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55, issued to Duke Power Company (the licensee), for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina.

In accordance with the licensee's application dated November 19, 1985, as revised January 14 and February 14, 1986, the proposed amendments would revise the Station's common Technical Specifications (TSs) to support the operation of Oconee Unit 1 at full rated power during the upcoming Cycle 10. The proposed amendment request changes the following areas:

1. Core Protection Safety Limits (TS 2.1);
2. Protective System Maximum Allowable Setpoints (TS 2.3);
3. Rod Position Limits (TS 3.5.2); and
4. Power Imbalance Limits (TS 3.5.2).

To support the license amendment request for operation of Oconee Unit 1, Cycle 10, the licensee submitted, as an attachment to the application, a Duke Power Company (DPC) Report, DPC–RD–2006, "Oconee Unit 1, Cycle 10 Reload Report." A summary of the Cycle 10 operating parameters is included in the report, along with safety analyses.

During the refueling outage, 117 fuel assemblies will be reinserted, similar to those previously used, and 60 fuel assemblies will be discharged and replaced by new but substantially similar assemblies of the Mark BZ type. As in the previous cycle, Cycle 10 will utilize gray (less absorbing) axial power shaping rods (APSRs) instead of the previously used black (highly absorbing) APSRs.

As part of these proposed amendments, the licensee is proposing to clarify some of the TSs. Some of the Figures and a Table in section 2, such as the rod position limits and operational power imbalance which have been individually given for each Unit, are being combined into one TS. The Reactor Protective System setpoints have been assigned the same values and thus section 2 would be written such that it is generic to all Oconee units. Also, the Bases for section 2 have been revised to simplify and clarify this section. A discrepancy was found between TS 3.5.1 and its bases. It appears that the bases for this TS were not reworded when the licensee previously requested a revision to Table 3.5.1–1. The footnote allowing a one-out-of-two logic for up to four hours in the power range instrumentation is being clarified.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). Example (iii) of the types of amendments not likely to involve significant hazards considerations is an amendment to reflect a core reload where:

(1) No fuel assemblies significantly different from those found previously acceptable to the Commission for a previous core at the facility in question are involved;

(2) No significant changes are made to the acceptance criteria for the Technical Specifications;

(3) The analytical methods used to demonstrate conformance with the Technical Specifications and regulations are not significantly changed; and

(4) The NRC has previously found such methods acceptable.

This particular reload involves the reinsertion of 117 fuel assemblies of a type previously approved and used and the insertion of 60 fuel assemblies of the Mark BZ type. The Mark BZ fuel assemblies are the same as previously approved and used assemblies in terms of fuel rods, end grid, end fittings, and guide tubes and differ only slightly from previously approved assemblies in the use of Zircaloy spacer grids rather than Inconel Intermediate Spacer grids. Thus, this core reload involves the use of fuel assemblies that are not significantly different from those found previously acceptable to the Commission for a previous core at this facility. The request for amendment changes the TSs to reflect new operating limits based on the fuel and control rods to be inserted into the core. These parameters are based on the new physics of the core and fall within the acceptance criteria.

In the analyses supporting this reload, there have been no significant changes in the acceptance criteria for the Technical Specifications, the analytical methods used to demonstrate conformance with the Technical Specifications and the regulations were not significantly changed, and those analytical methods have previously been found acceptable. Thus, this reload and the proposed license amendments reflecting it appear to be encompassed by example (iii) of amendments not likely to involve a significant hazards consideration. On this basis, the Commission proposes to determine that these amendments do not involve significant hazards considerations.

Example (i) of 48 FR 14870 is also applicable to several of the proposed TS revisions. This example involves amendment requests that are considered to be purely administrative in nature. The revisions to section 2 will allow for the consolidation of certain Figures and a Table for simplicity and clarity and should be considered administrative.

With the information found in this seciton now generic for all three units, the elimination of repetitive information is needed.

The revisions to the bases of Section 3.5.1 are also administrative and are being made to achieve consistency throughout the TSs. The bases were not rewritten when an administrative revision to Table 3.5.1–1 occurred. In addition, Table 3.5.1–1, Footnote A, is being revised to clarify its intent.

Thus, the proposed administrative changes appear to be encompassed by example (i), of amendments not likely to involve significant hazards considerations. On this basis, the Commission proposes to determine that these requested amendments do not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

By March 31, 1986, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri) (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to J. Michael McGarry, III Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition, and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 19, 1985, as revised January 14 and February 14, 1986, which is available for public

inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Dated at Bethesda, Maryland, this 24th day of February 1986.

For the Nuclear Regulatory Commission

John F. Stolz,

Director, PWR Project Directorate No. 6, Division of PWR Licensing-B.

[FR Doc. 86-4578 Filed 2-27-86; 8:54 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Positions Placed or Revoked

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 632-6817.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on February 14, 1986 (50 FR 5622). Individual authorities established or revoked under schedules A, B, or C between January 1, 1986 and January 31, 1986 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

No Schedule A exceptions were established or revoked in January.

Schedule B

The following exceptions are established:

Department of Defense

Positions of Criminal Investigator, GS-1811-5/15, in the Office of the Inspector General. Effective January 10, 1986.

Federal Trade Commission

Positions filled under the Economic Fellows Program. No more than five new appointments may be made under this authority in any fiscal year. Service of any individual Fellow may not exceed 4 years. Effective January 10, 1986.

National Endowment for the Humanities

Two Humanist Administrators, Museums and Historical Organizations Program, Division of General Programs. Effective January 30, 1986.

Schedule C

The following exceptions are established:

Department of Agriculture

One Confidential Assistant to the Administrator, Agricultural Marketing Service. Effective January 10, 1986.

One Private Secretary to the Under Secretary for International Affairs and Commodity Programs. Effective January 13, 1986.

One Confidential Assistant to the Administrator, Rural Electrification Administration. Effective January 19, 1986.

One Staff Assistant to the Manager, Federal Crop Insurance Corporation. Effective January 19, 1986.

Department of Commerce

One Congressional Liaison Specialist to the Director, Congressional Affairs, International Trade Administration. Effective January 9, 1986.

One Confidential Assistant to the General Counsel. Effective January 10, 1986.

One Special Assistant to the Secretary. Effective January 14, 1986.

One Confidential Assistant to the Director, Office of Business Liaison. Effective January 27, 1986.

One Special Assistant to the Administrator, National Oceanic and Atmospheric Administration Effective January 30, 1986.

One Special Assistant to the Deputy Administrator, National Oceanic and Atmospheric Administration. Effective January 30, 1986.

Department of Defense

One Private Secretary to the Assistant Secretary of Defense (Research and Technology) Director, Defense Advanced Research Projects Agency. Effective January 9, 1986.

One Private Secretary to the Deputy Under Secretary of Defense (Tactical Warfare Programs). Effective January 13, 1986.

One Private Secretary to the Assistant Secretary of Defense (Force Management and Personnell). Effective January 27, 1986.

Department of Education

One Confidential Assistant to the General Counsel. Effective January 3, 1986.

One Special Assistant to the Secretary. Effective January 13, 1986.

One Confidential Assistant to the Assistant Secretary for the Office of Educational Research and Improvement. Effective January 14, 1986.

One Special Assistant to the Deputy Assistant Secretary for Policy and Planning, Office of Educational Research and Improvement. Effective January 21, 1986.

One Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitave Services. Effective January 22, 1986.

One Special Assistant to the Under Secretary. Effective January 27, 1986.

One Special Assistant to the Deputy Assistant Secretary for Policy and Planning, Office of Educational Research and Improvement. Effective January 27, 1986.

One Confidential Assistant to the Deputy Assistant Secretary for Legislation. Effective January 29, 1986.

One Special Assistant to the Director, Historically Black Colleges and Universities Staff, Office of the Assistant Secretary for Postsecondary Education. Effective January 31, 1986.

One Special Assistant to the Secretary's Regional Representative, with duty location in San Francisco, California. Effective January 31, 1986.

Department of Energy

One Private Secretary to a Member Federal Energy Regulatory Commission. Effective January 14, 1986.

One Legal Advisor to a Member, Federal Energy Regulatory Commission. Effective January 14, 1986.

Department of Housing and Urban Development

One Special Assistant to the Assistant Secretary for Housing/Federal Housing Commissioner. Effective January 2, 1986.

One Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations. Effective January 3, 1986.

One Special Assistant to the Deputy Assistant Secretary for Program Policy Development and Evaluation, Office of the Assistant Secretary for Community Planning and Development. Effective January 27, 1986.

One Special Assistant to the Assistant Secretary for Community Planning and Development. Effective January 27, 1986.

Department of Interior

One Special Assistant to the Director, National Park Service. Effective January 3, 1986.

One Deputy Congressional Affairs Officer to the Congressional Affairs Officer, Bureau of Land Management. Effective January 13, 1986.

One Special Assistant to the Director, U.S. Fish and Wildlife Service, with duty location in Anchorage, Alaska. Effective January 13, 1986.

One Confidential Assistant to the Inspector General. Effective January 13, 1986.

One Confidential Assistant to the Director, Office of Surface Mining, Reclamation and Enforcement. Effective January 14, 1986.

Department of Justice

One Confidential Assistant to the Assistant Attorney General, Office of Legislative and Intergovernmental Affairs. Effective January 2, 1986.

Department of Labor

One Special Assistant to the Assistant Secretary for Veterans' Employment and Training. Effective January 8, 1986.

One Senior Liaison Officer to the Deputy Under Secretary for Congressional Affairs. Effective January 10, 1986.

One Staff Assistant to the Deputy Under Secretary for Congressional Affairs. Effective January 13, 1986.

One Special Assistant to the Chief of Staff. Effective January 22, 1986.

One Confidential Staff Assistant to the Assistant Secretary for Employment and Training. Effective January 27, 1986.

One Deputy Liaison Officer to the Deputy Under Secretary for Congressional Affairs. Effective January 30, 1986.

Two Senior Liaison Officers to the Deputy Under Secretary for Congressional Affairs. Effective January 30, 1986.

Department of State

One Special Assistant to the Assistant Secretary for the Bureau of Human Rights and Humanitarian Affairs. Effective January 2, 1986.

One Policy and Program Officer to the Assistant Secretary for the Bureau of Human Rights and Humanitarian Affairs. Effective January 2, 1986.

Department of Transportation

One Special Assistant to the Administrator, National Highway Traffic Safety Administration. Effective January 8, 1986.

One Secretary to the Associate Deputy Secretary. Effective January 15, 1986.

Department of Treasury

One Staff Assistant to the Deputy Assistant Secretary for Administration. Effective January 16, 1986.

One Special Assistant to the Deputy Assistant Secretary for Developing Nations, Office of the Assistant Secretary for International Affairs. Effective January 22, 1986.

Consumer Product Safety Commission

One Special Assistant (Legal) to a Commissioner. Effective January 13, 1986.

Consumer Product Safety Commission

One Special Assistant (Legal) to a Commissioner. Effective January 13, 1986.

Environmental Protection Agency

One Special Assistant to the Assistant Administrator for Solid Waste and Emergency Response. Effective January 31, 1986.

Equal Employment Opportunity Commission

One Attorney Advisor to the Chairman. Effective January 17, 1986.

Federal Labor Relations Authority

One Staff Assistant to the Chairman. Effective January 27, 1986.

Federal Maritime Commission

One Secretary (Stenography) to a Commissioner. Effective January 13, 1986.

General Services Administration

One Special Assistant to the Associate Administrator for Public Affairs. Effective January 30, 1986.

One Special Assistant to the Associate Administrator for Public Affairs. Effective January 31, 1986.

Government Printing Office

One Staff Assistant to the Public Printer. Effective January 30, 1986.

International Trade Commission

One Staff Assistant to the Chairwoman. Effective January 27, 1986.

Interstate Commerce Commission

One Confidential Assistant to the Chairman. Effective January 14, 1986.

National Archives and Records Administration

One Public Affairs Specialist to the Archivist of the United States. Effective January 3, 1986.

National Endowment for the Humanities

One Confidential Assistant to the Director, Institute of Museum Services. Effective January 29, 1986.

National Transportation Safety Board

One Confidential Assistant to a Board Member. Effective January 13, 1986.

Office of U.S. Trade Representative

One Executive Assistant to the Deputy U.S. Trade Representative. Effective January 21, 1986.

Small Business Administration

One Special Assistant to the Associate Administrator for Procurement Assistance. Effective January 3, 1986.

One Director of Veterans' Affairs to the Associate Deputy Administrator for Special Programs. Effective January 21, 1986.

U.S. Information Agency

One Staff Assistant to the Deputy Director. Effective January 21, 1986.

Veterans Administration

One Confidential Assistant to the Associate Deputy Administrator for Management. Effective January 29, 1986.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86-4278 Filed 2-27-86; 8:45 am]

BILLING CODE 6325-01-M

Proposed Information Collection for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed form BRI 46-360, application for restoration of survivor annuity.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C., chapter 35), this notice announces a proposed information collection from the public. Form BRI 46-360, Application for Restoration of Survivor Annuity, was developed by the Office of Personnel Management (OPM) for the use of widows and widowers whose survivor annuities were terminated because of remarriage prior to July 18, 1966, and who write to OPM requesting restoration. For copies of this proposal call James M. Farron, Agency Clearance Officer, on (202) 632-7714.

ADDRESSES: Send or deliver comments within 10 working days from the date of the application to:

James M. Farron, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E St., NW., Room 6410, Washington, D.C. 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632-5472.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86-4318 Filed 2-27-86; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14952; File No. 812-6107]

Application and Opportunity for Hearing; Metropolitan Series Fund, Inc.

February 21, 1986.

Notice is hereby given that Metropolitan Series Fund, Inc. ("Applicant"), One Madison Avenue, New York, New York 10010, filed an application on April 30, 1985, and an amendment thereto on January 30, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 promulgated thereunder, to the extent necessary to permit it to use the amortized cost valuation method for the purpose of valuing debt obligations with a remaining maturity of one year or less (referred to as "short-term" debt obligations) held in its Money Market Portfolio and in its Discretionary Portfolio (together "Portfolios"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of those provisions that are relevant to the application.

The application states that Applicant is a corporation organized under the laws of Maryland and is registered under the Act as an open-end, diversified management investment company. Metropolitan Life Insurance Company ("Metropolitan Life") is Applicant's investment manager, although State Street Research Management, a wholly-owned subsidiary of Metropolitan Life, serves as sub-investment manager with respect to certain of Applicant's portfolios. Applicant states that it has four portfolios, one of which, the Discretionary Portfolio, has not yet issued shares. The other portfolios are the Growth, Income and Money Market Portfolios. According to the application, the Money Market Portfolio seeks to attain its investment objective by investing in short-term money market instruments, and the Discretionary Portfolio seeks to attain its investment objective through investing in combinations of equity securities, fixed income debt securities and short-term money market instruments.

Applicant represents that it intends to offer its capital stock exclusively to the general accounts and separate accounts of Metropolitan Life and Metropolitan Life affiliates. The separate accounts are or will be established in connection with variable annuity contracts, scheduled premium and flexible premium variable life insurance contracts and other variable insurance products as may in the future be legally permitted. Such separate accounts are or will be registered under the Act as unit investment trusts.

Applicant states that it uses the amortized cost valuation method for debt obligations with remaining maturities of 60 days or less. Applicant proposes to use the amortized cost valuation method for the purpose of valuing the short-term debt obligations held in its Money Market Portfolio and in its Discretionary Portfolio. Applicant states that amortized cost pricing will not be used for any securities having a remaining maturity of more than one year. Under the amortized cost method of valuation, securities are originally valued at the cost at which they were purchased, and their value is adjusted daily to account for amortization of any premium or for accretion of any discount.

Applicant notes that the provisions of the Act from which it seeks exemption require that investment companies calculate their net asset value for the purpose of pricing their shares for sale, repurchase and redemption by valuing at market value those securities for which market quotations are readily available. Applicant states that it cannot rely on Rule 2a-7 under the Act because, among other things, neither the Money Market nor the Discretionary Portfolio can meet the conditions of the rule with respect to maintaining a constant net asset value and because the Discretionary Portfolio may purchase securities having a remaining maturity in excess of one year. Applicant states that the Discretionary Portfolio does not maintain a constant net asset value per share because it will invest in equity and fixed income debt securities. Applicant states that the Money Market Portfolio does not maintain a constant net asset value per share primarily because it declares dividends annually, to avoid the additional administrative expenses of having to declare and reinvest dividends daily. Applicant submits that there is no necessary relationship between the appropriateness of the use of the amortized cost method of valuation and the maintenance of a constant net asset value. Applicant asserts that the use of the amortized cost method of valuation for short-term debt securities held in its Money Market and Discretionary Portfolios would avoid the high administrative costs associated with valuing such instruments at market value on a daily basis.

Applicant submits that in its view, the significant objective that the Commission sought to achieve by imposing conditions under Rule 2a-7 is that any dilution that may occur be trivial. Applicant submits that the conditions in the application will provide contractowners the same protections against dilution or other unfair effects that the conditions of Rule 2a-7 provide shareholders in conventional "money market funds." Applicant asserts that the use of the amortized cost method of valuation for its two portfolios is also unlikely to result in any dilution or other unfair effects on contractowners because the portfolios are investment media for variable insurance products rather than money market funds, and the owners who participate in any of the portfolios of the Fund will tend to have a longer-range investment perspective than is typical of shareholders in money market funds. Thus, Applicant asserts, it is less likely that short-term securities would have to be liquidated prior to maturity.

Applicant states it is willing to consent to the entry of an order by the Commission conditioning the grant of its exemptive request upon the following conditions:

(1) In supervising the operations of Applicant and delegating special responsibilites involving portfolio management to its investment manager or subinvestment manager, the Board of Directors of Applicant undertakes (as a particular responsibility within the overall duty of care owed to shareholders of Applicant) to establish procedures reasonably designed, taking into account current market conditions and the Portfolios' investment objectives, to minimize the deviation between each Portfolio's net asset value per share as computed through use of the amortized cost valuation method and its net asset value per share as

determined through use of available market quotations.

(2) Included within the procedures to be adopted by the Board of Directors shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, between the value of each Portfolio's short-term debt obligations, as determined by using available market quotations, from their value as computed through use of the amortized cost method of valuation; and the maintenance of records of such review. To fulfill this condition, Applicant will use actual quotations or estimates of market value reflecting current market conditions as authorized by the Board of Directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation exceeds ½ of 1 percent, a requirement that the Board of Directors promptly consider what action, if any, should be initiated.

(c) If the Board of Directors believes the extent of any deviation from the amortized cost value for the short-term debt obligations of either Portfolio may result in material dilution or other unfair results to contractholders, it will take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten such Portfolio's average portfolio maturity; withholding the crediting of additional shares in lieu of dividends; or using a net asset value per share as determined by using available market quotations for the entire short-term investment portfolio.

(3)(a)(i) The Discretionary Portfolio will use the amortized cost method of valuation only for its short-term money market instruments—i.e., securities whose remaining maturity is one year or loss (except that repurchase agreements having a term of one year or less from the date of delivery of the repurchase agreement may be valued through use of the amortized cost method of valuation regardless of the maturity of the underlying securities held pursuant to the repurchase agreement). (ii) The Portfolios shall each maintain a dollar-weighted average portfolio maturity for their short-term securities appropriate to their objective of minimizing the deviation from their net asset value per share, as determined through use of the amortized cost method of valuation, from their net asset value per share, as determined through use of available market quotations; provided, however, that neither Portfolio shall maintain a dollar-weighted average portfolio maturity for its short-term portfolio which exceeds 120 days. If the disposition of a portfolio instrument should result in a dollar-weighted average portfolio maturity for the short-term portfolio of either Portfolio which exceeds 120 days, the Portfolio's available cash will be invested in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

(b) The maturity of short-term portfolio securities held by these Portfolios shall be calculated as set forth in Rule 2a–7 under the Act.

(4) Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in subparagraph (1) above, and the Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

(5) The investments held in the Money Market Portfolio and the short-term investments held in the Discretionary Portfolio, including repurchase agreements, will be limited to those United States dollar-denominated instruments which the Board of Directors determines present minimal credit risks, and which are of high quality. For this purpose, "high quality" instruments shall mean those instruments that are rated by any major rating agency within its two highest rating categories or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

(6) If any action pursuant to paragraph 2(c) above was taken, the Series Fund will report such action on Form N–SAR covering the period in which the action was taken and will attach a statement to the form describing with specificity the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 18, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86–4414 Filed 2–27–86; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

February 12, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Mesa Limited Partnership
Depository Units (File No. 7–8804)
Newhall Land & Farming Company
Limited Partnership Units (File No. 7–8805)
American Royalty Trust
Units of Beneficial Interest (File No. 7–8806)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 5, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make

written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-4413 Filed 2-27-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14955; 812-6281]

Shearson Lehman Special Equity Portfolios; Application for Order Permitting a Contingent Deferred Sales Load and an Offer of Exchange

February 24, 1986.

Notice is hereby given that Shearson Lehman Special Equity Portfolios ("Applicant"), Two World Trade Center, New York, NY 10048, filed an application on January 13, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"): (1) Exempting Applicant from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rules 22c-1 and 22d-1 under the Act to the extent necessary to permit Applicant to assess a contingent deferred sales charge ("CDSC") on redemptions of its initial and future series of shares, and to permit Applicant under certain circumstances to waive or apply credits against the CDSC; and (2) exempting Applicant from the provisions of Section 11(a) of the Act to permit Applicant to offer to exchange shares of each of Applicant's series for shares of any other of Applicant's series or for shares of any series of Shearson Lehman Special Portfolios on the basis of relative net asset values per share of the series at the time of the exchange, subject to a $5.00 service charge on each exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for relevant statutory provisions.

According to the application, Applicant is an open-end, diversified, management investment company registered under the Act. Applicant was organized as a business trust under the laws of the Commonwealth of Massachusetts on January 8, 1986. Applicant states that it is a series company that is currently composed of three series—the Equity Growth Portfolio, the Equity Plus Portfolio and the International Equity Portfolio (collectively, the "Portfolios".) Applicant states further that shares of all of the Portfolios are distributed by Shearson Lehman Brothers Inc. ("Shearson Lehman"), and affiliates of Shearson Lehman serve as the investment advisers to the various Portfolios. Lehman Management Co., Inc., a wholly-owned subsidiary of Shearson Lehman, serves as investment adviser of the Equity Growth Portfolio; The Boston Company Advisors, Inc., an indirect wholly-owned subsidiary of Shearson Lehman, serves as the Investment adviser of the Equity Plus Portfolio, as the subinvestment adviser of the Equity Growth Portfolio and the International Growth Portfolio and as the administrator for each of the Portfolios; American Express Asset Management N.V., an indirect wholly-owned subsidiary of American Express Company ("American Express"), the ultimate parent company of Shearson Lehman, serves as the investment adviser of the International Equity Portfolio.

Applicant proposes to: (1) Offer shares of each Portfolio subject to a CDSC; (2) institute a plan of distribution in accordance with Rule 12b-1 under the Act; and (3) provide Applicant's shareholders with the right to exchange shares of one Portfolio for shares of another Portfolio and for shares of any portfolio of Shearson Lehman Special Portfolios ("SLSP"), an open-end management investment company, of the series form, registered under the Act and distributed by Shearson Lehman.

Applicant states that shares of each of the Portfolios will be offered and sold without the deduction of a sales load at the time of the purchase. Applicant represents that certain redemptions of shares of the Portfolios, however, would be subject to a CDSC. Applicant states that the proceeds of the CDSC will be paid to Shearson Lehman and will be used by Shearson Lehman in whole or in part to defray costs incurred in connection with the sale of Applicant's shares, including payments of sales commissions to Shearson Lehman Financial Consultants on the sale of those shares.

According to the application, the CDSC will be imposed on a redemption of shares of any Portfolio that causes the current value of the shares of the Portfolio held by a shareholder to fall below the total dollar amount of payments for the purchase of shares of the Portfolio made by the shareholder during the preceding five years. The application states that no CDSC will be imposed to the extent that the net asset value of the shares redeemed by a shareholder does not exceed (1) the current net asset value of shares of the Portfolio purchased more than five years prior to the redemption ("Old Shares Value"), plus (2) the current net asset value of shares of the Portfolio purchased through reinvestment of dividends or capital gains distributions ("Reinvestment Shares Value"), plus (3) increases in the net asset value of the shares of the Portfolio above purchase payments made during the preceding five years ("Application Value").

The application states that, in effecting a particular redemption request of shares of a Portfolio made by a shareholder, Applicant will first redeem an amount that represents Application Value. If the amount of the requested redemption exceeded Appreciation Value, Applicant will next redeem an amount that represents Reinvestment Shares Value. If the amount of the redemption exceeded Appreciation Value and Reinvestment Shares Value, Applicant will then redeem an amount that represents Old Shares Value. The amount by which a redemption exceeds the total of Appreciation Value, Reinvestment Shares Value and Old Shares Value will be subject to the CDSC.

Applicant represents that the amount of the CDSC will depend on the number of years that have elapsed since the shareholder made the purchase payment from which an amount is being redeemed. The CDSC will be 5% in the first year and decrease by 1% per year thereafter, so that a redemption in the sixth year following purchase would not be subject to the CDSC. Applicant also states that the amount of the CDSC (if any) will be calculated by first determining the date on which the purchase payment that is the source of the redemption was made, and then applying the appropriate percentage to the amount of the redemption subject to the CDSC. All purchase payments for shares of a Portfolio made by a shareholder during a particular Shearson Lehman statement month will be aggregated and deemed to have been made on the last day of the preceding Shearson Lehman statement month for purposes of determining the number of years that have elapsed since the purchase payments were made.

Applicant states that, in determining whether a CDSC is payable and, if so, the percentage applicable, Applicant

will assume that the purchase payment for shares of a Portfolio from which a redemption is made is the earliest purchase payment from which a full redemption has not already been effected. In addition, Applicant will assess no CDSC on exchanges of shares. Applicant states that for purposes of assessing the CDSC, when shares of one Portfolio are exchanged for shares of another Portfolio or for shares of a portfolio of SLSP, Applicant will assume that the purchase date for the shares of the Portfolio acquired in the exchange will be the date on which the shares traded in the exchange were purchased.

Under Applicant's proposal, the CDSC will be waived on the following redemptions: (1) Any partial or total redemption of shares of a shareholder who dies or becomes disabled, so long as the redemption is requested within one year of death or initial determination of disability; (2) any partial or complete redemption in connection with certain distributions from Individual Retirement Accounts ("IRAs") or other qualified retirement plans; (3) redemptions effected pursuant to Applicant's automatic cash withdrawal plan (under which a shareholder who owns shares of a Portfolio with a value in excess of $10,000 may elect to receive periodic cash payments of at least $50 monthly) of amounts up to 2% of the value of a shareholder's shares in a Portfolio at the time the withdrawal plan commences; (4) redemptions effected pursuant to Applicant's right to liquidate a shareholder's account if the aggregate net asset value of the shares held in the account is less than $250; (5) redemptions effected by (i) employees of American Express and its subsidiaries, (ii) IRAs, Keogh plans and employee benefit plans for those employees, and (iii) spouses and minor children of those employees, so long as orders for Applicant's shares on behalf of the spouses and children are placed by the employees; (6) redemptions effected by accounts managed by investment advisory subsidiaries of American Express registered under the Investment Advisers Act of 1940; (7) redemptions effected by directors of any investment company for which Shearson Lehman serves as a distributor; and (8) redemptions effected by an investment company registered under the Act in connection with the combination of the investment company with Applicant by merger, acquisition of assets, or by any other transaction. Applicant also proposes a one-time only reinvestment privilege under which a shareholder who redeems shares subject to the CDSC and reinvests the proceeds of the redemption within 30 days after the redemption will receive a credit against the amount of the CDSC paid. Applicant represents that the percentage of the CDSC credited to the shareholder will be the same as the percentage of the redemption proceeds that are reinvested.

Applicant will finance its distribution expenses pursuant to a plan (the "Plan") adopted pursuant to Rule 12b–1 under the Act. Applicant states that, under the Plan, Applicant will monthly pay a fee at the annual rate of 1% of the average daily net assets of the Portfolio to Shearson Lehman for expenses incurred by Shearson Lehman in connection with the offering of Applicant's shares.

Applicant will also offer to exchange shares of each Portfolio for shares of any other Portfolio or shares of any portfolio of SLSP at their relative net asset values. According to the application, a $5.00 service fee ("Fee"), paid to Shearson Lehman, will be deducted on each exchange. Applicant states that the Fee is merely an administrative cost that will be paid by a shareholder so as to defray the expense of and to facilitate the exchange. Imposition of the Fee, Applicant contends, does not affect the basis on which exchanges will be made. Each exchange, Applicant represents, will be made on the basis of the relative net asset values of the Portfolios involved and, for that reason should be deemed consistent with the requirements of section 11(a) of the Act.

Applicant submits that its proposal is consistent with the policies underlying the Act. To avoid any possibility that questions may be raised under the definitional and regulating sections of the Act, Applicant requests exemption, pursuant to section 6(c) of the Act, to the extent necessary or appropriate, from sections 2(a)(32), 2(a)(35), 11(a) and 22(c) of the Act and Rules 22c–1 and 22d–1 thereunder for the Portfolios and (a) any additional series or classes of shares Applicant may offer in the future on substantially the same basis as Applicant offers shares of the Portfolios, and (b) any other registered investment company organized in the future that employs an affiliated person of American Express as investment adviser or principal underwriter.

Applicant believes that the CDSC and the exchange privilege are fair and in the best interests of Applicant's shareholders. Applicant submits that the operation of the CDSC will enable Applicant's shareholders to have the advantages of a greater investment amount from the time of purchase than would be the case if Applicant's shares were sold subject to a traditional front-end sales load. Applicant asserts further that the CDSC is fair to shareholders because it applies only to redemptions of amounts representing purchase payments for shares of the Portfolios and does not apply to either increases in the value of a shareholder's account through capital appreciation or to increases representing reinvestment of distributions.

Applicant also contends that certain of the waivers from the CDSC are fair to shareholders. Applicant submits, for example, that waiving the CDSC in the extraordinary circumstances of death or total disability of a shareholder, or on an involuntary redemption effected pursuant to Applicant's right to liquidate shareholder accounts of an aggregate net asset value less than $250, are fair because to impose a charge for an involuntary redemption would be equivalent to the imposition of a penalty upon a shareholder. Applicant submits that the waiver on redemptions effected pursuant to Applicant's automatic cash withdrawal plan is fair because it will enable Applicant's shareholders to receive the full benefit of that plan.

Applicant believes that its proposed waiver of the CDSC on redemptions in connection with certain distributions from IRAs or other qualified retirement plans is appropriate for public policy reasons. Waiving the CDSC on certain distributions from qualified retirement plans, Applicant submits, is fully consistent with the provisions of the Internal Revenue Code of 1954, as amended, granting favored tax treatment to accumulations under those plans and imposing additional taxes on early distributions from IRAs and other plans.

A number of the proposed waivers from the CDSC, Applicant believes, are appropriate because they involve the redemption of shares sold at little or no selling expense to Shearson Lehman. Included in this group of waivers, Applicant states, and those waivers on: (1) Redemptions effected by accounts managed by registered investment advisory subsidiaries of American Express, (2) redemptions by employees of American Express and its subsidiaries and individuals and plans related to those employees, (3) redemptions effected by directors or trustees of any investment company for which Shearson Lehman serves as distributor; and (4) redemptions effected by a registered investment company in connection with the combination of the investment company with Applicant.

Applicant submits that, like its proposed waivers of the CDSC, its proposed one-time-only credit of all or a portion of the CDSC applicable to a shareholder who redeems shares subject to the CDSC and reinvests the proceeds of the redemption within 30 days after the redemption is in the interests of shareholders. Applicant notes that the crediting procedure will afford a shareholder of Applicant the opportunity to determine without fear of being subjected to the CDSC whether the redemption was the best means of satisfying his current financial needs.

Applicant notes that the proposed exchange privilege will provide shareholders the opportunity to change their investment objective from time to time. Applicant submits that the imposition of the Fee on exchanges is fair and will not harm shareholders or discriminate among shareholders of any Portfolio or of any portfolio of SLSP. Applicant states that the Fee is designed merely to compensate Shearson Lehman for the costs incurred in facilitating exchanges.

Notice is Further Given that any interested person wishing to request a hearing on the application may, not later than March 17, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-4415 Filed 2-27-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22940; File No. SR-MSTC-85-8]

Self-Regulatory Organizations; Order Approving Proposed Rule Change of Midwest Securities Trust Company

On November 21, 1985, Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). Notice of the proposal was published in Securities Exchange Act Release No. 22706 (December 12, 1985), 50 FR 51764 (December 19, 1985). No comments were received. As discussed below, the Commission is approving the proposed rule change.

The rule change amends MSTC's Rules[1] to clarify the rights and liabilities of MSTC and its participants with respect to MST System communications services.[2] Specifically, the proposal provides that MSTC shall not be liable for any loss or damage to information sent or received through the communications system, provided that MSTC shall use its best efforts to reconstitute information lost or damaged by MSTC's gross negligence, fraud, or criminal acts. The proposal also provides that an MSTC participant shall indemnify and hold harmless MSTC against any loss sustained arising from a claim of a third party, who, with approval of the MSTC participant, received information or other services from communications services furnished by MSTC to an MSTC participant.

The proposal incorporates in MSTC Rules the provisions of an MSTC Communications Service Agreement ("Agreement") that MSTC has executed with its participants and that sets forth the rights and liabilities of MSTC and MSTC participants for MST System communication services. MSTC believes the proposal will be more expedient than executing an Agreement with each MSTC participant. MSTC also believes that the proposal is consistent with section 17A of the Act because it recognizes new data processing and communications techniques that facilitate securities clearance and settlement.

As discussed below, the Commission is approving the proposed rule change. The proposal adds a new indemnification provision to MSTC Rules for loss of or damage to information sent through the MSTC communication system. In conversations with Division of Market Regulation staff, MSTC has indicated that the proposal is intended to apply only to information loss or damage within the communications system and is not intended to displace MSTC's responsibilities under its general or specific indemnification provisions. MSTC's current indemnification rules provide a general standard requiring MSTC participants to indemnify MSTC for losses sustained, provided that MSTC participants shall not be liable for losses resulting from grossly negligent, fraudulent or criminal acts of MSTC, its officers, employees or agents. MSTC's indemnification rules provide separate standards for MSTC custody and delivery of participants' securities and for dissenter's rights, appraisal rights or similar rights which participants instruct MSTC to act upon as registered owner of securities held for participants. In those cases, participants must indemnify MSTC, or its nominee, for losses not involving fault on the part of MSTC or its nominee.

The Act does not specify the standard of care that must be exercised by registered clearing agencies and the Commission has determined that imposition of a unique federal standard of care for registered clearing agencies is not appropriate at this time.[3] For those reasons the Commission believes that the clearing agency standard of care and the allocation of rights and liabilities between a clearing agency and its participants applicable to clearing agency services generally may be set by the clearing agency and its participants. The Commission believes it should review clearing agency proposed rule changes in this area on a case-by-case basis and balance the need for a high degree of clearing agency care with the effect resulting liabilities may have on clearing agency operations, costs, and safeguarding of securities and funds.

The Commission believes the instant proposal does not affect MSTC's standard of care for the safeguarding of securities and funds. The proposal relates only to information loss or damage in the communications system; MSTC is responsible for a higher standard of care for transaction processing and safekeeping functions. In most instances, information communicated through the system is confirmed in some manner to participants, which enables participants to monitor information flow. Thus, MSTC and its participants share responsibility for the communications system. Because participant computer terminals are supplied by independent vendors, MSTC may not always be able to guard against loss or damage to information flowing through those terminals. Although codification of the Agreement into MSTC Rules allocates to participants much of the risk of loss or damage to communications information,

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[1] *See* MSTC Rules, Article I, Rule 3, Section 2.

[2] MSTC participants access the MST System through computer terminals they obtain from independent suppliers.

[3] *See* Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 (October 2, 1983).

the Commission cannot say this allocation is inappropriate or inconsistent with MSTC obligations under the Act. Moreover, the Commission believes that MSTC has demonstrated the exercise of a high degree of care in its operations and expects that it will continue to do so in the future. For the reasons above, the Commission finds that the proposal is consistent with the Act and should be approved.

It is therefore ordered, under section 19(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 24, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-4416 Filed 2-27-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22941; File No. SR-NASD-85-29]

Self-Regulatory Organizations; National Association of Securities Dealers; Inc., Order Approving Proposed Rule Change on an Accelerated Basis

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 October 1, 1985, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change and on February 12, 1986 an amendment thereto described in Items I, II, and III below. The Commission is publishing this ORDER to solicit comments on the proposed rule change and the amendment. For reasons described below, the Commission is approving the proposal on an accelerated basis.

I. Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change adds a new section to the NASD's Uniform Practice Code that establishes time frames to be adhered to in transferring customer securities accounts from one member firm to another and that details specific requirements governing the transfer process for various types of securities.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On October 1, 1985 the NASD filed a proposed rule change to put in place procedures to provide for the timely and efficient transfer of customers' securities accounts between member firms. In general terms, that rule change provides that customer account assets must be transferred within ten business days of the customer's request and that NASD member firms must use automated clearing agency facilities for the transfer. The proposed rule was filed to accompany a proposed strengthening of New York Stock Exchange ("NYSE") Rule 412. The NASD Board of Governors concluded that the NASD procedures should be consistent to the degree possible with the NYSE procedures.

On November 26, 1985 the Commission approved the NYSE proposal with a proposed effective date of February 24, 1986.[1] On January 21, 1986 the NYSE proposed certain amendments to its revised rule which reflect the Exchange's experience with the Pilot of the National Securities Corporations' automated account transfer system. The NASD has again determined that, to the degree possible, it is appropriate to provide supplemental procedures which parallel those of the NYSE. The following is a summary of the more substantive requirements of the proposal.

1. Assets in a customer's account that are nontransferable will be required to be either liquidated, retained by the carrying member for the customer, or shipped, physically and directly, in the customers' name to the customer, in accordance with the customer's instructions. A carrying member will be required to request specific instructions concerning disposition of nontransferable assets, and those instructions shall be accomplished within five business days.

2. With respect to retirement plan accounts, the customer will be required to authorize the custodian/trustee for the account to deduct outstanding fees due the custodian/trustee from the credit balance in the account. If the account does not contain a credit balance or if the credit balance is insufficient to satisfy such outstanding fees, the custodian/trustee must be authorized to liquidate assets in the account to the extent necessary to satisfy those fees. If liquidation of assets in the account is not practicable, such fees would have to be transferred to and accepted by the receiving member as a debt item with the account.

3. Upon receipt of a transfer instruction, a carrying member will be required to "freeze" all activities in the account to be transferred, *e.g.*, cancel all open orders.

4. Fail to deliver contracts would not have to be established on nontransferable assets and assets in transfer to the customer, *i.e.*, in possession of the transfer agent at the time of receipt of the transfer instruction by the carrying member for shipment, physically and directly, to the customer.

5. Members would be able to agree to close out fail contracts established pursuant to the rule through the delivery of securities that are substantially comparable to those due the customer.

6. A receiving organization would be required to deem receipt of a duly executed mutual fund re-registration form as adequate delivery for purposes of transferring mutual fund shares pursuant to the rule.

In its filing the NASD has asserted its belief that the rule change, including the proposed amendments, protects investors and is consistent with the purposes of the Act in providing a mechanism for expediting the transfer of a customer's securities account from one member to another. The NASD further asserted its belief that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

The NASD requested the Commission to find good cause for approving the proposed rule change prior to the thirtieth day after its publication in the **Federal Register**, and, in any event, before February 24, 1986, the scheduled industry target date for effectiveness of the proposed rule changes governing the transfer of customers' securities accounts. The NASD asserted its belief that the proposed rule change will protect investors and is consistent with the purposes of the Act because it provides a mechanism for expediting the transfer of a customer's securities account from one member to another.

IV. Commission Approval of the Proposed Rule Change

For the following reasons, the Commission finds the proposed rule change to be consistent with the requirements of the Act. The NASD proposal, like that of the NYSE, is designed to address weaknesses in the customer account transfer process. Existing transfer procedures permit firms to delay customer account transfers for extended periods while disputing with the customer the amount of securities or the money balances in the customer's account. In today's high-volume environment, however, in which certificate immobilization and use of

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[1] Securities Exchange Act Release No. 22663, November 26, 1985; 50 FR 49638.

book-entry facilities are expanding, it is important that customers be able to move street-name positions from firm to firm promptly and accurately. For that reason, an industry committee of representatives from broker-dealer's transfer of account departments (the "412 Committee"), formed nearly ten years ago, was reactivated recently to help the NYSE, NASD and the National Securities Clearing Corporation ("NSCC") develop a modern automated customer account transfer system. This NASD proposed rule change is part of that Committee effort and is designed to complement both the recent changes to NYSE Rule 412 and the recently adopted NSCC rules establishing NSCC's Customer Account Transfer System.[2]

In the Commission's view, the NASD's proposed rule change represents an important step toward assuring industry-wide, that customer accounts will be transferred in a timely manner. The proposed rule establishes uniform procedures and specific time frames; provides increased certainty to customers that, as of settlement date, most positions in most accounts will be deemed transferred; and ensures that assets and funds will be available for customer use at the receiving firm on a timely basis. Indeed, by requiring firms to establish fail positions on their books within the prescribed time frames, the rule transfers the risks associated with transfer delays from customers to broker-dealers. The rule thus creates significant incentives to transfer accounts on time, while extending traditional close-out remedies to the customer account transfer process. In that way, the rule seems well-designed to ensure both timely and financially responsible transfers.

In addition, the proposed rule change reflects useful fine-tuning based on industry experience during the NYSE/NSCC pilot period. This fine-tuning should help ensure successful implementation of a permanent, automated, customer account transfer process. These modifications are the result of close communications amount self-regulatory organizations during the program's pilot phase. Among other things, the interpretations describe in detail how carrying firms are to handle "nontransferable assets." They also clarify how member firms must treat customer assets, and incidential fees pertaining to assets, that: (1) Have been placed "in transfer";[3] (2) are "safekeeping positions"; or (3) are in retirement plan securities accounts for which custodian/trustee fees remain outstanding. With respect to mutual fund shares, the interpretations provide that member firms must accept as good delivery a duly-executed mutual fund re-registration form regarding mutual fund shares.

In addition, the interpretations provide guidelines that should facilitate broker compliance and customer protection. For example, the interpretations require a carrying broker to freeze a customer's acount by cancelling open orders and declining acceptance of new orders upon receipt of the customer's account transfer request. Also, to ensure the integrity of customer "safekeeping positions" maintained at carrying brokers, an interpretation provides that a receiving broker should reject securities deliveries against a safekeeping position when delivered securities cannot qualify as a "safekeeping position." Moreover, "nontransferable" customer assets must be liquidated, retained by the carrying broker for the customer, or shipped, physically and directly, in the customer's name to the customer, in accordance with the costomer's instructions. The carrying broker must contact the customer in writing prior to, or at the time of, validation of the transfer instruction to request such further specific instructions regarding the disposition of nontransferable assets. If the customer authorized liquidation or shipment, the carrying broker will be required either to distribute the resulting money balance to the customer or to initiate the shipment, as appropriate, within five business days after receipt of the customer's instructions concerning asset disposition.[4]

Finally, requiring the use in most instances of automated clearing agency account transfer facilities extends the proven benefits of National Clearance and Settlement System services to the customer account transfer process. Injecting centralized clearing facilities into the transfer process promotes timely delivery and receipt of communications between the receiving and carrying firms and enables effective compliance monitoring. Also, use of an automated system should enhance efficiency and reduce expenses in accounting transfer processing by eliminating, for all depository-eligible securities, the manually intensive handling of certificates and related paper between the two broker-dealer firms. Thus, by assuring that customer accounts in most instances will be transferred among member firms promptly and accurately, the NASD proposal should reduce risk, expense and potential exposure for customers.[5]

V. Commission Approval on an Accelerated Basis

The Commission finds that good cause exists to order the approval of the proposal prior to the thirtieth day after publication of this Order for comment in the **Federal Register** and therefore is granting the NASD's request to approve the proposal on an accelerated basis. With the minor exception noted above,[6] the NASD rule, as amended, is substantially similar to the NYSE's amended account transfer rule. Except for certain requirements made based on experience with the NYSE/NSCC pilot the NYSE proposed rule change was published for comment for more than thirty days; commentors expressed strong support for the rule change as amended. Accordingly, the Commission finds that notice of the NASD proposal prior to approval is unnecessary. Accelerated effectiveness should ensure that when section 65 of the NASD's Uniform Practice Code becomes fully effective on the industry target date of February 24, 1986, NASD member firms will be able to look to the rule for guidance. Finally, because the proposal is the product of an industry-wide effort,

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[2] Securities Exchange Act Release No. 22481, September 30, 1985; 50 FR 41274.

[3] An "in transfer" asset is an asset in the possession of a transfer agent at the time the carrying broker receives a customer transfer request.

[4] A "nontransferable asset" is defined to be

a. an asset that is a proprietary product of the carrying member.

b. as asset that is a product of a third party (e.g., mutual fund/money market fund) with which the receiving member does not maintain the relationship or arrangement necessary to receive/carry the asset for the customer's account.

c. an asset that may not be received due to regulatory limitations on the scope of the receiving member's business.

d. the asset is a bankrupt issue for which the carrying member does not possess the proper denominations to effect delivery and no transfer agent is available to re-register the shares.

Thus, under the NASD's rule, in contrast with the NYSE Rule, 412, municipal securities in a customer account, for example, will be deemed nontransferable whenever the receiving organization is not qualified to do a municipal securities business and therefore cannot receive the securities. In that instance, the customer will be required to designate an alternative disposition of those securities.

[5] The NASD Rule and the NYSE Rule do not subject customer account transfers to the rigors of their rules if transfers involve delivery from an NASD-only firm to an NYSE firm, or vice versa. Because customers in those transfer situations may be exposed to account transfer delays, the Commission expects all SROs to work together expeditiously to resolve that problem by extending their rules to transfers involving firms that are members of different SROs.

[6] *See* note 4, *supra*.

no purpose would be served were the Commission to delay the effectiveness of the proposal beyond the industry target date, *i.e.*, until the thirtieth day after publication of this Order in the Federal Register.

VI. Request for Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 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. Copies of such filing will be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by March 25, 1986.

VII. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and in particular, sections 15A(b)(6), and 17A of the Act.

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.

Dated: February 24, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-4417 Filed 2-27-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22939; File No. SR-OCC-85-20]

Self-Regulatory Organizations: Options Clearing Corp. Order Approving Proposed Rule Changes Implementing Dial-up Access for On-Line System ("C/MACS")

I. Introduction

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission, a proposed rule change that would authorize a dial-up telecommunications option for OCC Clearing Members. Notice of the proposal was published in Securities Exchange Act Release No. 22762 (January 2, 1986), 51 FR 1053 (January 9, 1986). No comment letters were received by the Commission.

II. Description

The proposal would amend OCC's procedures to enable OCC Clearing Members to access by "dial-up" OCC's on-line communication system ("C/MACS").[1] Previously, Clearing Members could access C/MACS only by dedicated telephone line. Under the proposal, OCC Clearing Members could "dial-up" C/MACS via ordinary telephone line to use the same terminal functions available to Clearing Members via dedicated telephone line. Specifically, Clearing Members could: (1) Retrieve daily activity and position reports, (2) inquire about current positions and activity, and (3) enter instructions for same-day security and cash movements.

OCC proposed elaborate safeguards to help prevent unauthorized access via dial-up connection.[2] The proposal requires use of a password system to identify each user and terminal function. If a user enters all passwords correctly and within specified time limits, C/MACS automatically terminates the telephone connection and then calls the user at the user's authorized location. If the system call-back does not verify authorized access, the connection is terminated. The system also automatically monitors and records password errors and response time-limit violations violations, enabling OCC to detect possible security problems and to contact Clearing Member users.[3]

III. OCC's Rationale for the Proposals

OCC believes that the proposal is consistent with section 17A of the Act because the proposal would further the efficient handling of securities transactions by making new data processing and communications techniques available on a cost-effective basis to a greater number of Clearing Members.

IV. Discussion

The Commission believes that the proposal is consistent with section 17A of the Act and therefore should be approved. The Commission agrees with OCC that dial-up access should provide an economical alternative to use of dedicated telephone lines and therefore should increase the number of OCC Clearing Members using automated communication equipment. In particular, the Commission recognizes that the proposal should enable OCC's smaller-volume Clearing Members to enjoy efficiencies provided by automated communication methods. Indeed, dial-up C/MACS use could help to increase small Clearing Member market participation to the market's benefit.

On the other hand, the Commission remains concerned that dial-up access to clearing agency processing systems without proper safeguarding measures could pose to clearing agencies and their members special financial and operational risks. The Commission believes, however, that OCC's proposal contains elaborate safeguards that should protect adequately funds, securities and data.[4] Finally, the Commission urges OCC to monitor closely the continuing adequacy of dial-up safeguards and to implement necessary system changes expeditiously.

V. Conclusion

On the basis of the foregoing, the Commission finds the proposal consistent with section 17A of the Act because it facilitates the prompt, accurate and safe clearance and settlement of securities transactions.

It is therefore ordered, pursuant to section 19(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 24, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-4418 Filed 2-27-86; 8:45 am]

BILLING CODE 8010-01-M

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[1] C/MACS is a computerized communication system linking OCC's Clearing Members to OCC.

[2] In a previous Commission Order relating to clearing agency automated communications systems, the Commission expressed concerns about unauthorized access to securities, funds, and data through use of dial-up computer connections. *See* Securities Exchange Act Release No. 20519 (December 30, 1983), 49 FR 966 (January 6, 1984), approving File Nos. SR-DTC-76-8; SR-MSTC-77-9; SR-MCC-77-4; SR-Philadep-83-3.

[3] The Commission previously approved a similar system at Midwest Clearing Corporation and Midwest Securities Trust Company. *See* Securities Exchange Act Release No. 21227 (August 9, 1984), 49 FR 32698 (August 15, 1984), approving File Nos. SR-MCC-84-5; SR-MSTC-84-5.

[4] As noted above, the Commission previously approved a Midwest proposal for dial-up access with essentially the same safeguards and security features. That system has been operating smoothly since the end of 1984.

[Release No. 34-22937; File No. SR-OCC-86-02]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change of Options Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 10, 1986, Options Clearing Corporation ("OCC") filed with the Commission a proposed rule change reducing the fee for foreign currency option exercises settled through OCC's DVP settlement system.[1]

Since the DVP system was implemented, OCC has passed through its costs to those Clearing Members who use this optional service. OCC's correspondent bank has now agreed to reduce the DVP fee from $87.50 to $50.00 per million dollars (pro-rated for fractions of millions) of the U.S. Dollar aggregate exercise price of the options settled via DVP.

OCC believes that the proposed rule change is consistent with section 17A because it allocates reasonable fees in an equitable manner among OCC's Clearing Members by allocating costs associated with DVP settlement to those who use the system.

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the filing, 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, D.C. 20549. Copies of the filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number in the caption above and should be submitted by March 21, 1986.

Dated: February 24, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-4419 Filed 2-27-86; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Release No. 21359 (September 27, 1984), 49 FR 39138 (October 3, 1984). The DVP system (OCC Rule 1606A) established an alternative to the "regular-way" settlement procedures of OCC Rule 1606. Under Rule 1606A a Clearing Member submits a DVP authorization to OCC for the amount to be settled in the DVP system. The DVP authorization, among other things, instructs the Clearing Member's agent bank to guarantee, via international bank wire, delivery of the Member's U.S. dollar settlement obligation to OCC's correspondent bank on the exercise settlement date. This eases the financing burden on Clearing Members who previously had to advance payment two business days before settlement date under Rule 1606.

The DVP system eliminates the two-day gap between payment and delivery. The DVP system also substitutes the credit of the Member's agent bank for that of the Member and places the risk of default by the agent bank on OCC's correspondent bank. The DVP fee represents a pass-through by OCC to Clearing Members of the fee OCC's correspondent bank charges on the credit extended to Clearing Members' agent banks.

SMALL BUSINESS ADMINISTRATION

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit the maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "FFB Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged by the Federal Financing Bank on ten-year debentures sold by Licensees to the Bank. Notice of this rate is generally published each month.

Accordingly, Licensees are hereby notified that effective March 1, 1986, and until further notice, the FFB Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is *8.795%* per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling that the Regulation imposes. Attention is directed to section 308(i) of the Small Business Investment Act, as amended by Pub. L., 99-226, December 28, 1985, to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Dated: February 19, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-4412 Filed 2-27-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on March 21, 1986, in the Main Briefing Room, MITRE Corporation, 1820 Dolley Madison Boulevard, McLean, Virginia commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Opening Remarks (2) Approval of Minutes of the Meeting Held on January 17, 1986; (3) Executive Director's Report on RTCA Administration and Activities; (4) Special Committee Activities Report for January and February 1986; (5) Report of the RTCA Fiscal and Management Subcommittee; (6) Report of the Awards Committee; (7) Consideration of Proposals to Establish New Special Committee; (8) Consideration of Change 3 to RTCA Document DO-185, "Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance System (TCAS) Airborne Equipment"; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500 Washington, DC 20005, (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, February 21, 1986.

Karl F. Bierach,

Designated Officer.

[FR Doc. 86-4279 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

Airport Access and Capacity, Proposed Policy; Public Hearing

SUMMARY: The Federal Aviation Administration (FAA) is holding three public hearings to receive comments, suggestions, and information on a proposed airport access and capacity policy published in the Federal Register on January 22, 1986 (51 FR 2985). The public is encouraged to attend and present their views at these hearings. The first hearing was held in Washington, DC, on February 20 and 21. Additional hearings are scheduled for Denver, Colorado, and Los Angeles, California.

The Denver, Colorado, hearing will be held in the lecture hall of building 25 at the Denver Federal Center, 6th Avenue and Kipling Street, Denver, Colorado, on March 5 (and on March 6, if necessary). The other hearing will be held at the Hacienda Hotel, 525 North Sepulveda Blvd., El Segundo, California, on April 2 and 3.

The upcoming hearings will be open to the public from 9 a.m. to approximately 5 p.m. on the scheduled days. The second day of each meeting will be ended after all present have been given an opportunity to speak.

Background

The FAA intends to clarify the Federal position on provision and management of capacity in the National Airport and Airway System. In developing the Federal position, the FAA has published a proposed policy that describes a possible Federal position on airport access and capacity issues and requests public comments on the proposed policy and on issues relevant to developing an airport access and capacity policy to serve the public interest.

The public hearings scheduled above afford interested parties an opportunity to present their views on the issues and the policy proposed by the FAA. Persons wishing to make a presentation at either upcoming hearing should advise Carol Strong, Office of Aviation Policy and Plans, Federal Aviation Administration, Washington, DC 20591, Telephone: (202) 426-3331.

ADDRESS: Written comments on the proposed airport access and capacity policy (51 FR 2985) will be accepted until April 18, 1986. Comments in duplicate should be sent to: Gary L. Olin, Economic Analysis Branch (APO-220), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

Comments submitted to the FAA may be examined in Room 915G, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. For further information, contact Gary L. Olin at (202) 426-3420.

Issued in Washington, DC, on February 24, 1986.

Marvin L. Olson,

Acting Director of Aviation Policy and Plans.

[FR Doc. 86-4361 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 40
Friday, February 28, 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

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, February 24, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of Countrywide Thrift and Loan, an operating noninsured industrial bank located at 155 N. Lake Avenue, Pasadena, California, for Federal deposit insurance.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: February 25, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-4497 Filed 2-26-86; 12:56 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, February 24, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum regarding the Corporation's assistance agreements with insured banks.

By the same majority vote, the Board further determined that Corporation business required the addition to the agenda for consideration at this meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the Corporation's assistance agreement with an insured bank pursuant to section 13 of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 25, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary

[FR Doc. 86-4498 Filed 2-26-86; 12:57 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:52 p.m. on Monday, February 24, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to adopt a resolution making funds available to pay deposits made in Elk City State Bank, Elk City, Oklahoma, which had been closed by the Bank Commissioner for the State of Oklahoma on Friday, February 21, 1986.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(8) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(B)).

The meeting was held in the Chairman's Office, Room 6023, in the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: February 26, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-4499 Filed 2-26-86; 12:58 pm]

BILLING CODE 6714-01-M

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FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., March 5, 1986.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, DC 20573.

STATUS: Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public:

1. Docket No. 85-7—Independent Action—Notice and Meeting Provisions in Conference Agreements—Consideration of Proposed Rule and Comments.

Portion closed to the public:

1. Docket No. 84-33—Section 19 Inquiry—United States/Argentina and United States/Brazil Trades—Status of Proceeding.

CONTACT PERSON FOR MORE INFORMATION: John Robert Ewers, Secretary (202) 523–5725.

John Robert Ewers,

Secretary.

[FR Doc. 86–4420 Filed 2–25–86; 4:35 pm]

BILLING CODE 6730–01–M

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FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 6349, February 21, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, February 26, 1986.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting; Proposed statement to be presented to the Commerce, Consumer, and Monetary Affairs Subcommittee of the House Committee on Government Operations regarding the Export Trading Company Act of 1982.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 26, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86–4541 Filed 2–26–86; 8:45 am]

BILLING CODE 6210–01–M

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FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 10:00 a.m., Wednesday, March 5, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment of an application by the State of Wisconsin for an exemption from Subpart B of Regulation AA (Unfair or Deceptive Acts or Practices).

Discussion Agenda

2. Proposed revisions to Regulations D (Reserve Requirements of Depository Institutions) and Q (Interest on Deposits) to reflect the expiration of the Depository Institutions Deregulation Act. (Proposed earlier for public comment; Docket No. R–0565)

3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 26,1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86–4452 Filed 2–26–86; 11:22 am]

BILLING CODE 6210–01–M

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FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: Approximately 10:30 a.m., Wednesday, March 5, 1986, following a recess at the conclusion of the open meeting.

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 26, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc 86–4453 Filed 2–26–86; 11:23 am]

BILLING CODE 6210–01–M

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FEDERAL TRADE COMMISSION

TIME AND PLACE: 10:00 a.m., Wednesday, March 5, 1986.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW, Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of Amendment of Pre-Sale Availability Rule—16 CFR 702 (1985).

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 523–1892, Recorded Message: (202) 5423–3806.

Emily H. Rock,

Secretary.

[FR Doc. 86–4451 Filed 2–26–86; 11:17 am]

BILLING CODE 6750–01–M

Federal Register

Friday
February 28, 1986

Part II

Department of Labor

Employment and Training Administration

Department of Agriculture

Food and Nutrition Service

Department of Health and Human Services

Social Security Administration
Health Care Financing Administration

Income and Eligibility Verification Procedures for Food Stamps, Aid to Families With Dependent Children, State Administered Adult Assistance, Medicaid and Unemployment Compensation Programs; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273 and 275

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 603

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 431 and 435

Social Security Administration

45 CFR Parts 205, 206 and 232

Income and Eligibility Verification Procedures for Food Stamps, Aid to Families With Dependent Children, State Administered Adult Assistance, Medicaid and Unemployment Compensation Programs

AGENCIES: Food and Nutrition Service, Department of Agriculture; Health Care Financing Administration and Social Security Administration, Department of Health and Human Services; Employment and Training Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: These final regulations implement changes made in the following programs:

1. The Food Stamp program under the Food Stamp Act of 1977, as amended;
2. The Aid to Families with Dependent Children (AFDC) program under Title IV–A of the Social Security Act; the Adult Assistance programs under Titles I, X, XIV, and XVI (AABD) of the Social Security Act;
3. The Medicaid program under Title XIX of the Social Security Act; and,
4. The Unemployment Compensation program under Title III of the Social Security Act.

This action is being taken to implement section 2651 of the Deficit Reduction Act of 1984 (DEFRA) (Pub. L. 98–369) regarding income and eligibility verification procedures. This section requires State agencies that administer the Food Stamp Program (FSP), the Aid to Families with Dependent Children Program (AFDC), the Adult Assistance programs (in the Territories), the Medicaid program and the Unemployment Compensation (UC) program to develop an Income and Eligibility Verification System (IEVS) which meets certain statutory requirements. The major statutory changes reflected in these regulations provide State agencies with additional sources of useful information in verifying applicant and recipient reported circumstances and also ensure that appropriate privacy and procedural safeguards are applied in the use of the information.

EFFECTIVE DATE: These regulations are effective May 29, 1986.

FOR FURTHER INFORMATION CONTACT:

For Food Stamps: Bonny O'Neil, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3414

For AFDC and Adult Assistance Programs: Barbara M. Levering, Director, Office of Intergovernmental Communications, Office of Family Assistance, Social Security Administration, 2100 Second Street SW., Washington, D.C. 20201, (202) 245–2637

For Medicaid: Joyce G. Somsak, Director, Office of Quality Control Programs, BQC, Health Care Financing Administration, DHHS, Room 239 East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21203, (301) 597–1354

For Unemployment Compensation: Carolyn M. Golding, Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Room 6112, Washington, D.C. 20213, (202) 376–6636

SUPPLEMENTARY INFORMATION:

BACKGROUND AND OBJECTIVES

On March 14, 1985, a Notice of Proposed Rulemaking (NPRM) was published in the Federal Register (50 FR 10450). This notice proposed to amend Parts 271, 272, 273 and 275 of Title 7, amend Parts 205, 206 and 232 of Chapter II of Title 45, amend Parts 431 and 435 of Chapter IV, Title 42 and add new Part 603 to Chapter V of Title 20 of the Code of Federal Regulations.

Section 2651 of DEFRA amended the Social Security Act, the Food Stamp Act and the Internal Revenue Code for the purpose of enabling and requiring Federally funded public assistance and unemployment agencies to make more accurate eligibility determinations and benefit payments by exchanging information with each other and by obtaining unearned income data from the Internal Revenue Service (IRS) and other income and wage data from the Social Security Administration (SSA) and from State wage and Unemployment Insurance Benefit (UIB) data files.

DISCUSSION OF MAJOR PROVISIONS AND RESPONSES TO COMMENTS

Provided in the discussion below are the major provisions of the NPRM, significant comments received on each provision, the responses to such comments, and changes incorporated into the final regulations.

Although the final comment period closed on April 29, 1985, the three Departments accepted and considered all comments on the NPRM received by June 11, 1985. Comments on the NPRM were received from 53 parties: 38 States, 6 client advocate groups, 4 local or county welfare agencies, 4 Federal agencies and 1 private citizen. A number of commenters responded in a positive way to the NPRM approach of a joint publication of Federal regulations by the three Departments. We have maintained that approach in these final rules with a single preamble authored by the Office of Family Assistance (OFA), the Food and Nutrition Service (FNS), and the Health Care Financing Administration (HCFA), responding to public assistance program issues followed by the individual regulations. A separate discussion authored by the Employment and Training Administration (ETA) addressing issues specific to State UC agencies follows the discussion of issues directly relating to the public assistance programs.

A. Public Assistance Programs

The provisions of the NPRM that specified the required timeframes for State welfare agency use of the IEVS data received the most comments. The Federal agencies have considered the comments and have: (a) Revised the requirements that information on applicants be requested and used during the application period; and (b) modified the timeframe for requesting and acting on information on recipients.

A significant number of comments were also received on State agency reporting requirements involving the use of IEVS data. The Federal agencies have considered the comments of the public and have adjusted the final regulations to reduce the reporting burden placed on the State public assistance agencies.

During the course of the following discussion, the pronoun "we" is used to include the three Federal agencies (OFA, HCFA and FNS) administering public assistance programs unless otherwise specified. "Applicant" and "recipient" are terms used generally for all public assistance programs.

We have made minor and technical changes as a result of our own review of the NPRM and we have clarified regulatory language as necessary to aid in the implementation of the provisions. We have also changed the term "Statewide Income and Eligibility Verification System (SIEVS)" to "Income and Eligibility Verification System (IEVS)." No change in substance is intended by this redesignation.

1. General

a. Costs and Savings

The common preamble and the Medicaid NPRM included a voluntary regulatory impact statement which discussed potential costs and savings in implementing this regulation. Several comments were received regarding these potential savings. One commenter anticipates that initial savings will be far more significant than ongoing savings and will not be high in States with current wage and UC match systems. Another commenter, in questioning potential savings, suggested that the Federal government totally fund the program for one year after which we could assess savings and compare them against costs.

Response: Savings achieved during initial reviews of existing recipients may be high as it is possible that a significant number of recipients will be found to be ineligible or receiving excess benefits and will have their benefits terminated or reduced. However, there will be long term savings resulting from terminated or reduced benefits. IEVS should enable States to identify unreported changes in circumstances which may result in determination of ineligibility or excess benefits and in addition discourage new applicants from attempting to receive benefits to which they are not entitled. Also, the use of the information for valid related program purposes such as determining available third party resources for health care benefits can result in additional program savings. The commenter may be correct that significant new savings may not accrue from wage and UIB matching in States that currently and effectively perform such activities for their AFDC and food stamp recipients. However, even these States should achieve new savings from receipt of relevant SSA and IRS data. Costs for implementing these provisions are reimbursable only to the extent provided under statutory and regulatory authorities. The Federal government has no authority to fund the program totally.

b. Applicability of IEVS Requirements

(1) *Emergency Assistance Program; Refugee Cash Assistance Program.* Some commenters inquired as to whether the IEVS requirements apply to recipients of the Emergency Assistance (EA) Program or Refugee Cash Assistance (RCA) Program.

Response: Pursuant to the statute, the EA program is not subject to the IEVS requirements. In those cases where emergency assistance is provided to individuals applying for or receiving benefits under one of the programs covered by these regulations, however, the State agency must comply with the appropriate IEVS requirements. The RCA Program provides financial assistance under Title IV of the Immigration and Naturalization Act to recently arrived refugees who are ineligible for AFDC and the Adult Assistance Programs. Since these funds are not paid under any title of the Social Security Act, the State is not required to include these applicants and recipients in the IEVS.

States also provide assistance to refugees, who are eligible, under the AFDC or Adult Assistance Programs. Since these individuals receive assistance under the Social Security Act, they must be included in the IEVS.

(2) *Medicaid Program.* One commenter recommended that HCFA include a provision exempting a State Medicaid agency from the responsibility of matching IEVS data.

Response: The requirements of the Medicaid regulation apply only in those situations in which the Medicaid agency makes the eligibility determination. For Medicaid recipients eligible by virtue of receipt of AFDC assistance, the AFDC IEVS requirements would already apply. For aged, blind, or disabled Medicaid recipients receiving SSI payments the Medicaid IEVS requirements do not apply if such recipients' Medicaid eligibility is determined by SSA pursuant to section 1634 of the Social Security Act. In any case the Medicaid State agency may access IEVS data on recipients whether or not it is responsible for the eligibility decision. It should be noted that IEVS information may be accessed and used for purposes of determining third party liability. HCFA is currently considering proposing that all Medicaid agencies be required to use IEVS information for that purpose. Commenters also asked if children in foster care or receiving adoption assistance are included under IEVS requirements for Medicaid; this is discussed in section 5 of the preamble in connection with SSNs.

c. Use of IEVS Data

We have included a discussion of how IEVS data is to be used with respect to verifying household circumstances in section 4 of this preamble concerning independent verification. Both the FSP and the AFDC proposed rules incorporated current rules providing for the use of wage match data for criminal and civil prosecutions. HCFA's current rules (42 CFR 431.300ff) also provide for the use or disclosure of applicant or recipient information for purposes directly related to State plan administration including criminal and civil prosecution. The final rules retain this provision.

One commenter on the FSP proposed rule argued that the use of IEVS information for prosecution is improper.

Response: Prior FSP rulemaking on wage matching has responded to this concern (See FSP proposed rules of July 10, 1981 (46 FR 35658) and final rules of May 7, 1982 (47 19940)). As discussed in this final rule a major purpose of wage matching is deterrence. The possibility of fraud prosecution should reduce deliberate incorrect reporting. A further clarification has been made in the FSP rule to indicate that the data which is obtained from IEVS could be used to obtain information for prosecutions. Thus, it could be used as the basis for investigations in the same way as it is used as a basis of inquiry about household circumstances.

One commenter stated that the regulations can be interpreted to exclude use of IEVS information beyond the programs explicitly authorized to use it and requested that we clarify whether, for example, information regarding a Medicaid participant could be used in a general assistance fraud situation.

Response: Current AFDC and Medicaid regulations permit disclosure of information concerning applicants and recipients to all Federal or Federally-funded programs which provide assistance in cash or in kind or services to individuals on the basis of need. This excludes general asssitance programs. Current FSP regulations permit disclosure to the same programs as AFDC and Medicaid and add to the list general assistance programs which are subject to joint processing requirements. Thus, State data from IEVS can be disclosed to certain general assistance programs only by the FSP. DEFRA permits States to disclose SSA wage data and IRS unearned income data only to programs listed in statute: AFDC, Adult Assistance, Medicaid, SSI, UC, FSP, Child Support Enforcement, and Old Age, Survivors and Disability Insurance (OASDI). Thus, tax return data cannot be redisclosed to general assistance programs or to other Federal

or Federally-assisted programs such as Title XX.

d. Oversight and Coordination of IEVS

Several commenters thought that the final rules should designate or specify a process for States to designate a State entity to oversee implementation of IEVS and that the Federal government should designate a Federal entity to coordinate Federal activities and or/ resolve interagency or interstate disputes.

Response: Final rules do not place any specified type of oversight requirement on States. There is no statutory requirement to require States to organize implementation of the IEVS requirements in any special way; in fact such a requirement might interfere with current State activities under requirements prior to DEFRA. We do not believe it serves any useful purpose to intervene in State organizational arrangements. We do not plan to add to existing Federal oversight mechanisms. The agencies are committed to close coordination of guidelines and requirements to avoid confusion and delay as demonstrated by their joint publication of implementing regulations.

One commenter thought the Federal agencies should establish and document uniform guidelines and programming specifications for the required matches and a general systems design should be prepared and issued to State agencies before implementation.

Response: It is not feasible to establish such guidelines within the time frames posed by these regulations except for the standardized formats under development. It is possible that each Federal agency (OFA, FNS, and HCFA) will publish additional guidelines for the States as implementation and operational experience demonstrate a need for such guidance.

2. Access and Use of Information

This section discusses separately the requirements for access and use of information on applicants and recipients.

a. Applicants

(1) *Timeframes and action.* The proposed rules for AFDC, FSP and Medicaid required that State agencies obtain and use information from IEVS as part of the eligibility determination for applicants. Applicants include all individuals applying for assistance and for whom application is made. There was some variation among the three program rules in the proposed timeframes because of current program regulatory differences in this area. Medicaid's proposed timeframe was the application period, a maximum of 45 days (60 days for disabled applicants); the AFDC timeframe was 45 days from the date of application; the FSP timeframe was specified as 30 days, to conform to the Food Stamp statute for delivery of benefits. The NPRM did not specify the frequency with which the agency must request information on applicants, requiring instead that the information be obtained and used within the program-specified periods. None of the programs permitted the eligibility decision to be delayed pending receipt of IEVS information. If IEVS information was received after an applicant had been determined eligible, the data was required to be used within 20 days of receipt.

The primary concern of commenters was that the sources of required data matches, in particular IRS, would not return match results in time to act on applications within a 30 or 45-day application period. One commenter suggested that the regulations require that the request for data be made within the application period.

Response: We agree the proposed timeframes for applicants need some adjustment. We also believe that data should be requested as soon as practicable and used to the extent possible in the eligibility/benefit determination. Consequently the final rules distinguish between requesting and using information.

Specifically the final rules require that data from all of the required sources must be requested on applicants for Medicaid, AFDC, Adult Assistance and FSP at the first available opportunity, which would be the next scheduled match for each source. The agency must use the information from such requests in making the eligibility determination if the information is received by the agency so it can be used before the agency mails its notice of decision to the applicant. If the information is received after the application has been approved, the data must be used within the timeframe for action on information received on recipients, as discussed later in this section.

The regulatory requirement for the establishment of agreements has been amended to specify the State Wage Information Collection Agency (SWICA) must accept and process requests for wage information no less frequently than twice monthly. This change will enable States to request, obtain and use wage information on applicants as early as possible in the application period. The number of applicant requests made on this frequency will, in most cases, be relatively few and should not represent a problem to either the State agency or the SWICA in scheduling of data processing.

The frequency for obtaining UIB information for applicants has been similarly changed. The State agency must request UIB information from the State UC agency on each applicant at the first available opportunity and the agreement between the two agencies must specify that the UC agency will accept and process these requests for applicants no less frequently than twice monthly.

We emphasize that this twice-monthly frequency is a minimum requirement. Many States already provide more frequent access to State wage data and UIB data files. We encourage States to develop on-line systems and other methods for rapid turnaround of State agency requests so that wage and UIB data can be used to determine eligibility and benefits of applicants.

With regard to IRS data, the final rules require that requests for IRS data for applicants must be made at the first available "monthly" IRS match date. IRS has published a schedule of its monthly cycles for processing these requests and the dates by which requests must be received. It should be noted that IRS Revenue Procedure 85-21 (April 8, 1985), which we have provided all State agencies, announced that eleven monthly match deadlines are being made available to States in the twelve-month period beginning July 1985. For the purpose of this rule, the monthly deadline for tape submittal to IRS will constitute the next available opportunity for requesting IRS information on applicants.

With regard to requesting data from SSA at the first available opportunity, the State agency would meet the requirement by accreting the applicant in the next processing cycle of the Beneficiary and Earnings Data Exchange (BENDEX) system. This does not preclude the use of the Third Party Query (TPQY) system as discussed in Section (3)(e) of this preamble. BENDEX provides the agency with pension, earnings and self-employment information and creates a record which would generate automatic notices to the State when updated information becomes available.

(2) *Non-delay of eligibility.* The proposed AFDC, Adult Assistance and FSP rules provided that a State agency could not delay the eligibility determination solely to await IEVS information it had requested unless it had reason to believe information reported by the applicant was not accurate. Current regulations prohibit an

agency from delaying approval of an application beyond the stated application timeframes without documenting cause.

Nonetheless, seven commenters were concerned that the requirements in the NPRM for obtaining and using IEVS information within a specified period after the date of application would in some cases delay eligibility determination beyond the standard for promptness. Three commenters suggested a State could avoid delaying eligibility determination only if on-line access (or other methods that would ensure rapid turnaround of requests) were provided. One commenter asked us to make clear in the final rules that the period of time between the State agency's request and receipt of information does not constitute a "waiting period" in which action on an application can be delayed. Several commenters believed that our counsel against delaying approval of applications beyond the proposed time limits in order to receive and use the match information was not strong enough. One commenter stated it was essential to ensure there was no delay in eligibility for the truly needy.

Response: We stress again that eligibility determinations must continue to be processed according to the Federal timeframe standards specified in each program's regulations. State agencies are expected to make the eligibility determinations as promptly as possible and may not hold a pending application solely to await IEVS information which it has requested, if other evidence establishes the individual's eligibility for assistance. Consequently, there is no waiting period. We encourage the use of on-line systems for front end verification, but our rules do not require States to have this capability.

(3) *Applicants becoming recipients.* Like the proposed rules, the final rules provide that information requested on applicants but received after an eligibility determination has been made must be acted on according to the timeframe specified for recipients. If an applicant becomes a recipient before the match can be initiated, the State agency must still match the individual at the first available opportunity. Match results on such individuals must be used in accordance with the schedule for action on recipients.

(4) *Social Security Numbers (SSNs).* Commenters asked what matching requirements apply for an applicant who does not have an SSN at application.

Response: The final rules have been amended to provide that each individual must be matched at the next cycle of applicant matching after the State agency obtains the SSN, whether the individual is then a recipient or still an applicant. As discussed in section 5 of this preamble, DEFRA requires the furnishing of as SSN to effectively associate records. The requirement for timely matching when the SSN is furnished will help ensure that long periods of ineligibility are prevented.

One commenter suggested that in the case of applicants with a SSN(s), data not be requested until after the SSN is verified.

Response: The final rules do not adopt this suggestion because it would delay many requests on applicants until SSA can verify the SSN, which may take over a month. We would point out that obtaining information on applicants will in some instances constitute verification of the SSN, as discussed in sections of this preamble dealing with SSNs.

(5) *Denied applicants.* Several commenters requested that State agencies not be required to request IEVS data for applicants who are denied eligibility based on information obtained during the routine application process.

Response: State agencies are not required to request or use IEVS data on applicants after they are determined to be ineligible. However, if the application is pending at the first available opportunity for matching with the respective sources, the data must be requested.

(6) *Other individuals whose income or resources are considered.* Two commenters noted that the NPRM did not propose requirements for exchanges of data on members of the household (other than applicants or recipients) or require them to furnish SSNs.

Response: With respect to the requirement for furnishing SSNs, DEFRA mandates that only *applicants* and *recipients* furnish their SSNs as a condition of eligibility. Under section 7(a) of the Privacy Act (Pub. L. 93-579), unless the disclosure of a SSN is required by Federal law, or was required before January 1, 1975, a State may not require such disclosure. There is no Federal law which requires the disclosure of SSNs other than those of applicants or recipients. Thus the regulations only require that applicants and recipients (including individuals included in the definition of household for FSP) furnish their SSNs.

With respect to requirements for data exchanges on other individuals whose income or resources are considered, the final rules for the public assistance programs differ. For the Medicaid program, the final rule limits the matching requirements to applicants and recipients. However, Medicaid agencies are required to verify the income and resources of financially responsible relatives and can conduct matches on those individuals if a SSN is voluntarily furnished, even though these rules would not require such matches. The final rule for the AFDC and Adult Assistance programs require that the State agency must request data from the required sources, not only for those applying for or receiving assistance, but also for those individuals whose income or resources are considered in the determination of eligibility and the computation of the benefit, such as stepparents, sanctioned individuals, and parents of a minor parent, if the agency maintains the SSNs for any such individuals. FSP policy in regard to these types of individuals is consistent with AFDC policy. The final FSP rules clarify that IEVS data must be requested for all household members, including those excluded because of such reasons as having been disqualified for intentional program violations if such persons' SSNs are available to the State agency. That is, these persons' resources and income are treated as available to the household in their entirety or on a pro rata basis.

b. Recipients

(1) *Timeframes and action.* The proposed rules for AFDC, Adult Assistance, Medicaid and the FSP required State agencies to request information on recipients at specified frequencies from various sources. The discussion about those sources and frequencies is in section 3 of this preamble. The proposed rules also required that information received from these sources be used to determine eligibility and benefits of recipients within 20 calendar days of receipt.

A significant number of the commenters specifically addressed the issue of the 20-day timeframe for action on recipient matches. They stated such concerns as: it was not a feasible timeframe because too much action was required; verification with households and especially third parties sometimes extends beyond 20 days; ADP prioritizing was of little help; and the age of the data required a relatively long time for analysis and resolution. One commenter thought the timeframe was feasible only for eligible households and cases which were still eligible when the information was received. Commenters recommended a variety of modifications of the proposed timeframes. Many commenters suggested that the timeframe, if required, be greater than 20 days. Several commenters recommended alternative approaches such as allowing State agency

discretion, letting the Quality Control (QC) process force prompt action, and beginning the timeframe with the receipt of data by caseworkers. Several commenters asked for clarification as to what action was required within the timeframe.

Response: We do not agree with most of the suggested methodologies for setting timeframes. Allowing each State agency to designate a timeframe would be equivalent to current Food Stamp and AFDC wage matching requirements, which allow State agencies to develop their own guidelines. Federal audits indicate State agencies are not taking prompt action on all match results. While State agencies should, and in some cases do, recognize that match results can be of significant use in reducing QC errors, these audit results show there has not been prompt action on match results even with the QC incentive. Consequently we do not believe State agency concern about lower QC error rates by itself will result in prompt action on IEVS data. Finally, we do not believe that setting a time standard only on caseworker action is sufficient since this would not establish a standard for State agency program processing up to receipt of the data by the caseworkers. Processing should be accomplished promptly to avoid unwarranted delay in action.

We did, however, consider the comments on expanding the 20 day timeframe. We have modified the final rules to provide additional time and flexibility for State agency action on match results pertaining to recipients. The final rule requires State agencies to promptly initiate appropriate action on all match data upon receipt from a particular data source. The State is required to compare the match data against case record information, identify new, discrepant or unverified facts, investigate and verify information where warranted and either send a notice of intended case action or document the decision not to send one. The notice would provide the individual with an opportunity to respond and also explain his/her rights to a fair hearing. The final AFDC and Adult Assistance program regulations have been amended to emphasize that adverse action can be taken only in accordance with the notice and hearing requirements at 45 CFR 205.10.

The State shall complete appropriate action on all information items received from the data sources within 30 days, except when collateral verification sources have not yet responded to verification requests. However, action on no more than 20% of the information items may be delayed beyond the 30-day timeframe because of third party verification which is received after that period or is not received. Upon receipt of delayed collateral verification, the State shall promptly take appropriate case action in accordance with current regulations. In no case can appropriate action be delayed beyond the time of the next case action or recertification/redetermination, whichever is earlier.

The timeframe does not apply to individuals and households whose cases have been closed by the time the data match results are received. We do believe this information on terminated cases warrants followup action, however, and we expect State agencies to identify such situations and pursue claims and other actions as required by current rules relating to information about terminated cases.

To ensure that the 30-day timeframe or allowable delay exceptions are met, States are also required to develop and maintain a tracking system to monitor adherence to these requirements. The agency shall use appropriate procedures to monitor these timeliness requirements. In addition, the timeframe requirements for recipients do not relieve the State agencies of their quality control (QC) responsibilities for the determination of erroneous payments or their liability for such erroneous payments. (Comments about QC issues in general are discussed in Section 9 of this preamble.)

We set the 30-day timeframe, as opposed to a longer one or the 20-day timeframe proposed in the NPRMs, based on a number of considerations. State agencies are currently required to act promply on reported information about changes in recipient eligibility and benefit amounts. We believe they should also act promptly on IEVS information. We were convinced to lenghten the timeframe to 30 days because IEVS information from IRS and SSA must be requested by a single State coordinating agency and therefore match information must be disseminated to the program agency and the organizational level that will act on the information. We believe 30 days is a reasonable time for States to transmit data to the appropriate organizational level and for that level to identify and take appropriate action. The 30-day timeframe requirement applies only to IEVS information.

In setting the 30-day timeframe, we also considered the workload impact of these rules and determined the 30-day timeframe is achieveable and reasonable. First, most agencies are already using quarterly State wage information and SSA benefit information and these are not new sources of information to be processed. Second, the actual number of matches is small in relation to caseloads. For example, California matched its casefiles against unearned income reported to its tax agency and received matches on about six percent of the inquiries. We expect similar results with IRS requests. The number of matches for wage data should relate to the caseload reporting earned income. FSP has the largest percentage of caseload reporting earned income, about 17 percent. Therefore, we expect wage data matches to be less than 20 percent of requests. Third, we estimate the number of matches requiring verification with the recipient and/or a third party will be relatively small. Both unemployment compensation and SSA benefit information will be received from the primary verification source, usually without the need for additional verification. We also expect that a large number of matches from the sources will duplicate information which is already known to the agency and verification is in the case record. In these situations, no further case action is required. Similarly, we would expect a low number of wage and benefit reports from SSA.

Another consideration in setting the 30-day timeframe is the eligibility status of cases. Since the cases will be eligible when the State agency is verifying match results, the agency can use the recipient as the primary contact for resolving discrepancies. The recipient is obligated under current regulations to cooperate, subject to termination of eligibility, in providing information about circumstances. Therefore the recipient has an incentive to provide verification of match data or to assist in obtaining verification from third party sources of information.

We also recognize that the lack of complete control over third party sources of verification may prevent final action on every case within 30 days. Therefore the rules permit agencies to delay final action on up to 20% of total matches, but only if third party verification has been timely requested and not received. We expect agencies to complete the case record comparison and to request necessary verification from collateral sources early enough in the 30-day timeframe to provide these third parties with adequate time to respond. When third party verification is received after the 30-day period, we expect agencies to act promptly on the information. An agency may not indefinitely delay using IEVS information because third party

verification is not received. The agency should follow-up on earlier requests and may need to use the recipient to verify the information or to assist in obtaining verification from the third party. In no circumstances may the agency delay action beyond the next case action or scheduled redetermination/recertification, whichever is earlier.

(2) *Other individuals whose income or resources are considered.* Two commenters requested clarification of whether the requirements of obtaining and using IEVS information apply to members of the household, other than applicants or recipients.

Response: As mentioned in the discussion on applicants, the final rules for the AFDC and FSP programs require that individuals whose need, income or resources are included in the eligibility determination must be included in matching if the State agency maintains the SSNs of any such individuals.

C. Priority Action on Recipient Matches

The proposed rule required State agencies to give priority to action on IEVS data which was most likely to be useful for verifying eligibility and benefits. This priority structure would have been documented to the respective Federal agencies, including a description of how the priorities would be used, and periodically reviewed and modified as a result of experience with operation of the IEVS.

Several commenters requested modifications of these proposed provisions. One commenter recommended that the priority structure be deleted since action was being required on all matches. Another commenter recommended deletion of this requirement because in his experience all data needs to be reviewed. Other commenters requested that there be national criteria for setting priorities, possibly defined in dollars; that there be Federal oversight of priorities; and that the priorities be based on the currency of data. One commenter thought that if State agencies are allowed to act only on priority data the rule should specify that associated errors should not be used to determine the QC error rate.

Response: We have considered these comments and the final rules delete the requirement that State agencies give priority action to IEVS data which is most likely to be useful in verifying eligibility and benefits. While not required, States may develop priorities for action on IEVS data. However, both the proposed and final rules require that State agencies take appropriate action on all matches within the revised recipient timeframe.

As previously indicated, the State is required to compare the match data against case record information, determine whether further verification is necessary, investigate where warranted and either send a notice of intended case action or document that the information does not require case action. If the match data duplicates known and verified information in the case record, no further action is required. The purpose of the statutory requirements is to ensure that appropriate benefits are provided only to eligible recipients. Therefore, all new, previously unreported or updated IEVS information which may affect eligibility or benefits should be verified or investigated and required notices sent within the required timeframe.

3. Information Sources Accessed

a. General

The proposed rules required State agencies to request information from each of the various sources at specified frequencies for recipients. There was no provision for exempting any types of individuals or cases.

A number of respondents made the general comment that the specificity of the requirements for accessing information did not offer States sufficient flexibility in conducting data matching. Two commenters maintained that Congress intended that States should be allowed to determine the information that was useful. One commenter observed that the requirements would be costly and administratively burdensome on States and information available through data matching was often already in the case record. One of the commenters suggested that the Federal agencies publish guidelines for accessing these sources rather than rules requiring access.

Response: We believe that requiring all State agencies to access the several data sources is necessary to assure that all available leads about unreported and underreported financial circumstances are obtained and acted on. The authority to determine what information is useful is provided to the Secretaries of the respective departments by the statute (section 1137(a)(2)). The final rules, as did the NPRM, provide for some flexibility with respect to data bases accessed through the possible use of alternate sources, discussed in this preamble in section 3(g). We recognize that there will be costs associated with requesting information, as already discussed in Section 1(a) of the preamble. According to State experience with matching, the primary cost is associated with follow-up on data rather than the cost of accessing data bases. Action on information from match activity which is already in the case file should result in only minimal costs to State agencies. We believe that there will be sufficient leads on unreported or underreported data to warrant the cost of managing duplicate information already available to the State. Regulations are the vehicle for establishing requirements for compliance with Federal statute and as such are the guidelines for minimal State agency action.

These rules contain the mimimum requirements for accessing information for use in verification of income and eligibility. State agencies may continue current data match activities with other sources or request the information at more frequent intervals. Many States are obtaining useful information, such as motor vehicle registration, or obtaining wage or UIB data on a more frequent basis than these rules require. These rules should not be construed to mean that current data match activities should be discontinued or that more frequent matching is not allowable. With regard to the cost effectiveness of the required matches, all of the required information sources have been demonstrated to be useful in preventing incorrect eligibility and benefit amounts, either by directly offsetting costs or by helping deter nonreporting by applicants and recipients.

Guidelines and instructional material about the procedures for accessing Federal data bases have been provided, and we plan to provide more during the first several months after publication of this rule.

Another commenter proposed that the Federal agencies pilot test the use of these sources of information before publishing regulations.

Response: The statute requires IEVS implementation nationwide, not on a pilot basis. AFDC and FSP have had wage match requirements for several years. Experience with these requirements and in accessing UC and SSA benefit information has demonstrated the value of the matching required in IEVS. We believe the new source of information, IRS unearned income information, will be a useful source. The State of California found this type of information useful when it matched public assistance records against a State tax agency file of unearned income information.

One commenter believes that States should be permitted to discontinue matching against any source if State

experience demonstrates that it is not cost-effective.

Response: Experience with the IEVS will be reviewed to determine if any modifications are justified to prevent the unwarranted expenditure of administrative resources.

Another commenter suggested that a State be exempted from the requirements for accessing data if its quality control error rate remained at an acceptable level.

Response: The statute does not exempt States from matching requirements based upon a low quality control error rate, nor do we believe such States should be exempted. While QC error rate standards are the error rate levels at which State agencies avoid fiscal disallowances State agencies should strive for a zero error rate in order to assure that benefits are provided only to eligible persons and at the correct level in order to prevent misspent Federal and State funds.

Commenters also requested that they be allowed to reduce the frequency of requests and exempt certain individuals from requests.

Response: The frequencies of requests to particular data sources are discussed in the following sections of this preamble. The issue of exempting individuals from requests to certain data sources is also discussed in connection with particular sources. In general, the rules require that all applicants and recipients be referred to all data sources. We believe that the incremental costs of including all individuals is minimal. It would be more costly to identify specific individuals to exclude from requests than to include them and let the match process eliminate them by simply not returning data.

One commenter requested clarification on whether a single agency in a State must perform all matches as IRS requires that one agency submit requests for all agencies in a particular State.

Response: A single agency does not have to perform the matches other than the IRS and SSA matches. However, this may prove to be the most efficient method in many situations, since a merged file may have already been prepared for IRS and SSA purposes.

One commenter stated future enhancements to the IEVS should include a centralized pool of the Federal agencies' data to allow faster and more economical matching. Another commenter suggested that BENDEX be used as a clearinghouse for all Federal matches.

Response: We do not believe that a central pool of Federal data would provide for faster and more economical matching than the current structure. The need to consolidate the data before it could be accessed by States would delay the information. It could save some State costs in that only one request for both IRS and SSA data would be necessary. As just noted, a merged request file may be generated anyway and State costs might not be affected at all. We do not plan to add to BENDEX the function of Federal clearinghouse. We believe that BENDEX and the IRS access procedures are as consolidated as is practical, economical and prudent from the perspective of protecting an individual's privacy.

One commenter believed that in order for the IEVS to be truly effective, the involved Federal agencies must be willing to establish an on-line automated system with State agencies to verify and obtain information.

Response: SSA and IRS have not found it cost effective to make the wage and self-employment (SSA) and unearned income (IRS) information accessible on-line for their own agency purposes. Therefore, it would not be feasible to allow States on-line access to these files. SSA has the capability of providing on-line access to benefit data. A pilot project is being conducted with Tennessee to provide wire-to-wire exchange of benefit data (see section 5). We believe that the IRS and SSA scheduled response times will allow States to make effective use of the data.

One commenter thought Medicaid's timeframes for requesting Federal data should be flexible, as are FNS' and OFA's.

Response: HCFA has modified the language on requesting data from SSA at 435.948(a)(2) and 435.948(a)(3) to parallel the language for FSP, AFDC and Adult Assistance. The Medicaid agency does not have to request SSA information yearly as proposed but must accrete applicants to BENDEX so as to receive automatic responses whenever SSA's records are updated.

b. SWICAs.

The proposed rules required that recipients (except institutionalized Medicaid recipients) be matched quarterly to State wage data from State Wage Information Collection Agencies (SWICAs). By statute, employers in each State are required to report wages quarterly by September 30, 1988, unless the State agency has an alternative system which is equally timely and effective. The proposed rule also specified certain criteria for the data available from a SWICA which is not maintained by the State UC agency.

Several commenters argued against the requirement for quarterly matching of recipients against wage data. One commenter questioned the value of wage matching beyond the first few months of initial certification of a recipient. One commenter proposed instead to require yearly matches with very loose screening criteria and a more thorough investigation as part of the redetermination process. Another questioned the value of quarterly matches for the homebound elderly or children under age 16.

Response: The final rules retain the requirement for quarterly wage matching because we believe that there is sufficient change in employment situations to warrant matching as frequently as wages are reported. Certainly a yearly match would be too infrequent and allow excess benefits to continue too long. The general section above discussed some reasons for requiring that all individuals be matched. The value of including children and the homebound elderly is to identify wages earned by household members but reported under the others' SSN's.

One commenter questioned whether the SWICA criteria listed in the NPRM applied to UC agencies which already collect quarterly wage data. The commenter was particularly concerned with the criteria which would require the State to include the full name of the wage earner on the record and the additional costs that would be necessary if this were required of existing systems.

Response: The proposed and final criteria apply only to SWICAs which are not UC agencies already collecting quarterly wage information.

Two changes have been made in the final rules. First, the criteria are extended to another type of SWICA. We have been informed that some States may elect to meet the statutory requirement by developing a wage collection system in the UC agency but not using the system for the computation of unemployment insurance benefits. The NPRM did not cover this situation which may be limited to only one or two States. In the final rules, the criteria apply to such SWICA types since they will not come under Department of Labor (DOL) regulations in this regard. Second, the final rules require that non-UC SWICA data be made available to SSA for the purpose of administering the Title II and Title XVI programs. The DOL rules published simultaneously with these rules require this same access for SWICAs which are under UC agencies and are used for UIB computation purposes. (For consistency with other current references in AFDC regulations, the AFDC and Adult

Assistance IEVS regulations refer to UIB information as unemployment compensation information.)

Two commenters maintained that State wage data should be more current and suggested that the Federal government require more frequent wage reporting by employers.

Response: Quarterly reporting of wage data is a statutory requirement. We are interested in State agencies obtaining the data as promptly as possible and urge that, in working with UC and non-UC agencies, State agencies arrange to match as soon after the data is collected as possible. State agencies can also help assure that the data is current by arranging to use it promptly after the match is completed.

c. Unemployment Insurance Benefits (UIB)

In addition to requiring a match of applicants to UIB, data, the proposed rules required that requests be made: (1) For all recipients about whom requests at application indicate non-receipt of UIB for the first three months of eligibility; (2) for all recipients who report loss of employment, in each of the three months after the recipient reports; and (3) for any recipient receiving UIB, in each month until these benefits are exhausted. For the FSP, the legislation and the proposed rule also required FSP State agencies to request and utilize any information in addition to wage and UIB information available from UC agencies to the extent permitted under section 303(d) of the Social Security Act.

Several commenters indicated that requiring the agency to do data matches for UIB information at application and for three months following application or loss of employment is unnecessary and burdensome. One commenter suggested that quarterly matching was sufficient. Several commenters questioned the value of verifying the amount of UIB monthly while a recipient reported receiving such benefits because UIB payments do not fluctuate and monthly reporting can adequately track changes.

Response: In order to determine whether an individual has applied for UIB, an agency must request the data at application or following the loss of employment. Because an individual does not have to apply for UIB immediately, it is necessary to check for three months, by which time an eligible individual generally will be receiving UI benefits.

State agencies need to continue to request UC data once the UC agency shows payment of benefits when a worker loses his or her job in order to receive leads on changes in income. UIB amounts can and do frequently fluctuate as a result of reported changes in earnings or number of dependents. The State agency may also verify the data independently through monthly reporting or by viewing the benefit check.

One commenter believed that the regulations should specify that the State Medicaid agency may request, and the UC agency must allow, matches on applicant and recipient caseloads. One commenter recommended HCFA exempt a State Medicaid agency from the responsibility of matching UIB data.

Response: The regulations require Medicaid agencies to request and use UIB data from the UC agency when the Medicaid agency makes the Medicaid eligibility determination. (See applicability of IEVS requirements, section 1(b)(2) of this preamble.) If a Medicaid agency determines that it is useful to obtain UIB data when the eligibility determination was make by SSA, then the Medicaid agency should made the appropriate arrangements with the UC agency, including the necessary agreement. The State plan would describe the match activities the Medicaid agency will conduct in addition to the matches required by these rules.

One commenter asked whether SSA intended to match SSI files against State UIB information.

Response: The income and eligibility verification provisions of the DEFRA do not require SSA to match SSI files with State UIB benefit information. SSA is, however, reviewing the result of pilot studies in several States which matched SSI records and State wage and UIB files and may expand the use of this information in the future.

d. IRS

In addition to the match on applicants, the proposed rules required an annual match of recipients against IRS data on unearned income. A number of commenters addressed several different aspects of the requirements for accessing IRS information.

Several commenters questioned the usefulness of IRS unearned income information because it covers the calendar year and does not reflect current recipient circumstances.

Response: While IRS unearned income information covers a particular calendar year and that information is not available until about nine months following that year, it may show unreported household resources. We believe that these leads will be useful. This is especially so since there has been no other source of such data up to now.

Two commenters thought the State agencies should have to request data from IRS on an annual basis only for recipients and not on applicants, since yearly information is sufficient for the SSI program.

Response: We require agencies to request data on applicants and recipients to determine any past and current unreported resources and to prevent long periods of incorrect eligibility. We believe that there is sufficient evidence of the need to check as early as possible on applicant resources. The SSI program has not established its permanent policy on the frequency of its access to IRS data.

One commenter, noting the amount of information on the IRS unearned income file, asked whether State agencies should request information on all recipients at one time each year or request information for a percentage of the caseload each month during the year.

Response: The final rules clarify the NPRM by specifying that the annual match will be conducted when IRS has prepared the annual tax data for matching and that State agencies would match all recipients at that time. The purpose is to make sure that the most recent IRS data is compared to information reported by the ongoing participants. State agencies would request information on all recipients at this one time. We recognize that this annual match will result in a larger number of IRS matches for one particular month than for the others. Experience does not indicate that the number of matches on unearned income is likely to overburden State resources. For example, as mentioned elsewhere in this preamble, California found a match rate of about six percent.

Medicaid agencies should include on the file for the annual match individuals whose eligibility was terminated since the last yearly match was conducted when the information would be useful in determining the correct period of eligibility or medical payment amount. The initial match of recipients to IRS data and to SSA data is duscussed in section 10 of this preamble which deals with implementation.

Another commenter thought IRS information should not be used for certification or recertification purposes but only for fraud investigations.

Response: DEFRA specifically requires that the information from IRS and other specified sources be ued to verify eligibility and benefits.

One commenter wanted to know whether IRS would process State tapes only once a month and whether the agencies would be provided with a schedule.

Response: As discussed in section 2(a) above, IRS has scheduled eleven monthly runs of State tapes against its national file of unearned income information. IRS will only process one tape per month per State.

One commenter asked if the State agency could obtain the IRS unearned income information from the State revenue department in the same State if the revenue department received data from IRS.

Response: No, the State agency must request the information directly from IRS. Although the State revenue department may also receive unearned income information from IRS, the Internal Revenue Code prohibits redisclosure of that informaion by the State revenue department to any other agency.

One commenter thought the requesting and verification of IRS data creates a duplication of match activities for Medicaid recipients between the States and SSI. When SSI must match against IRS, SSI should provide the States with the IRS information.

Response: Medicaid agencies are required to obtain IRS data only for those cases in which the Medicaid agency makes the eligibility determination. SSI will only obtain IRS data for those cases where the Medicaid eligibility is determined by SSA pursuant to section 1634 of the Social Security Act. Therefore, no duplication of match activities will occur.

One commenter wanted the data obtainable from IRS expanded to include all income sources such as tax return amounts and earnings. The large cost for developing the capability to match with IRS should result in obtaining as much information as possible. Another commenter wanted IRS data on wages, rather than requesting it from SSA, because IRS data is more recent.

Response: The Deficit Reduction Act is specific in stating only unearned income information is to be furnished by IRS. IRS has developed a process for State agencies to obtain income information at a low cost and without developing complex procedures. Unearned income has been found to be very useful by California and in the SSI program for identifying unreported resources.

e. SSA

The proposed rules required State agencies to access all available SSA data on applicants. We received a number of comments about accessing SSA data. The majority were procedural and are discussed below. The final rules contain the requirements for accreting applicants and unaccreted recipients to SSA systems.

The preamble to the NPRM indicated the State agency would meet this requirement by using the Third Party Query (TPQY) system recently made available to State agencies or by accreting the applicant's name to the Beneficiary and Earnings Data Exchange (BENDEX) system. If the State chooses to use the TPQY system, it is also required to accrete the name to BENDEX if and when the individual becomes a recipient. BENDEX provides the State agency with pension, earnings, and self-employment information (only SSA benefit data are available through TPQY) and creates a record which generates an automatic response to the State agency whenever updated information becomes available (which TPQY does not do).

One commenter thought the statement in the general preamble that the TPQY system should only be used in critical situations conflicts with SSA's standard TPQY agreements. The commenter suggested TPQY requests were the most effective way to obtain benefit information on new applicants.

Response: Article V of the model agreement for TPQY states that TPQY should be used only if the data is unavailable through BENDEX. State agencies may, but are not required, to use TPQY at application, if the BENDEX system will not provide a response timely enough to use in the initial eligibility determination process. The State agency must also maintain the necessary controls to ensure that a request is made to SSA either through BENDEX or TPQY on each applicant, and that all reports from SSA are investigated.

One commenter wanted to know whether SSA agencies will still be able to obtain information from the Master Beneficiary Record (MBR).

Response: State agencies will still be able to access the MBR. Under IEVS, they are required to request and use SSA Title II benefit data, and BENDEX is the data exchange system between States and the MBR. The BENDEX system provides current data on the status of social security benefits and also provides automatic reporting of benefit changes.

One commenter wanted to know how SSA will make "pension and related data" available, since it is not available on State Data Exchange (SDX) or BENDEX.

Response: In September 1985, SSA began providing pension data with wage data. The data includes both the amount of pension paid for a calendar year and the name and address of the payer of the pension. Since the pension data will be supplied with wage data, State agencies do not need to use any special procedures to obtain this new data.

Two commenters were concerned that SSA files contain inaccurate and discrepant information. One of these commenters suggested that SSA files (as well as other data sources cited in these rules) be cleared of all internal discrepancies before they are forwarded to another agency.

Response: Data bases, especially ones as large as those maintained by SSA, usually contain some inaccuracies and discrepancies. The Federal agencies are aware that States have found some problems with SSA data. Although we do not believe the scope of these problems warrants any effort so great as the commenters suggest, we would stress two factors. First, except for UC and SSA benefit data, the information obtained through IEVS will be generally treated as a lead for further verification activity. SSA earnings data will almost always need to be verified. Second, if a State receives what they believe is incorrect information, no adverse action should be initiated until the discrepancy is resolved. We would expect, however, if a pattern is noted, that SSA be contacted so that corrective action can be taken.

One commenter believed that net earnings from self-employment will not be useful since the assistance programs have different allowable deductions in calculating net self-employment income.

Response: The information obtained would be used as a lead for unreported self-employment income.

One commenter questioned whether the SSA wage information match is redundant, since the SWICA information is much more current.

Response: SSA wage data, while less current, can give leads to employment not reported to a given State's SWICA, such as employment in other States and self-employment.

One commenter wanted HCFA to clarify that section 1634 State Medicaid agencies are not required to match against the SDX.

Response: As discussed in section 1(b) of this preamble, Applicability of IEVS Requirements, Medicaid IEVS regulations pertain only to determinations made by the State Medicaid agency. A Medicaid agency with an agreement under section 1634 of the Act for SSA to make Medicaid determinations and redeterminations for SSI applicants and recipients does not currently have to request SDX information on SSI applicants and recipients for eligibility purposes.

Medicaid agencies may access such information for third party liability (TPL) purposes. We are currently considering mandating such matches for TPL and any such requirement would be proposed through the rule making process.

One commenter wanted data from the SSA benefit applications to be made available.

Response: The statute specifically identifies the information SSA can provide. General application data is not included.

f. Interprogram and Interstate Exchange.

The proposed rule required that all programs in the IEVS exchange income and eligibility information with each other in accordance with interstate and intrastate agreements in effect and as appropriate to the requesting program's verification and eligibility determination needs.

One commenter believed we ought to clarify regulations to show that an agency has access to another agency's data without necessarily providing data to that other agency.

Response: We agree with the comment and have modified the final rules where necessary to clarify this issue. An agency may request information from another agency in the IEVS on the basis of its self-determined need and subject to an agreement with the other agency, reached on that basis. We expect the requesting agency to define the data to be provided, subject to the provider's disclosure limits. State agencies are encouraged to request data from adjacent jurisdictions and other States where experience indicates the data would be useful. Each Medicaid State agency must submit a plan as part of its State plan indicating the information it intends to request from other State agencies (42 CFR 435.948(a)(6)).

Three commenters thought access to the State Employment Security Internet system for the IEVS matches would be very helpful. Some commenters expressed concern that there were plans for such requirements, perhaps on a national scale.

Response: The Internet system is still under development and its potential uses are still being evaluated by the Department of Labor. The rules do not require State agencies to use the Internet system. We would note, however, that nothing in these rules would preclude access to this system. In a recent pilot project the Office of Child Support Enforcement found Internet to be an effective means of information exchange.

One commenter noted that current regulations authorize the IV–D Child Support Enforcement agencies to access out-of-State data bases for AFDC and Medicaid, but not for FSP. The commenter feels there is no reason to treat the FSP differently.

Response: FNS has added the Child Support Enforcement agencies to the list of programs with access to FSP case information on an interstate basis. The proposed rules should have authorized such access, as provided by statute.

One commenter thought that developing data sharing capacity with out-of-state agencies, as well as reimbursement for the data, will present difficult compliance problems.

Response: To keep problems with data sharing between agencies in other States to a minimum, all the final rules have the identical requirements for written agreements and safeguarding of information. This should help agencies enter into data sharing agreements. As discussed in section 7 of this preamble, formats and model agreements are being developed for the exchange of information between State agencies. These materials should make the development of new matches easier and minimize developmental costs and the associated reimbursement.

g. Alternate Sources

The final rules retain the NPRM provision that a State agency may obtain data from sources other than those specified in regulations if it can demonstrate to the respective Secretaries that the alternate source furnishes data as timely, complete and useful as data from the source specified in regulations. The Departments of Health and Human Services, Agriculture and Labor will consult before approving an alternate source. In the preamble to the NPRM we specifically requested comments on possible alternate sources and criteria for evaluating these sources.

Two commenters suggested the Federal agencies should be flexible in permitting States to substitute useful sources of data such as bank matching for the required IRS match. Another commenter asked the Federal agencies to make available the criteria which would be used to evaluate a State's request. Another commenter asked that the criteria should allow for an alternative wage data source which would have more current information than is available from UC agencies. Finally, one commenter did not believe that alternate sources would provide timely data or provide data on a sufficiently frequent basis.

Response: To evaluate a State agency's proposal to use an alternative source we would apply the standards contained in the final rule. The source (or combination of sources) would have to be as timely, complete and useful as the required source.

4. Independent Verification

The NPRMs for all three agencies incorporated the legislative requirements for independent verification of IRS unearned income information. All of the programs were guided by the House Conference Report language calling for the independent verification of the IRS unearned income information relating to the amount of resource or income involved, whether the applicant or recipient actually had access to the resource or income and the period of actual access to the resource or income. The final rules retain this requirement. With respect to other information obtained through the IEVS, the NPRM for the FSP stated explicitly what types of IEVS information would and would not be subject to independent verification. While not as explicit, the NPRM preamble stated that the AFDC, Adult Assistance and Medicaid programs expect independent verification of IEVS information where necessary. In response to comments, the Medicaid, AFDC, and Adult Assistance final rules have been modified to explicitly require verification, if determined appropriate based on agency experience. These requirements are discussed further in response to comments below.

a. General Requirements

Several commenters requested further information on what is involved in the independent verification process.

Response: Independent verification is an inquiry about a possible discrepancy between information reported from various sources and that reported to the State agency by the applicant or recipient. Data from IEVS is the starting point for the inquiry. Independent verification, thus, is the means of gathering information which will enable the caseworker to determine actual circumstances and decide whether or not to send a notice of adverse action. Because IEVS data often pertains to past periods relative to the time period the caseworker receives it, the process of independent verification would include an inquiry about the relevance of the data to current circumstances. Independent verification can be accomplished either through the applicant or recipient or through a third party source such as the employer or bank which reported the information.

One commenter believed that there should be no independent verification requirements, another believed that all IEVS information should be independently verified, and another believed the rules should be consistent.

Response: Since DEFRA requires independent verification of IRS data, the rules must implement that requirement, and the final rules retain the NPRM provision in this regard. On the other hand, to require independent verification of all IEVS information would in some instances be unnecessary. For example, we expect that if an inquiry to BENDEX shows receipt of social security benefits which were not reported by a recipient, a State would issue a notice of adverse action without independently verifying the information since the best source of information, SSA files, had already been used. As noted above, the Medicaid, AFDC and Adult Assistance final rules have been modified to require verification, if determined appropriate based on agency experience. We believe that the final rules of all three programs are now consistent with respect to independent verification.

In relation to the FSP proposed rule, two commenters requested a clearer definition of the proposed distinction between IEVS data considered verified upon receipt and data considered unverified upon receipt. One commenter requested that State agencies be allowed to independently verify IEVS data considered verified upon receipt. The reason cited for this request was that sometimes SSA benefits and UIB data need further verification before a case action can be initiated.

Response: The final FSP rules revise the language in the NPRM so that the term "considered" is used with respect to both "verified" and "unverified." The final rule also provides that if the State agency has information that indicates that the IEVS-obtained information which would be generally considered verified upon receipt is questionable, then the State agency must independently verify it. State agencies are always free to independently verify any data obtained through IEVS. Receipt of generally considered unverified IEVS information, in conjunction with other case information, may also provide a sufficient basis for a notice of adverse action. The final FSP rules provide that in such situations State agencies may proceed without independent verification, except where the information is from IRS. We believe that this approach enables State agencies to make sure that notices of adverse action are based on appropriate information and do not violate any due process considerations. Finally, we would note that a typographical error is corrected in the FSP rule in the second sentence of § 273.2(f)(9)(iii): "for" is changed to "from".

One commenter suggested that the rules should require that the applicants and recipients be contacted as part of the verification of IRS unearned income information.

Response: In permitting the State agency to verify information with either the third party source or the individual/household, the final rules parallel the Conference Committee Report on the legislation. Verification will often be accomplished through contact with applicants and recipients, but we believe that the option of contacting a third party is necessary in cases where the recipient fails or refuses to cooperate, the State agency believes it to be in the interest of the investigation of potential fraud or when other factors indicate that a third party contact is preferable.

Another commenter asked how the requirements for verifying IEVS data related to current procedures on verification of information from parties identified by the recipient, such as bank and employers.

Response: Verification of IEVS data does not replace the verification procedures used in the several programs as part of the eligibility determination. Verification of the IEVS data supplements that verification since it pursues information provided by parties other than the household.

b. Collateral Contacts

The FSP proposed rules eliminated the current requirement that households provide the names of third parties (collateral contacts) or give the State agency prior permission to contact third parties to obtain independent verification.

Several commenters objected to the FSP proposal on collateral contacts, arguing that: direct contact with employers or landlords jeopardizes household employment and housing arrangements; the policy violates the due process provisions of the Fourteenth Amendment; and it conflicts with household privacy rights of section 11(e)(8) of the Food Stamp Act. Two public agencies argued that the proposed policy would allow State agencies to contact everyone and anyone about facts relating to a food stamp recipient's participation, and that contact with the household is necessary in order to resolve discrepancies. One commenter argued that FNS should provide guidance for a method of resolving discrepancies when the household cannot provide verification of wages and the employer holds an anti-welfare attitude. The commenter argued that there should be a third alternative to forgoing benefits or allowing disclosure and thereby jeopardizing employment. Three commenters supported the proposed policy on the grounds it provides State agencies with the flexibility they need to prevent fraud.

Response: The final FSP rule remains unchanged, thereby eliminating the requirement that the State agency obtain prior approval for particular collateral contacts. As discussed elsewhere in the preamble in connection with action on recipient households (Section 2, Access and use of Information), State agencies have the opportunity to contact households and because of their eligibility status may often find this the most advantageous approach. The U.S. Department of Agriculture (USDA) does not see that this policy will affect due process since the households would be given a notice of adverse action if information from a third party indicates a basis for a case action, and fair hearings would be available before benefits would be affected. Without this policy, households which have intentionally failed to report wages or resources could refuse to provide the information themselves and therefore be terminated from the program. Having been terminated and then not allowing contact with an employer or bank, they could prevent the development of information which could be used for fraud investigations and prosecutions relating to past benefits. With respect to Section 11(e)(8) of the Food Stamp Act, as stated in the preamble to the NPRM, USDA believes that the notice at application and periodically thereafter, which DEFRA requires, fully satisfies the purposes of the privacy interest established by the Food Stamp Act. The notice at application comes in advance of any actual contact with employers, banking institutions and the like, and provides the applicant the opportunity to forgo program benefits rather than permit disclosure of the fact that the application has been made to persons not involved in the administration or enforcement of various benefit programs. Furthermore, USDA does not believe that the policy opens up the verification process to everyone. Current rules continue to state several examples of acceptable collateral contacts qualified by the clause "who can be expected to provide accurate third party verification."

USDA and the other Federal agencies are concerned about the potential problem of repercussions on working applicants and recipients when employers discover they are receiving public assistance. We would point out there is nothing to prevent households from informing caseworkers of their concern about this matter at certification or when they change jobs. If they correctly report income, the IEVS data should not indicate a discrepancy for follow-up.

5. Social Security Numbers (SSNs): Furnishing, Using and Verifying

DEFRA requires each applicant for and each recipient of AFDC, Adult Assistance in the territories, food stamps, UC, and Medicaid to furnish his or her SSN(s) as a condition of eligibility.

Current rules for FSP and AFDC already require the furnishing of SSNs. These regulations implement the new statutory requirement to furnish SSNs to the Adult Assistance programs and to the Medicaid program. HCFA proposed, for recipients who became eligible before April 1, 1985, that the State Medicaid agency was required to obtain SSNs when the agency made a redetermination or by April 1, 1986, whichever came first. As discussed in section 2 of this preamble, the regulations for all programs require the use of the SSN to associate information on applicants and recipients for the required matches. The proposed rules required all Medicaid, AFDC, FSP and Adult Assistance Program State agencies to verify applicant and recipient SSNs.

a. Implementation

One commenter recommended that the statutorily required implementation date of April 1, 1985 for obtaining SSNs on applicants should be adjusted to give the State Medicaid agencies an adequate timeframe in which to meet the requirement. Another commenter wanted to know if an agency had to have an agreement with SSA regarding obtaining SSNs.

Response: HCFA does not have authority to delay the Medicaid requirement that State agencies start obtaining SSNs for applicants as of April 1, 1985 because the statutory provision is self implementing. It is a fairly simple requirement to implement, requiring only that an agency tell an applicant or recipient that he or she must furnish an SSN in order to be eligible for benefits. HCFA's proposed language in 42 CFR 435.910 may have misled the commenter into believing the State agency has to obtain the SSN for the applicant or recipient, rather than from the applicant or recipient. By law, it is the applicant (or recipient) who must furnish the SSN. HCFA is revising the regulation to conform more closely to the law and the FSP and AFDC regulations and to clarify that the Medicaid agency must require the individual to furnish the SSN. Currently, some agencies assist individuals with obtaining SSNs; the revised language is not to be construed as a requirement to discontinue this practice. A State agency must have an agreement with SSA if the agency assists an individual in obtaining an SSN by submitting an SSN application form (SS–5) on his behalf.

HCFA indicated in the proposed rule that the State did not have to obtain an SSN for a recipient until the time of redetermination or April 1, 1986, whichever was earlier. It was subsequently determined this section of the legislation was self-implementing without regulation. As a result, HCFA informed all Medicaid agencies in Program Memorandum 85–3—State Plan Preprint to require all current recipients to furnish SSNs beginning April 1, 1985.

Four commenters to HCFA believed children in foster care or receiving adoption assistance should be exempt from having to furnish SSNs, as there are several problems associated with this requirement. It raises concerns about confidentiality; the number may not have been obtained before the case is terminated; adoptive parents may apply for a second number; in many cases, the child has been abandoned or removed from his or her natural parents and information necessary to acquire an SSN cannot be obtained; or the child may need emergency medical care.

Response: DEFRA does not exempt any applicants or recipients of the subject programs except some newborns (see comment and response immediately following) from having to furnish an SSN. Although the furnishing of the SSNs is a new requirement for Medicaid, the other programs have had the requirements and their experience should be helpful to the Medicaid agencies. Medical assistance cannot be denied if an individual needs emergency care and has not previously applied for an SSN.

Four commenters questioned whether SSNs have to be furnished for newborns; and one asked whether a newborn had to be enumerated retroactively if the birth is not reported for three months or more.

Response: The only exception to the requirement to furnish an SSN for Medicaid eligibility relates to newborns. DEFRA amended section 1902 of the Social Security Act by adding a paragraph that mandates a newborn child be deemed to have filed an application and have been found eligible for Medicaid if he or she is born on or after October 1, 1984 to a woman who is eligible for Medicaid on the day of the newborn's birth. This deemed eligibility lasts for a year as long as the mother remains eligible and the child remains a member of the mother's household. Because the child is deemed to have filed an application and eligibility is linked to the mother's eligibility, the IEVS requirements do not apply to the newborn. Persons who are deemed applicants do not fall within the scope of the IEVS provisions for furnishing SSNs. However, if the child is to remain eligible after one year of age, an SSN must be furnished on his or her behalf. As long as the newborn is deemed eligible, the newborn does not have to be enumerated retroactively.

b. Multiple SSNs

One commenter wanted to know whether it would be necessary to keep on file more than one SSN per person. One commenter wanted to know if a State agency has to verify multiple SSNs.

Response: Yes. If a person has two SSNs, for example, he or she may be using both and it will be necessary to obtain data filed under both SSNs. The proposed rules for FSP and AFDC were clear that multiple SSNs were to be verified and used but the proposed Medicaid rule was not. HCFA has clarified its regulations, at Section 435.948(a), to indicate this and to indicate that all SSNs of a given individual must be used. HCFA has also revised Sections 435.910(g) and 435.920(b) to clarify that all SSNs must be verified.

c. Verification of SSNs

A number of comments related to the requirement that the furnished SSN must be verified. One commenter believed the requirement that an agency must verify SSNs goes beyond the authority of the statute. Several commenters wanted clarification about whether an "official document" may still be used (as permitted by current regulations) to verify SSNs. One commenter believed deleting the requirement that an applicant or recipient must show proof of his or her SSN is a mistake. One commenter urged that only verified SSNs be utilized in the data matching; in that agency's experience, use of unverified numbers and the first three letters of thelast name resulted in mismatch rates of 30 percent. Several commenters believed (1) the SWICA, (2)

the UC agency, or (3) SSA should be required to verify the SSN, not the State public assistance agency.

Response: DEFRA requires that the applicant furnish his or her SSN(s) for the purpose of permitting the authorized program to associate records on that individual with the SSN. Requiring verification of the SSN ensures that the SSN used for this purpose is for that individual. Although not specifically mentioned in the statute, verification is necessary to ensure the proper and efficient administration of the matching requirements and to help prevent disclosure of information on individuals who are not applicants or recipients of benefits under these programs.

A State agency may continue to accept a social security card or other official document to meet the requirement that an applicant or recipient *furnish* an SSN or SSNs. Since these regulations do not allow eligibility determinations to be delayed awaiting SSN verification, furnished SSNs will need to be used for the initial applicant matching. Because an individual may furnish a duplicated, false, or nonexistent SSN or have multiple SSNs, these rules require all furnished SSNs to be verified so the agency will maintain and exchange information on correct SSNs.

We are aware there could be mismatches based on unverified numbers funished by applicants, but matches should be conducted on all numbers furnished by applicants as the numbers may have been used even if erroneous and unverifiable. State agencies are not required to verify SSNs of applicants determined ineligible.

As discussed further in subsection (d) below, SSA generally verifies the SSN of individuals receiving Title II or Title XVI benefits. An SSN received on such individuals through BENDEX or SDX can be considered verified. It is not cost effective to have all SSNs in a SWICA, UC, or SSA data base verified at entry, as only a very small percentage of these individuals actually apply for public assistance benefits.

d. SSA Verification Systems

One commenter stated that the BENDEX system does not cross refer the claim number under which a person is drawing benefits to that person's own SSN. One commenter believed SSA's Supplemental Security Record (SSR) and MBR records should have a new field to indicate whether a "cross reference SSN" has been verified.

One commenter questioned whether all SSNs received from SSA via the BENDEX are verified, except for individuals receiving benefits on their own numbers and said that not all SSNs on SSI recipients have been verified as some applicants are placed in pay status through default without the SSN being verified. One commenter believed SSNs of applicants should not have to be verified because BENDEX verifies only the SSNs of current claimants, and the verification on non claimants will rarely be received within the application period. One commenter asked whether the three means of verifying SSNs mentioned in the general preamble must be followed in the order presented (i.e., BENDEX, SDX, TPQY).

Response: The BENDEX system does cross refer the claim account number on which the person receives benefits to the person's SSN if the SSN is in SSA's records (See BENDEX Handbook, POMS, SM 10801.245.B). In a small percentage of cases a beneficiary's SSN is not on SSA's records and SSA is planning to correct these situations.

It is true that not all SSNs on the BENDEX are verified. If an individual is receiving benefits on another's account number, the individual's SSN will have to be separately verified according to SSA instructions.

As discussed in section (c) above, we do not require SSNs to be verified before the agency requests and uses IEVS data and do not allow eligibility determinations to be delayed for SSN verification. However, if the BENDEX, SDX or TPQY processes are used to verify the SSN, prompt verification can result.

If an applicant's SSN is not verified through these processes, the SSN verification system must be used. a redesign of the SSN verification system is underway and when that is in place, verification of SSNs should not exceed three weeks.

There is no required order for using the BENDEX, SDX, TPQY, and SSN verification system for verifying SSNs. As stated in Article V of the model agreement on TPQY, TPQY should be used only if the data are unavailable through the BENDEX or SDX. However, the SDX and BENDEX systems can be used only to verify the SSNs of SSA beneficiaries. The SSN verification system has to be used to verify all other SSNs.

With respect to verification to SSNs, the proposed FSP rule contained a statement that an SSN would be considered verified if an inquiry to SSA for certain types of information resulted in a response associated with the SSN. To avoid possible conflict with SSA instructions and to ensure consistency with Medicaid, AFDC and Adult Assistance rules, that statement has been eliminated from the final FSP rule.

e. Quality Control (QC) Errors

One commenter to HCFA believed that until the States have the IEVS in place, QC should continue to consider missing SSNs as technical errors and once the systems are in place, the absence of an SSN should be treated as a QC error only when a match with the number would have affected the recipient's eligibility or benefits. Another commenter thought a lack of an SSN or an incorrect SSN should never be a QC error.

Response: HCFA does not agree with these comments. The law requires as a condition of eligibility that every applicant and recipient furnish his or her SSN or SSNs. Therefore, anyone who has not been determined otherwise eligible but who has not furnished an SSN (except in the case of an applicant who applies for an SSN at the same time he or she applies for Medicaid and whose SSN has not yet been received by the time the period for determining eligibility has run out) has not met the full conditions of eligibility and so is not eligible. However, missing SSNs will remain QC technical errors until HCFA deletes SSNs as technical errors through regulations.

f. Other Issues

One commenter urged a totally automatic (on-line) SSN enumeration and verification system, claiming it would significantly improve all SSN-related processes.

Response: SSA is working with Tennessee on a pilot project to provide wire-to-wire exchange of benefit data which will also verify the SSNs of clients who receive social security or SSI payments. Once the pilot is running successfully, SSA expects to offer the same service to other States. On-line access to the SSN verification system is not feasible at this time.

One commenter maintained that States should be allowed to send completed forms to the local district office to be keyed in rather than requiring the forms be mailed to Wilkes Barre, Pennsylvania, because of time problems.

Response: SSA is not pursuing such a system at this time. It is currently more cost effective to process such SS-5s in a central location.

One commenter wanted to know the difference a Social Security Account Number and an SSN. Most of the local agencies use the former term only when benefits are being paid on a social security claim.

Response: The two terms (Social Security Account Number and Social

Security Number) are synonymous in Federal usage. When referring to the number under which benefits are paid, SSA uses the term "social security *claim* number".

A commenter noted the FNS preamble language on SSA direct notification to State agencies of newly issued SSNs was different from the other preambles.

Response: FNS believes these direct notification procedures will simplify the verification process for State agencies that do not have enumeration agreements with SSA and will limit the burden involved in acquiring an SSN for the household. OFA believes that regulatory language is not necessary for the AFDC program because all State AFDC agencies without enumeration agreements currently receive direct notification of newly issued SSNs for applicants and recipients through a validation tape provided by SSA.

Several commenters to FNS supported elimination of the "month and 30 day" limit on participation after application for an SSN. One commenter objected to the proposed indefinite participation allowed pending receipt of the SSN.

Response: FNS has decided to retain the proposed language allowing indefinite participation in order to prevent adverse actions as a result of factors outside of the control of the household.

FNS received five comments on the proposal to allow participation pending application for an SSN with good cause. Several of the commenters supported this general approach. One State agency recommended such participation be limited to 90 days. A commenter recommended such participation be limited to the first certification period. Two commenters suggested the section needed editing to make it clearer.

Response: FNS has decided to retain the proposal. Setting limits on participation pending application for an SSN with good cause could have adverse effects on a household as a result of factors outside the control of the household. OFA received comments on this topic in response to a Notice of Intent to Develop Regulations, jointly issued with FNS on February 19, 1985 (50 FR 6970). These comments are under consideration and will be addressed in separate rulemaking. HCFA also plans to address this issue in future rulemaking. Minor editorial changes in the FSP rule have been made for clarification.

6. Additional Procedural Requirements

a. Routine Notification

DEFRA requires that all applicants and recipients be notified that information available through the IEVS system will be requested and utilized. The notification is to be given at application and periodically thereafter.

FNS proposed that the notification be a written statement on the FSP application or on a separate sheet. OFA and HCFA proposed only that the initial notice be provided in writing at application. For AFDC, Adult Assistance and FSP the periodic notification for recipients would be at recertification or redetermination. HCFA proposed to require the periodic notification to be at least yearly and that for current recipients (i.e., those eligible at time the proposed rule was published) the initial written notification could not be later than April 1, 1986.

One commenter was concerned about the varying definitions of the word "periodically", as used to indicate how often an agency must notify recipients of the IEVS and the uses of the information and recommended the Federal government state the minimum frequency.

Response: The definition of "periodically" is based on existing program case processing cycles. AFDC and Adult Assistance require a redetermination every six months. FSP recertifies at the initiation of new certification periods which vary according to household circumstances. Medicaid agencies must redetermine the eligibility of Medicaid recipients with respect to circumstances that may change at least every 12 months. We believe it is administratively easy to provide notice to recipients at these intervals and provide recipients sufficiently frequent notice about the use of IEVS. State agencies should also be aware that there is no prohibition against developing a generic notice which could be used for recipients in the three programs.

One commenter asked that all agencies specify the notice be in writing. One commenter wanted to know whether the notice to applicants and recipients had to be specific as to exactly with whom the agency would be doing matches.

Response: The notice to applicants and recipients must be written and must notify the applicant or recipient that income and eligibility information may be obtained using his or her SSN(s) and will be used in the eligibility and payment amount determination. The notice must, at a minimum, indicate the types of agencies included (e.g., unemployment compensation agencies). This will allow the State agencies the flexibility to match with covered agencies in the State and in other States while affording the necessary protection of the individual's right to know how information about him is being used.

The FSP application form is being revised to identify other programs with which information will be exchanged and to notify households that other persons and oganizations may be contacted to verify income and eligibility.

One commenter requested that FSP households be notified of how their casefiles are protected from unauthorized disclosure and that State agency manuals contain the detailed disclosure rules of the agencies providing information.

Response: Information about disclosure limits for the FSP is contained in program rules, copies of which are located in local offices as required by current rules. FNS believes this should be sufficient notice about disclosure rules. With respect to providing access to the source agencies' disclosure rules, FNS believes no useful purpose would be served by having those agencies' rules in State manuals since the knowledge of them would not enable households to determine if abuse had occurred. All three Federal agencies do believe that State agencies should obtain assurances from provider agencies that their ADP processing methods prevent providers from recording what recipient names and/or SSNs are processed and that individuals having access to such information are bound by the disclosure rules of the various programs. The final rules for Medicaid and FSP are modified accordingly. The existing AFDC and Adult Assistance program rules at 45 CFR 205.50(a)(2)(i) provide adequate protection in this regard by requiring that information only be released to agencies which are subject to the same standards of confidentiality as the State agency.

One commenter wanted to know whether we had considered allowing State agencies to give recipients a five-day, rather than 10-day notice of proposed adverse action; it would allow agencies to act more quickly to close cases if warranted (for example, in cases of fraud).

Response: We do not believe individuals would have adequate notice if the time frame were shortened, and any savings would not justify threatening an individual's right to appeal a proposed adverse action.

b. Notice of Expiration or Adverse Action

Under the proposed rules, the applicant or recipient had to be notified of any planned adverse action and had

to be given the opportunity for a fair hearing. FSP proposed rules also included a provision under which households which failed to respond timely to State agency requests for information would be sent a notice of expiration of their certification period. OFA and HCFA required only that a notice be sent prior to any intended action.

Twelve commenters addressed this issue, several arguing the FSP notice should be a notice of adverse action to forestall continued overissuance, and several others arguing it should be such a notice because the proposed notice violated due process.

Response: FNS agrees that in some instances a notice of adverse action could forestall continued overissuance at least as promptly as a notice of expiration of the certification period. FNS has no way to determine how frequently the use of notices of adverse action could forestall overissuancs more effectively than notices of expiration, but certainly in some cases the former notice would be more effective. While the preferred-type of notice may not be clear, if a notice of adverse action is used and the fair hearing upholds the State agency, then the overissuance is recoverable. For this reason, a notice of adverse action may result in program savings. More importantly, the concern of commenters was that the guarantee of continued benefits pending a fair hearing under a notice of adverse action was not provided if a notice of expiration was used. While the Department continues to believe that most requests for information will be responded to by the household without the need for a fair hearing, we concede that in the event of an irreconcilable dispute, only the notice of adverse action would permit the prior allotment level to continue. Therefore, the final rule replaces the proposed use of the notice of expiration with a notice of adverse action when a household does not respond timely to a State agency inquiry about IEVS information. Moreover, use of an adverse action notice in these circumstances is consistent with the approach used in AFDC, Adult Assistance and Medicaid.

c. Safeguards

The final rules are identical to the NPRM in requiring each program to protect the confidentiality of the information due to the sensitive nature of information about individuals. DEFRA requires each State agency to institute adequate safeguards to assure (1) that information is made available only to the extent necessary to assist in the valid administrative needs of the program receiving the information and that unearned income data from IRS is exchanged only with those agencies authorized to receive it; and (2) the information is adequately protected against unauthorized disclosure for other purposes. The NPRM proposed to standardize requirements and procedures for safeguarding information through agreements between providing and receiving agencies.

One commenter noted that the IRS publication entitled "Tax Information Security Guidelines for Federal, State and Local Agencies", which was mentioned in the preamble to the NPRM, prohibits States from furnishing confidential Federal tax information to a political subdivision. The commenter believes it will be very difficult for State-supervised programs to comply with this provision. Another commenter noted that regulations on confidentiality appear to require that each income maintenance worker must sign a separate confidentiality statement which would create a burdensome paperwork requirement and recommended that States should be given the option of devising an alternate method for assuring the protection of confidentiality.

Response: DEFRA explicitly requires IRS to disclose unearned income data to Federal, State, or local agencies administering the specified programs. The IRS Revenue Procedure 85–21, issued April 8, 1985, notifies these Federal, State and local agencies of the manner, time and place for obtaining the unearned income data. The "Tax Information Security Guidelines" were revised in May, 1985, to reflect the DEFRA changes in law. Neither program regulations nor IRS guidelines require each income maintenance worker to sign a confidentiality statement.

State agencies will be required to affirm that all individuals having access to IRS information have been informed of the safeguarding requirements and the penalties for unauthorized disclosure.

One commenter stated it was doubtful that State agencies have the existing security arrangements required to protect IRS tax information.

Response: We believe that extensive modification to existing State security procedures should not be necessary. State public assistance agencies are, and have been for many years, required by Federal law and regulations to safeguard personal data against unauthorized use or disclosure. Information to be safeguarded includes individuals' names, addresses, amount of assistance, social or economic conditions, wages, agency evaluations, and medical data. Further, States have Privacy Acts which require safeguards. All of these requirements (which are comparable to the IRS requirements) must be adhered to by the public assistance programs. States have considerable experience in implementing the IRS guidelines for securing tax data because State taxing agencies currently have acess to IRS tax data and must follow these guidelines. The Federal agencies will work with State agencies to help ensure compliance with the IRS guidelines.

One commenter thought the Federal agencies should have compatible wording in their regulations on safeguarding information and urged a single publication regarding the requirement.

Response: All the Federal agencies have similar safeguarding requirements, but since they have different program needs and procedures it is not feasible to publish a single standard. Such a standard would be too general and would not be sufficiently informative concerning what data may be released or how such information should be protected. However, we are concerned about the potential for unauthorized disclosure and do intend to publish common guidelines that will enable States to develop and maintain adequate safeguarding procedures. The final rules have been amended to require State agency adherence to these guidelines when they are issued.

Several commenters thought FNS had deleted paragraph 272.1(c)(2) which provides households access to their casefiles.

Response: The NPRM inadvertently did not redesignate the paragraph as 272.1(c)(3). This is done in the final rule.

d. Agreements

The NPRM extended to the Medicaid, Adult Assistance, and UC programs the current requirement for AFDC and FSP that agencies must enter into written agreements concerning the procedures for requesting and providing wage information and added for AFDC, Medicaid, Adult Assistance, and FSP the requirement that State agencies execute such agreements with IRS.

The final rules are virtually identical to the proposed rule except for a new requirement that each agreement with a SWICA and UC agency (which in most States are one and the same) must accept and process requests for wage and UIB information no less frequently than twice per month. This is necessary in order to conform with the new requirements for access and use of

information for applicants which require the State agency to request information at the first available opportunity. For the State wage and unemployment benefit information, this first available opportunity must occur at least twice per month. We believe this provision will ensure that information on applicants will be obtained without delay and used, whenever possible, in the initial determination of eligibility.

One commenter asked whether the designation of agency officials with authority to request data was to be by title or by names and suggested the use of titles because of personnel changes.

Response: We agree that titles or positions should be specified rather than names and we have modified the final regulations where necessary.

One commenter thought the requirement for interagency agreements was burdensome and unnecessary because the agreements would not be legally binding contracts. Commenters had difficulty with the requirements concerning interstate agreements between State agencies because of the potentially high number of agreements. Two commenters suggested the use of a standard agreement for everyone to sign. Another commenter stated that if States were to use BENDEX and update it regularly, it would be adequate to address the relatively rare instances of interstate fraud and would obviate the need for most interagency agreements. A commenter stated that delays would occur while agreements were executed. One commenter wanted to know whether an agreement would be necessary when an agency in another State requests information. One commenter wanted to know how long agencies would have for obtaining agreements, since there were no data formats to follow.

Response: Regardless of whether the agreement between two agencies is a contract, it is necessary to document the arrangements State agencies have made to provide and obtain data. The items specified are those which we believe are the minimum about which parties to data exchanges need to agree in order to effect exchanges efficiently, assure both the parties and the Federal agencies that data is properly safeguarded, and assure that any reimbursement of costs is appropriate. Model agreements are being developed and will be made available to States with the instructions for using standardized formats as described in Section 7 below; their use should help State agencies expedite arrangements for data exchange. Since many such agreements are already in place, there should be many situations where the negotiations involve a limited number of issues. With respect to interstate matching and BENDEX, the rule does not set standards for interstate matching because we believe that State agencies should examine where such matching is needed, one factor being the use of BENDEX. With respect to potential delays pending the execution of agreements, we expect that data exchanges will be conducted using existing procedures until new agreements are signed. There must be an agreement between any two agencies (or the State or States on their agencies' behalf) before data may be released.

One commenter asked whether the requesting agency could specify in the agreement with the provider agency a minimum response time.

Response: The final rules for AFDC, Adult Assistance and Medicaid, as did the NPRMs, provide that the agreements specify the timing of the response. Through an oversight FSP rules did not mention the timing of responses to requests, and the final rules include such a provision. This and the other provisions of the agreements are minimum requirements. State agencies can add others. We would note, however, that the schedules for requesting and providing information are subject to negotiation and agreement among the parties involved. The Federal agencies do not plan to set standards in this area other than ones which derive from the required frequencies of access to the various data sources.

One commenter asked if agreements were necessary among programs which are administered by an umbrella agency. Another commenter wanted to know if each agency must request information from the source agency.

Response: Yes. An agreement is necessary for each data exchange agreement between agencies even if the programs are administered by an umbrella agency. However, States may use standard language for all agreements. Except for the IRS and BENDEX matches, States are free to allow each State agency to request matching information or to designate a single coordinating agency to request all information. As explained in IRS Revenue Procedure 85–21, the IRS data must be requested only by a single State coordinating agency and each State agency designated to receive information from the coordinating agency must have a written agreement with the IRS concerning safeguarding and use of information. Similar instructions on access to BENDEX are contained in the POMS manual.

e. Reimbursement for Costs of Providing Data

The NPRM required that all agreements for the exchange of income and eligibility information must include a provision for determining appropriate reimbursement from the requesting agency for the reasonable cost incurred in providing the data.

Two commenters felt the proposal to charge for any mandated matching would impose a considerable burden on State resources. One State felt the reimbursement requirements should be deleted entirely and funds provided by the Federal agencies involved. Another commenter questioned the legality of regulations which require the use of Federal data and require States to pay for it.

Response: We do not believe the cost of obtaining information will present a major obstacle to the success of the matching program. States may enter into agreements to obtain and provide information free of charge or at nominal cost. Furthermore, we believe DEFRA entitles Federal agencies as well as State agencies to request appropriate reimbursement.

One commenter asked whether the reimbursement requirement includes data exchanges with other State agencies. The commenter notes the State already has a productive data exchange program in place and might be placed in the position of paying for information that is available presently at no cost.

Response: The law requires only that accounting systems must be utilized which assure that programs providing data receive appropriate reimbursement from programs utilizing the data. The regulations provide only that the agency must reimburse the provider of information, if requested, for the reasonable costs of matching and do not mandate that a State must begin charging for data that is previously provided without charge. We anticipate many States will want to continue satisfactory relationships and enter into new agreements with other States which will provide for an exchange of information without charge.

Even where the State must pay for such information, we expect that these charges will be modest. In addition, the Federal government will share in these administrative costs.

One commenter suggested to HCFA that if the regulations were implemented in such a way as to permit States to delegate their responsibility to Medicaid providers, the providers should be reimbursed for their added expenses.

Response: HCFA does not intend that State agencies would delegate IEVS responsibilities to Medicaid providers. We recognize many medical providers assist Medicaid applicants in completing applications and providing income and eligibility information. However, the providers are reimbursed for these administrative expenses through the Medicaid costs reimbursement programs.

7. Standardized Formats

The NPRM and the final rules require State agencies to use standardized formats and procedures for the exchange of data internally within States and for interstate exchanges with programs. These standardized formats will be established by the Secretary of the Department of Health and Human Services (HHS), in consultation with the Secretary of Agriculture, (based on the results of the HHS Inspector General study) for State wage, UC and public assistance data. State agencies must also use (a) the formats and procedures prescribed by the Internal Revenue Service (see Revenue Procedure 85-21) for obtaining unearned income information, and (b) the formats and procedures prescribed by the Social Security Administration in various published documents for obtaining benefit, pension and earnings data and for verifying SSNs.

Two commenters suggested there should be a single format for accessing all Federal sources of information at IRS and SSA.

Response: We recognize that multiple input and output record formats for the various Federal information sources represent a burden on States. Both IRS and SSA, however, are working with the HHS Inspector General task force on standardized formats to develop formats which are compatible with one another as well as with the standardized formats to be used for obtaining State data.

Two commenters expressed concern that the formats were not yet finalized. One commenter recommended that the matching requirements of these rules should be suspended until the formats are released, and another commenter maintained that State agencies should have an opportunity to comment on the formats before they are released.

Response: We expect the standardized formats to be issued by the Secretary of HHS soon after publication of these rules. If the issuance is delayed, we will provide further guidance to States on interim procedures to be used; we do not, however, anticipate any suspension of the matching requirements. The standardized formats have been developed with the participation of 17 States in pilot testing. We believe there has been adequate opportunity for State comments to be made and addressed in this process.

Two commenters stressed that formats should be required for interstate exchanges. One of these commenters suggested the requirements should be limited to interstate exchanges.

Response: When the standardized formats are published, the Federal agencies will provide further instructions to State agencies regarding the formats. These comments will be considered in the development of these instructions.

One commenter wanted the definition of standardized formats clarified. The commenter believed it should be a minimum set of data requirements which would not entail a costly reformatting of case records.

Response: The intent of standardizing formats is to allow for the creation of files specifically for matching purposes. These formats require the minimum set of data elements necessary for a successful match and can be maintained independently from the case record.

8. Automation

In the common preamble to the NPRM we stated our view that the statutory requirement for IEVS mandated a logical process and not necessarily a physical or automated system to assure the timely and efficient exchange of information among the various programs. The needs-based programs currently have systems in place for exchanging and maintaining such data, but these systems vary in degree of automation. Although an increasing number of States are operating automated on-line systems to exchange, maintain and make data available to workers, we did not propose to require this level of automation. We also suggested that State agencies explore ways to integrate the IEVS processes into their current systems. The only specific proposal for automation was that non-UC SWICAS must have machine readable data bases.

We propose that costs for systems development and operations to support receiver agency requirements be allocated by programs under an approved cost allocation plan and be reimbursed at appropriate matching rates. We reminded State agencies to request prior approval accordiing to existing regulations and guidelines.

FNS did not propose to require an overall, computerized system, but encouraged the use of automated technology in developing efficient methods of matching. FNS proposed that State agencies with automated data bases would be required to enter all SSNs into the automated data base.

OFA did not propose new, separate systems to carry out the provisions of DEFRA but expected agencies to modify existing eligibility and information systems to accommodate the new requirements. The final rule has been modified at 45 CFR 205.51(d) to require the submittal of a request for prior approval, where appropriate, for any new developmental ADP costs associated with IEVS implementation. This is consistent with the language in the NPRM preamble, and is incorporated into regulatory text to emphasize the applicability of this requirement to these provisions. This requirement applies to costs incurred by another agency which will seek reimbursement from the State agency, e.g., for the development of a wage collection system, as well as costs incurred directly by the State agency.

HCFA did not propose new or separate systems but proposed to require the maintenance of the SSN, name and other data elements in a specified format in order to be able to conduct the required data exchanges. The State Medicaid agency was required to access SWICA, IRS and SSA data in an automated fashion, however.

a. General

Ten commenters stated automation would be required to meet IEVS requirements fully.

Response: We agree that automating the required IEVS functions would enhance a State agency's ability to respond timely to the substantial amount of information made available to the State agencies as a consequence of the data exchange requirements. We do not believe such automation should be required in these rules. In some States, compiling the requested records into the prescribed formats and printing the returned data for transmittal to the workers may be the only functions requiring automated processing, with all the other functions and processes performed manually. Each State agency must determine the relative costs and benefits of various levels of automation necessary to meet IEVS requirements.

Two commenters recommended that the Federal agencies authorize an increased percentage of Federal financial participation (FFP) to ensure that the States have the ability to implement the system, and also suggested the development of guidelines for requesting approval.

Response: Each Federal agency has the authority to respond to requests for enhanced matching rates contained in the State agency's Advance Planning

Document (APD) or APD amendments in accordance with existing agency policy and regulations. The decision to approve or disapprove such requests will be dependent upon whether the costs for the system are allocable or attributable to the automated system qualifying for the higher match. We believe that existing rules and procedures for requesting prior approval for enhanced funding for automating processes are sufficient for the purpose and must be followed by State agencies.

One commenter recommended a demonstration project for the development of system components.

Response: The systems requirements contained in the rules have been adequately demonstrated in current practice. Many States already have systems for handling wage and UC data for AFDC and FSP. The SSI Program has successfully matched with IRS data using the procedures that States will use. We also recommend that State agencies review the catalog of Automated Front-end Eligibility Techniques which may be obtained from the Department of Health and Human Services' Office of the Inspector General. We believe that this material and other material available from States with operating experience should provide a good base for other systems development.

One commenter stated that his State agency does not have an automated front-end eligibility system and the creation of one would cost a great deal and entail major modifications of the existing client information system.

Response: The agency is not required to create an automated front-end eligibility system. If the applicant and recipient population is so small that a front-end system has not been cost-effective so far, it is unlikely that the IEVS data received will make automation necessary.

One commenter believed that identical State systems would be necessary to implement the provisions.

Response: It is not administratively feasible nor desirable to require all State and Federal agencies to have identical systems. Each agency has its own systems requirements and each has developed systems that serve its own needs.

Each system has different degrees of automation and different processing techniques to carry out the agency's functions. The requirement for use of standardized formats will ensure that information can be exchanged between different systems. Our policy is to provide the States with maximum flexibility to develop systems to meet their specific needs.

A number of commenters did not agree that implementation of the IEVS can be done at a relatively low cost by making minor modifications to existing systems, partly because of staff costs involved in follow-up actions.

Response: We agree that the staff costs involved in follow-up actions could be greater than the systems development and maintenance costs and that these costs are difficult to estimate. However, studies conducted on wage matching and other computer matching for income and eligibility verification show that activities required by these rules can be carried out on a cost effective basis. These studies include:

- U.S. Department of Health and Human Services, Office of Inspector General, *Computer Matching in State Administered Benefit Programs*, Washington, D.C. Government Printing Office, June 1984.
- U.S. General Accounting Office, *Better Wage Matching Systems and Procedures Would Enhance Food Stamp Program Integrity*, GAO/RCED–84–112, September 11, 1984.
- U.S. General Accounting Office, *Legislative and Administrative Changes to Improve Verification of Welfare Recipients' Income and Assets Could Save Hundreds of Millions*, GAO/HRD–82–9, January 14, 1982.
- Greenberg, David H., and Pfiester, Jennifer. "Wage Matching Techniques Used in Administering the Food Stamp and AFDC programs: An Interim Analysis," Research report sponsored under grant number 59–3198–142 by the U.S. Department of Agriculture, Food and Nutrition Service, February, 1983.
- Greenberg, David, and Wolf, Douglas. "An Evaluation of Food Stamp and AFDC Wage Matching Techniques", Research sponsored under grant number 59–3198–142 by the U.S. Department of Agriculture, Food and Nutrition Service, May 1984.

One commenter thought the regulations provided insufficient information for designing the system.

Response: We are publishing this information in manuals and other instructions. To this end, the following materials have been made available to the State agencies for designing the system.

- *Tax Information Security Guidelines* (for Federal, State and Local agencies). Department of the Treasury, Internal Revenue Service, Publication 1075 (Rev. 7/83)
- *Beneficiary and Earnings Data Exchange (BENDEX) Handbook*. U.S. Department of Health and Human Services, SSA Pub. No. 68–0810801.
- "Enumeration Verification System (EVS) User's Package for State Welfare Systems." SSA Office of Systems Requirements (301–594–3593)
- "Revenue Procedure 85–21: Return Information. Federal, State and Local agencies." *Internal Revenue Bulletin*, No. 1985–14, April 8, 1985.
- *State Data Exchange (SDX) Handbook*. U.S. Department of Health and Human Services, SSA Pub. No. 68–0502601.

b. IEVS Systems Support

A number of commenters expressed some concern regarding automated systems and their ability to support State agency information needs relating to the implementation of the IEVS requirements. A few commenters suggested possible revisions to Federal systems that could increase the efficiency and effectiveness of these systems.

Two commenters suggested information from the Veteran's Administration (VA) and the Railroad Retirement Board (RRB) would be useful to State agencies. One commenter added that the Bureau of Indian Affairs (BIA) has information that may be useful to certain States.

Response: In response to this and previous requests, we are exploring with the VA whether and how access to VA compensation and benefits information might be available. Access to VA and BIA information is not authorized by the statute. However, BENDEX currently reports RRB status (active or terminated). We have referred the suggestions on expanded access to the President's Council on Management Improvement, which is responsible for interagency coordination in this area.

One commenter asked about obtaining military pay data.

Response: Even though it is not required by current rules or by DEFRA, many agencies have agreements with military bases in their States to supply information on military personnel who apply for or receive benefits. The Department of Defense (DOD) has also established the Defense Enrollment/Eligibility Reporting System (DEERS), an automated file containing pay, health insurance and entitlement information on all active duty and retired military personnel and their dependents. A DOD/HCFA pilot project using this information to identify third party health insurance payors has recently been conducted with positive results. As soon as the report is available, it will be distributed to the States. We expect that DEERS will provide useful earnings information to public assistance agencies as well.

There were suggestions from States that SSA provide additional information on the SDX system; e.g., personal property information and direct deposit information.

Response: Codes which reflect the existence of various types of personal property and use of direct deposit are

available on SDX. The specific source, address, amount, or direct deposit bank are not available. This is explained in the SDX Handbook (SSA Pub. No. 68–0502601).

9. Monitoring

a. Quality Control

The three agencies proposed to require that IEVS information be used in QC reviews. OFA and HCFA specifically proposed to require that the IEVS information be made available to HHS to be used in the Federal QC review process. Rules for the FSP would have the same effect. The preamble to the NPRM stressed that each State agency would continue to be responsible for the accuracy of its eligibility and payment amount determinations as determined by the QC system, whether it complied with the requirements of these rules or not.

One commenter thought the QC review should be based on the State plan for reviewing and determining the priority of information and ordering of information for followup, because to use criteria to determine whether an agency is responsible for erroneous payments other than as described in the agency's State plan places the State agency in an unfair position. Another commenter thought that if State agencies are permitted to take action only on priority match information which would have an effect on the agency's error rate, the rule should specify that these errors would not be used to determine the error rate. One commenter recommended that State agencies be given a grace period for implementation of these rules during which QC errors resulting from IEVS matches would not be counted.

Response: We do not agree with these comments. The new State plan requirement that the State utilize additional sources of information for determining eligibility and the amount of assistance payments does not supersede the requirement to use other sources. Thus, the requirement to establish and use IEVS does not relieve State agencies of the responsibility to explore all areas of potential wage, income, resource, and income information in determining eligibility and payment amounts and use that information in the eligibility determination process. We do not believe QC programs should be revised because the State agencies have additional information available to determine eligibility. The QC process (Eligibility QC for Medicaid) will continue to focus on whether the eligibility status is correct for a case, and not on the process used to arrive at that decision. The final rules for all programs have been amended to emphasize that the requirements for matching and followup do not relieve the State agency of its responsibility for the determination of erroneous payments and/or its liability for such payments. To fail to hold agencies responsible for erroneous payments would be inconsistent with other statutory requirements.

The final rules do not provide for a grace period for QC errors which might be discovered through IEVS matches. Based on State experience implementing new data exchanges, we do not believe that QC errors will increase due to this rule.

As discussed earlier in this preamble, the requirement that State agencies give priority action to IEVS data which is most likely to be useful in verifying eligibility and benefits has been deleted.

A commenter thought the Federal QC review should not cite a difference with State QC findings if the original State QC review correctly used the information sources specified and subsequently more recent information became available for Federal review.

Response: It has been a longstanding QC policy to conduct a Federal review based on case circumstances and any information available at the time of the rereview. During the rereview, if a case is found to be in error, errors will be cited regardless of whether or not there is a time lag in obtaining information. However, since the Federal review should occur shortly after the State reports its findings, this should rarely happen.

One commenter stated that State agencies should not be held accountable for incorrect information provided by the Federal government, such as the data on the BENDEX.

Response: The State agencies remain responsible for ensuring that any information they use in determining eligiblity and payment amounts is correct. (See discussion on verifying information in section 4 of this preamble.)

b. Maintenance of Records and Reports

The NPRM for AFDC, Adult Assistance and Medicaid contained proposed information reporting requirements that required State agencies to maintain records for (a) tracking the status of match results sent to caseworkers for follow-up and (b) for reporting data on the actions taken and the savings realized based on the matches. FSP rules addressed only the latter reporting requirement.

Five commenters specifically objected to the requirement for tracking the status of match results sent to caseworkers for follow-up, citing the difficulty of tracking each match (especially on applicants). One commenter believed the regulations should state that there is no follow-up or disposition required when there is no "hit"; one believed there should be no further tracking when the data does not affect a case.

Response: The FSP rule has been modified to be consistent with AFDC, Adult Assistance and Medicaid in requiring State agencies to use appropriate procedures to monitor the timeliness requirements. The Federal agencies believe a method to monitor the status of match results is necessary to assure that a State is in compliance with the requirement for acting on information within a specified timeframe. The requirement pertains only to information obtained through the IEVS; and if there is no match, then no follow-up is required. The system may be either automated or manual. The system must maintain the status of the match result until such time as case action is taken or the State agency has determined that the information does not affect the case. State agencies are expected to track these actions in the same way that they track such activities as the timeliness of application processing and the completion of fair hearings. It is only by means of such tracking that State agencies can comply with the requirements for monitoring program administration and operations.

Thirty letters responded to our request for comments on the requirement for a reporting system to capture data on actions taken and savings realized; more than fifteen commenters believed such a system would be too costly and burdensome to develop and maintain. Three commenters also indicated the reporting system would not produce reliable data on savings and cost avoidance. Some of the commenters suggested alternative ways to provide data on the outcome of matching, such as case sampling and targeted national studies. One commenter stated that current reporting was not specifically mandated by DEFRA and another commenter believed the QC review and reporting process should provide sufficient data to evaluate the agency's use of the data. Three commenters thought there should be a pilot test of the reporting requirements, and one commenter suggested the rules permit the State to submit for approval a plan for reporting. Several commenters recommended that any reporting requirements imposed by the Federal agencies should be uniform, and one

commenter believed reporting should be no more frequent than annually.

Response: While reporting was not mandated by DEFRA, we believe that it is necessary to help ensure the proper and efficient administration of the programs. In response to these comments, we are developing uniform, annual reporting requirements intended to minimize the record keeping and reporting costs and burden on States, while enabling the Federal government to monitor compliance with the requirements for accessing and using information. Specific instructions on reporting will be sent to each State agency. We intend to require State agencies to maintain and report annually on: (a) the number of agency records submitted to each IEVS source agency, (b) the number of positive match results received from each source agency, and possibly, additional minimal information, but only that which should be readily available to the State. We need consistent reporting of these elements and cannot permit States to develop individual reporting plans. A State agency may, of course, maintain whatever additional information is necessary for reporting of data on dollar savings and cost avoidance to State officials, for management information purposes. In addition, we intend to conduct targeted program reviews in selected states after these matching requirements are fully implemented. We will review case files and related documentation on cases where action has been taken as a result of IEVS data. States are expected to maintain records of case action based on IEVS-obtained information as they do for other case actions. The Federal agencies have made final rule changes which require State agencies to maintain necessary records on the use of IEVS information.

10. Implementation

The final rules require State agencies to implement the requirements within 90 days of publication of these rules. We are providing 90 days to help ensure that State agencies can implement the requirements of the rule, including approval of plan submissions. Costs incurred in implementing this rule are eligible for Federal financial participation. Exceptions to the 90 day implementation period are:

(a) Medicaid agencies were required to obtain the SSNs of Medicaid applicants and recipients effective April 1, 1985 (pursuant to Medicaid Program Memorandum 85-3-State Plan Preprint);

(b) Food Stamp and AFDC agencies must maintain during the implementation period the level of effort required under prior regulations regarding wage matching;

(c) all State agencies must comply with the requirement regarding independent verifiacation of IRS unearned income information effective upon receipt of the IRS information;

(d) all State agencies must have a source of employment-related data through the State Wage Information Collection Agency (SWICA) by September 30, 1988, in accordance with the requirements of Section 1137(a)(3) of DEFRA; and,

(e) a State agency may request and may receive a waiver through September 30, 1986 in order to delay implementation of any other provision of the regulations other than c. above (i.e., independent verification of IRS unearned income information).

Except where permitted by waiver as described in paragraph (e) above, State agencies must also as of the effective date of these rules:

(a) request IRS unearned income information on all current recipients; and,

(b) accrete to the BENDEX system all current recipients not previously accreted. Where the State has accreted individuals but not estabished earnings exchange, the State also reaccrete these individuals for this purpose.

Several State commenters believed implementation would take longer than permitted by statute and the waiver provision should permit longer delays. Several commenters were concerned about implementing the new system because of State budget considerations. Some of these States legislatures will not meet soon enough to appropriate the funds necessary for implementation.

Response: We have no authority to permit delays beyond September 30, 1986. Furthermore, we believe that the matching requirements were sufficiently specific in the statute for States to have taken whatever legislative action as may have been necessary to ensure full implementation before September 30, 1986. All State agencies have income and eligibility verification processes in place and most are currently using some of the sources required by these rules.

Several comments were received regarding increased costs of implementing and operating the verification system. One commenter stated that personnel and computer time must be redirected to implement the new rules while more effective error-rate reduction efforts must be delayed; the commenter further stated the rule would result in an agency's receiving information that would be useful for error reduction, but would result in a short-term increase in current errors.

Response: Although initial implementation of the system may affect workload management, this should be temporary and minimal. Additionally, if severe problems are anticipated, a delay in implementation of specific provisions may be granted until September 30, 1986. This should be enough time to implement the system and avoid major workload disruptions or increases in current error rates.

One commenter suggested the regulations should require that each State, rather than each agency, submit a request for a delay in implementation.

Response: We do not permit a State to submit one request for the whole State for a delay in implementation because the delay may effect only one program. The State may, however, submit the same request to both Secretaries. The three agencies will consult with each other before approving or disapproving a delay in implementation.

One commenter stated waiver requirements must be specific and must allow State agencies sufficient time to respond.

Response: A State agency must include in its request for delay in implementation at a minimum the following:

(1) The provision;

(2) The date the State agency will implement the provision;

(3) Justification for not being able to implement within 90 days of publication of the final rule; and

(4) Implementation plan (what steps the State agency plans to take to implement the provision by the date given in item 2 above). The implementation plan should describe any system or program improvements necessary to comply with the rules and the steps to be taken to make these improvements (such as the submission of an advance planning document (APD) or legislative action).

Executive Order 12291

Executive Order 12291 requires a regulatory impact analysis be performed for any rule that is a major rule. A major rule is one which has an annual impact on the economy of $100 million or more; results in a major increase in costs or prices; or has significant adverse effects on competition, employment investment, productivity or innovation.

This rule has been reviewed under Executive Order 12291 and has been classified "not major". The FNS portion of this rule will not have an annual effect on the economy of $100 million or more, nor are the rules likely to result in

a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Because this rule will not affect the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

The SSA portion of this rule will have an annual effect of more than $100 million and therefore does constitute a major rule. However, these program costs and savings are a direct result of DEFRA. Since the Secretary of HHS has no discretion in implementing the statutory requirements, the Office of Management and Budget (OMB) has granted a waiver from the requirement to conduct a regulatory impact analysis.

HCFA Voluntary Regulatory Impact Analysis

HCFA has determined that a regulatory impact analysis is not required for this final rule. Nevertheless, HCFA recognizes concerns with potential impacts, and that annual savings in the Medicaid program may eventually exceed $100 million. Therefore, HCFA has provided a voluntary impact analysis. Comments relating to this analysis are discussed above in the specific topical areas.

Implementation of this rule will result in Federal savings in the Medicaid program to the extent additional applicants and recipients are discovered to be ineligible for Medicaid benefits as compared to those found eligible under existing income and eligibility verification systems. HCFA actuaries estimate that implementation eventually could save as much as $100 million per year in Federal Medicaid program expenditures once the system is fully operational.

The Federal Medicaid program savings are likely to result from the following:

- $50 million would occur without action by HCFA or State Medicaid agencies as a direct result of termination of ineligible individuals from the SSI and AFDC programs as a result of new or expanded data matches on unearned income.
- $20 million in Federal savings would result from matching by States of Medicaid program eligibility and income data against other data on unearned income and taking action to terminate ineligible individuals from medical assistance-only programs.
- An additional $30 million in Federal Medicaid program savings might result from implementation of a data system for wages; i.e., the potential availability of health insurance through employment, or the potential to purchase insurance through employment-related programs.
- We expect it would take three years to achieve the $70 million of annual Federal savings related to matching on unearned income. However, the quarterly reporting data match system for wages for wages is not required to be in place until September 1, 1988. Consequently, the full savings would probably not be achieved until FY 1989 or FY 1990.

As the range of comments received demonstrates, the costs of implementation and operation of the revised system will vary from State to State. We recognize in some States the costs may be high. However, it is these States which we believe will benefit the most from the system. The States that already have operational income and eligibility verification systems will not benefit as much. But, on the other hand, implementation costs for them will be relatively small. The following includes a discussion of a number of factors that will affect the magnitude of the ultimate costs.

First, we expect States will modify existing State eligibility and information systems, rather than develop new systems. However Wyoming and Puerto Rico now have no automated Medicaid data processing at all, and may have to develop new systems to access information in an automated fashion.

Where there are existing systems, those systems will have to be modified to use SSNs as required by these rules, and will have to be modified to use the standardized formats developed. This will result in implementation costs and increased operating costs beyond what States currently expend. For each State, the actual increase in administrative costs will be dependent on the current level of automated systems and wage and income matching in the State. Currently, 17 States have integrated their Medicaid eligibility determination systems with eligibility determinations for other means-based programs that would be covered under these IEVS requirements.

Further, each of the following activities and procedures will require design, developmental, and implementation costs:

- Data matching;
- Data management;
- Data security;
- Investigation and independent verification of meaningful matches; and
- Applicant and recipient notification and follow-up.

Once implemented, each of these activities and procedures will require ongoing operating costs, which will also be incurred for tape exchanges and legal services.

Depending on how States implement these regulations operationally, the resulting costs could be large or relatively small. We believe the necessary changes can be made at relatively low costs, primarily by making minor modifications to existing systems. Nonetheless, the costs of such systems raise the possibility that the savings resulting from implementation of these proposals could be exceeded in some States by the costs for at least the first years, during which implementation costs will be at their highest, while savings will occur later. Because of the possible risk of adverse outcomes in some States, we expect that the costs and benefits of this program will be closely monitored by the State agencies, and we will be reviewing the degree of success of the program on an ongoing basis.

Many recipients participate in more than one program, and eligibility for one program is often related to eligibility for other programs. For example, AFDC and most SSI recipients are usually eligible for Medicaid. However, eligibility requirements are not identical between any two programs. Therefore, even if an individual or family loses eligibility under one program, they may retain eligibility or be eligible on another basis for other programs.

It is estimated that the matching of unearned income would eliminate about 30,000 individuals from the SSI rolls. Many of these individuals would also lose their categorically-needy Medicaid eligibility, but some could be expected to be eligible for Medicaid under the medically-needy option that 32 States currently follow. Similarly, some of the individuals eliminated from the AFDC rolls would come back onto the Medicaid rolls under the medically-needy option.

This regulation is likely to result in a significant reduction of Federal Medicaid program expenditures and an increase in administrative costs. The savings potentially may exceed $100 million annually. However, these savings would be primarily a result of the statutory requirements of section 2651 of Pub. L. 98-369, not this rule. The amount of increase in costs will depend largely on the systems currently in place for income and eligibility verification

and on decisions made by the State agencies regarding how the new requirements will be implemented. However, we do not expect these costs to exceed $100 million annually or to exceed any other threshold criteria for major rules. Therefore, we have determined that a regulatory impact analysis is not required.

Executive Order 12372 (Applicable only to the Food Stamp Program)

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final Rule related Notices to 7 CFR 3015 Subpart V (48 FR 29115), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and Local officials.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) and the Secretaries of DHHS and USDA have certified that it will not have a significant economic impact on a substantial number of small entities. Under the RFA, small entities include small businesses, nonprofit organizations that are not dominant in their field, and governmental jurisdictions of less than 50,000 population. States and individuals are not treated as small entities under the RFA. This rule would change Federal regulations to comply with Pub. L. 98–369 by requiring State agencies to implement a system for verifying income and eligiblity and would set standards for certain State agency actions. State agencies would be affected in varying degrees by the need to develop new administrative procedures. Applicants and recipients would be affected to the extent information obtained from the verification system and from follow-up action would increase State agency effectiveness in identifying and taking appropriate action on applicants and recipients with respect to eligibility status and level of benefits.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (PL 96–511), the collection of information requirements that are included in these final rules have been submitted to the Office of Management and Budget (OMB) for review and approval. A notice will be published in the **Federal Register** when approval is obtained.

Organizations and individuals desiring to submit comments on these collection of information requirements should direct them to the agency officials designated as information contacts earlier in the preamble and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, (Room 3208), Washington, D.C. 20503, Attn: Fay Iudicello (for the AFDC and Medicaid programs) or Marina Gatti (for the Food Stamp Program).

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 603

ADDITIONAL SUPPLEMENTARY INFORMATION:

Federal-State Unemployment Compensation Program

The Employment and Training Administration (ETA) is issuing final regulations to provide for the participation of the State employment security agencies (SESA) in an income and eligibility verification system. DEFRA amended the Social Security Act to require income and eligibility verification exchange among State and local agencies administering various federally-assisted programs including the Federal-State unemployment compensation program. Under prescribed conditions, wage, income and benefit information on individuals will be exchanged among the agencies administering the identified programs. The disclosure and exchange of information is limited to program purposes and must be safeguarded against unauthorized disclosure. Section 2651 of the Deficit Reduction Act of 1984 (Pub. L. 98–369) amended title XI of the Social Security Act by adding section 1137 which established an income and eligibility verification system for the exchange of information among State agencies administering specified programs. The programs are: Aid to Families with Dependent Children (AFDC), Medicaid, Food Stamps, Unemployment Compensation (UC), and any State program under a plan approved under Title I, X, XIV of XVI or the Social Security Act. Programs participating in the income and eligibility verification system are required to share information to assist in the child enforcement support program and to assist the Secretary of Health and Human Services in verifying eligibility amounts under titles II and XVI of the Social Security Act.

Section 2651 of the DEFRA also amended section 303 of Title III of the Social Security Act to require the State agency charged with administering the UC law to participate in the income and eligibility verification system. Section 303 has previously required only that State UC agencies disclose certain specified information to Federal and State Food Stamp agencies, and State and local child support agencies. Section 3304(a)(16) of the Internal Revenue Code of 1954 has required that State UC agencies disclose wage information to AFDC agencies.

Under the new verification system, employers will be required to make quarterly wage reports to a State agency (which may be the State UC agency) except that the requirement may be waived if an alternate system for providing employment-related income and eligibility data is approved by the Secretary of Labor (in consultation with the Secretaries of Health and Human Services and Agriculture).

The wage date will be available for all of the participating programs under the income and eligibility verification system. All agencies will also have access to information on income and earnings of individuals from the Social Security Administration and unearned income from the Internal Revenue Service.

ETA's regulations do not contain specific requirements as to the extent to which information must be utilized in verifying eligibility and benefit amounts. Eligibility and benefit amounts are determined under State rather than Federal, UC laws. The State UC laws have considerable latitude under Federal law in determining the usefulness and effectiveness of various sources of information. In addition, ETA continues to work with State UC agencies on improved methods for ensuring correct and timely payments of benefits.

The Supplementary Information section of the published proposal (50 FR 10450–10455) is hereby incorporated in this preamble by reference.

The final regulations incorporate the substantive changes and improvements to the published proposal. The proposal was published in the **Federal Register** on March 14, 1985. Comments on the proposal published on March 14, 1985, were solicited through April 29, 1985.

The Department received timely written responses to the proposal from 11 State employment security agencies, 11 State Health and Human Resources agencies, 1 County Social Service agency and 1 association for housing authorities. Comments were received from Alaska Department of Health and Social Services (AL–DHSS), Alaska Department of Labor (AL–DOL), Arizona Department of Economic Security (AZ–DES), California Employment Development Department

(CA–EDD), Florida Department of Health and Rehabilitative Services (FL–DHRS), Kentucky Cabinet for Human Resources (KY–CHR), Maine Department of Human Services (ME–DHS), Maryland Department of Human Resources (MD–DHR), Massachusetts Department of Public Welfare (MA–DPW), Minnesota Department of Human Services (MN–DHS), Minnesota Department of Economic Security (MN–DES), Nebraska Department of Social Services (NE–DSS), Nevada Employment Security Department (NV–ESD), Ohio Burea of Employment Services (OH–BES), County of Lucas, Ohio Department of Human Services (CoL–DHS), Association of Oregon Housing Authorities (AOHA), Oregon Employment Division (OR–ED), Pennsylvania Office of Employment Security (PA–OES), Texas Department of Human Resources (TX–DHR), Vermont Department of Social Welfare (VT–DSW), Washington Employment Security Department (WA–ESD), Wisconsin Department of Health and Social Services and Department of Industry, Labor and Human Relations (WI–HHS&DOL) and Wyoming Employment Security Commission (WY–ESC). Many of the comments received addressed the regulations proposed by the Department of Agriculture and Health and Human Services to which the Department of Labor cannot respond. The Department gave careful consideration to all comments and suggested changes received before drafting the final regulations.

Following is a summary of the comments directed specifically to the rules proposed by the Department of Labor and the Department's response in order of Section.

Section 603.2 Definitions

Comments on this section dealt mainly with the meaning of "wage information" and "claim information". Oregon (OR–ED) is concerned that a literal interpretation of the term "employer address", included in "wage information", would preclude the current State practice of using the "address of record" which could be an employer's representative or post office box. This interpretation would require considerable procedural change and expense. The Department did not intend in the proposed rules to require SESAs to change any existing data elements maintained on automated files. However, any changes to data elements and systems required by a requesting agency fall under the requirements in Section 603.6(b)(5) covering reimbursement for costs incurred in providing data.

Ohio (OH–BES) questions the statutory authority for using such a broad definition of "wage information." It questions the need to include the employer's name and address in the definition when the purpose of collecting wage information is to verify eligibility and compute benefits. It is also concerned that if a State changed from a wage request system to a wage record system before September 30, 1988, that the definition of "wage information" would be imposed before the change.

The Department believes that the statutory language requires disclosure of any information maintained by SESAs that is needed by requesting agencies for verifying eligibility and benefit amounts. Therefore, if wage information is available prior to the September 30, 1988 effective date, we believe DEFRA requires it be provided to requesting agencies. Additionally, we believe the collection of information regarding the name and address of the individual's employer is reasonably related to ensuring eligibility and the accuracy of wage information.

Comments were received from California (CA–EDD), Minnesota (MN–DHS), Oregon (OR–ED), Ohio (OH–BES) and Washington (WA–ESD) on subsection (5) of "Claim Information." California, Minnesota and Ohio object to disclosable claim information being defined in terms of what requesting agency needs rather than what is available on an existing data base. These SESAs are concerned that implementation of subsection (5) could lead to disclosing information contrary to existing State laws and agreements and the intended purpose of Pub. L. 98–369 itself. They also point out that most of the substance under the "wage information" and the "claim information" definitions is identical. Ohio also feels that this section is completely without statutory foundation. California feels this provision needs more specificity as to what information can be released. Minnesota feels that the information to be released should be limited. Washington (WA–ESD) indicates that data relating to job refusal is maintained on their system only if the refusal results in a disqualification. This State maintains it is not practical to have the level of detail specified in Section 603.2(c)(4) on their system. We believe that the definitions of wage and claim information are reasonably related to the statutory language which requires agencies to disclose any information that is needed to verify eligibility and benefit amounts. To the extent such disclosures are required for compliance with DEFRA, modification to State law may be necessary.

The Department feels that the word "useful" may be too broad. The language of subsection (c)(5) has been changed from "which the requesting agency determines is useful" to "which is needed by the requesting agency to verify eligibility and benefit amounts." We expect the agreements will detail specific information to be disclosed and that the requesting agency must demonstrate why information is needed as a condition for disclosure. No other changes have been made to this section of the proposed rules.

Section 603.3 Eligibility Conditions for Claimants

Section 603.3 requires claimants to furnish their Social Security Numbers (SSN) as a condition of eligibility for UC. Wisconsin was concerned about the inconsistent use of the term SSN and Social Security *Account* Number (SSAN) among the various Federal agencies. Most of the Wisconsin agencies use SSAN only where benefits are being paid on a social security claim. Although the two terms are synonymous in Federal usage, in order to avoid confusion the Department has used only the term SSN throughout the rules.

If a claimant fails to refuses to provide a SSN the claimant will be ineligible for UC. Subsection (c) provides that an ineligible claimant may become eligible if a SSN is provided and the claim may be backdated to the initial filing date. Two comments dealt with this subsection.

Arizona (AZ–DES) indicates that no backdating of claims is allowed under State regulations and sees no reason to "reward" a claimant who refuses to provide required information. Oregon (OR–ED) does not oppose backdating, but suggests that a time limit be imposed. DEFRA contains no specific requirements regarding backdating. Backdating of claims is an issue now decided under State law. The Department of Labor feels, therefore, that the regulation should permit backdating only to the extent permitted under State law. The language of subsection (c) has been changed from "retroactive to the date of filing an initial claim" to "retroactive to the extent permitted under State law."

Section 603.4 Notification to Claimants

Two comments addressed the DEFRA requirement that the agencies notify applicants, at the time of application and periodically thereafter, that information about them will be exchanged and used to verify income

and eligibility. Wisconsin (WI–HHS&DOL) notes that the term "periodically" will be defined by individual programs and suggested that the Federal Government issue a single statement on the minimum frequency of required notices. It prefers that all of the rules use the food stamp notification in 7 CFR 273.2(b). Oregon (OR–ED) feels it is an undue burden to require notification at the initial claim stage as well as periodically and suggests only one notification.

The language of DEFRA under section 1137(a)(6) requires that applicants be notified "at the time of application, and periodically thereafter, that information available through the system will be requested and utilized." Periodically was defined in a proposed Unemployment Insurance Program Letter (UIPL) published in the **Federal Register** on June 14, 1985. Since no comments were received on this definition, it is being incorporated into these final rules in response to the comments on the proposed rules. The periodic notice requirement will be satisfied with provision of a printed notice on or attached to any subsequent additional claims.

Section 603.5 Disclosure of Information

This rule requires State UC agencies to disclose information to authorized requesting agencies and requires adherence to standardized formats. Oregon (OR–ED) and California (CA–EDD) feel it is unreasonable to require "standardized formats" which had not yet been established, reviewed or commented on. Under section 1137(a)(4) the State agencies must "adhere to standardized formats and procedure established by the Secretary of Health and Human Services (HHS) (in consultation with the Secretary of Agriculture.)" HHS has sponsored pilot tests of standardized formats. These formats will be issued initially as guidelines in order to provide the flexibility to make any needed changes.

Ohio (OH–BES) is concerned that the proposed rules permit disclosure of information beyond the authority granted by Federal and State law. It is particularly concerned about the disclosure of "claim information" as defined in Section 603.2(c)(5). This comment has been addressed in Section 603.2.

California (CA–EDD) is also concerned about having to disclose information simply "deemed by the requesting agency to be useful" and suggests that the rules ensure that no rearrangement of priorities detrimental to the programs providing the data be required. The establishment of priorities is an issue of operation not regulations. This issue has been addressed in section 603.2 and should be worked out as part of the agreements.

Section 603.6 Agreement Between State Unemployment Compensation Agency and Requesting Agency

Maine (ME–DHS) commented that agreements are unnecessary since the statute requires State agencies to exchange information. As indicated in the summary to the general preamble, we disagree. Agreements are needed to protect data and establish appropriate reimbursement and procedures for access and use.

Minnesota (MN–DES) commented that the rule is vague regarding the procedures to follow if the requesting agency is a UI agency or a SWICA. California (CA–EDD) is concerned about the lack of a procedure for resolving disputes arising out of the agreements. It indicates that constant telephone requests for immediate information could not be accommodated. Pennsylvania (PA–DOL) feels that a model agreement would be helpful. These comments are concerned with operational issues and can be addressed in the agreements and with UIPLs. Model agreements are being developed and use of them should help State agencies expedite arrangements for the exchange of data.

Section 603.7 Protection of Confidentiality

This section lists the measures required by the requesting agencies to protect the confidentiality of information received from the State UC agencies against unauthorized disclosure. California (CA–EDD) is concerned about subsection (a). This subsection states that the UC agency shall require the requesting agency to comply with UC's provisions against disclosure. California feels that confidentiality should be the responsibility of the *receiving* agency, and that the furnishing agency's responsibility should terminate upon verification that the requestor is properly authorized to receive the information. The Department disagrees with this suggestion. The information disclosed by the furnishing agency is UC information. Since any violations of disclosure are covered under the State UC law, the ultimate responsibility must lie with the UC agency to protect its own information. One method of protecting this information will be the onsite inspections by the State agency.

Comments by Wisconsin and Oregon are on subsection (a)(6)(ii). Wisconsin feels it unnecessary ot have each employee sign a written acknowledgment in light of existing Federal and State penalties for disclosure of UI information. Each State should devise its own methods. Oregon suggests this provision be struck as it is "massive overkill" to require *all* employees who *might* access information to sign a written acknowledgment. This State recommends that the agency Administrator be required to sign an acknowledgment on behalf of the entire agency attesting to agency's policies and procedures regarding confidentiality. The Department agrees with these suggestions. The final regulations are modified to incorporate Oregon's suggestions that the Administrator be required to sign an acknowledgment on behalf to the entire agency.

Ohio feels that subsection (b) is contrary to its State law and oversteps the rulemaking authority allowed by the Federal statute. It also points out that no disclosure restrictions are placed upon individuals, requesting agencies, attorneys, prosecuting authorities or authorized agents who receive information from a requesting agency. Under section 603.7(b)(5) redisclosures by a requesting agency are permitted only if "provision for such redisclosure is contained in the agreement between the requesting agency and the State UC agency." Restrictions on redisclosure by third parties can and should be incorporated into these agreements. Therefore, no changes are made in the final regulations.

Texas (TX–DHS) feels that additional language should be added to subsection(c) specifying that "onsite inspections should be required and approved in advance." In regard to Federal inspection, since this is State data, it is most appropriate for State officials to be responsible for any inspections. Accordingly, the final rule has been revised to provide for onsite inspection by State officials only.

Section 603.8 Obtaining Information from Other Agencies and Crossmatching with Wage Information

Three States commented on this section. California is concerned that the language in subsection (a) conflicts with the exemption language in the preamble. This subsection could be interpreted as requiring verification of SSN status of *all* UI claimants through the Social Security Administration, which would be unnecessarily costly and burdensome. It is recommended that the language reflect that of the preamble or at the least that the term "shall" be changed to "may". Massachusetts feels

that an additional match with the Social Security Administration for wage information is redundant.

Oregon addressed subsections (b) and (c). It urges that subsection (b) be clarified to indicate that States, and not the DOL, determine what information is likely to be productive in identifying ineligibility for benefits and preventing incorrect payments. Oregon interprets the rule this way, but feels it should be clarified. Although it agrees with subsection (c) that any amplifications must be published in the Federal Register, it feels the language was too broad and vague.

The Department feels this section follows the statutory language and does not go beyond it. Therefore, no change is proposed in the final regulations.

Section 603.9 Effective Date

Six States commented on the effective date. Oregon and Florida indicated that the April 1, 1985 effective date is unrealistic in view of each State's need to develop automated systems. Arizona suggests that waiver requests should be considered on an individual basis and extended beyond the September 30, 1986 deadline. This extension should be without sanction and under a mutually agreed upon plan of action. Texas points out that at least five publications relating to the operations of SIEVS are currently unavailable to State agencies. Oregon points out that since the rules were published in the Federal Register on March 14, 1985, there is inadequate time to respond, let alone implement the program. Florida suggests that the September 30, 1986 implementation date is overly optimistic since some agencies, particularly the IRS, have not yet developed the technical requirements for obtaining information from their files.

Comments concerning the short time frame for implementation and the delay in issuing proposed rules are valid. The effective date for implementation, however, is statutory and out of the control of the various Departments involved. The Department recognizes that States may not be able to fully implement the requirements within the 90-day period following publication of these final rules. The Department expects the State UC agencies to request a waiver of those requirements which cannot be met by submitting a plan describing their effort to comply with the requirements of Section 1137 (a) and (b) which includes a time table and appropriate supporting justification.

Section 603.21 Alternative System

This section allows the Secretary of Labor to waive the requirement of quarterly wage reporting by employers if a State has in effect an alternative system which is as effective and timely for providing income and eligibility data. Wisconsin has requested the criteria that will be used by the Secretary of Labor to judge the effectiveness and timeliness of an alternative system as a guide for the states in developing alternative systems. The Department needs to consult with the other federal agencies as to what types of alternative systems are viable. If any alternative system is considered viable, the criteria for it will be published in the Federal Register within 90 days of the date of these final regulations.

Drafting Information

This document was prepared under the direction and control of the Director of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, NW., Washington, DC 20213; telephone (202) 376-6636 (this is not a toll free number).

Classification—Executive Order 12291

The final rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the paperwork requirements that are included in this regulation have been approved by the Office of Management and Budet (OMB) and have been assigned OMB control number 1205-0238.

Trade Sensitive Activity

The Department believes that the final rule in this document does *not* involve trade sensitive activities. This determination is predicated upon the fact that this rule only implements amendments to an individual entitlement program and will only affect individuals applying for benefits under unemployment compensation programs. Consequently, this proposed rule does not fall within the scope of the Office of Management and Budget's definition of a trade sensitive activity.

Regulatory Flexibility Act

The Department believes that this final rule will have no "significant economic impact on a substantial number of small entities" within the meaning of 5 U.S.C. 605(b). This rule implements an income and eligibility verification system and has no economic impact on any small entities. The Secretary of Labor has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

Regulatory Flexibility Act Certification

I, William E. Brock, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b) that the final regulations published hereinafter (20 CFR Part 603, Income and Eligibility Verification System Final Rule) will not, if promulgated, have a significant economic impact on a substantial number of small entities.

Dated: February 18, 1986.

William E. Brock.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273 and 275

[Amdt. No. 264]

Food Stamp Program; Deficit Reduction Act

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs-social programs.

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs-social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

7 CFR Part 275

Administrative practice and procedure, Food stamps, Reporting and recordkeeping requirements.

Therefore, 7 CFR Parts 271, 272, 273, and 275 are amended as follows:

1. a. The authority citation for Parts 271, 273 and 275 continues to read as follows:

Authority: 91 Stat. 958 (U.S.C. 2011–2027).

b. The authority citation of Part 272 continues to read as follows:

Authority: 91 Stat. 958 (U.S.C. 2011–2029).

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2, the definitions of "State Income and Eligibility Verification System" (IEVS) and "State Wage Information Collection Agency" (SWICA) are added in alphabetical order to read as follows:

§ 271.2 Definitions.

* * * * *

State Income and Eligibility Verification System (IEVS)—means a system of information acquisition and exchange for purposes of income and eligibility verification which meets the requirements of Section 1137 of the Social Security Act, generally referred to as the IEVS.

State Wage Information Collection Agency (SWICA)—means the State agency administering the State unemployment compensation law, another agency administering a quarterly wage reporting system, or a State agency administering an alternative system which has been determined by the Secretary of Labor, in consultation with the Secretary of Agriculture and the Secretary of Health and Human Services, to be as effective and timely in providing employment related income and eligibility data as the two just mentioned agencies.

* * * * *

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

3. In § 272.1, paragraph (c)(1) is revised, paragraph (c)(2) is redesignated as paragraph (c)(3), a new paragraph (c)(2) is added, and paragraph (g) is amended to add a new paragraph (70) in numerical order. The revision and additions read as follows:

§ 272.1 General terms and conditions.

* * * * *

(c) *Disclosure.* (1) Use or disclosure of information obtained from food stamp applicant or recipient households shall be restricted to:

(i) Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, other Federal assistance programs, federally-assisted State programs providing assistance on a means-tested basis to low income individuals, or general assistance programs which are subject to the joint processing requirements in § 273.2(j)(2).

(ii) Persons directly connected with the administration or enforcement of the programs which are required to participate in the State income and eligibility verification system (IEVS) as specified in § 272.8(a)(2), to the extent the food stamp information is useful in establishing or verifying eligibility or benefit amounts under those programs;

(iii) Persons directly connected with the administration of the Child Support Program under Part D, Title IV of the Social Security Act in order to assist in the administration of that program, and employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or benefits under Titles II and XVI of the Social Security Act;

(iv) Employees of the Comptroller General's Office of the United States for audit examination authorized by any other provison of law; and

(v) Local, State, or Federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulation. The written request shall include the identity of the individual requesting the information and his authority to do so, violation being investigated, and the identity of the person on whom the information is requested.

(2) Recipients of information released under paragraph (c)(1) of this section must adequately protect the information against unauthorized disclosure to persons or for purposes not specified in this section. In addition, information received through the IEVS must be protected from unauthorized disclosure as required by regulations established by the information provider. Information released to the State agency pursuant to section 6103(l) of the Internal Revenue Code of 1954 shall be subject to the safeguards established by the Secretary of the Treasury in section 6103(l) of the Internal Revenue Code and implemented by the Internal Revenue Service in its publication, *Tax Information and Security Guidelines.*

* * * * *

(g) *Implementation.* * * *

(70) *Amendment 264.* These rules are affective on May 29, 1986. No later than that date State agencies are required to submit the attachment to their State Plan of Operation specified. In § 272.2 and in § 272.8(i), documenting either full implementation of these rules or good faith efforts to implement them. The documentation of full implementation or of good faith efforts shall show either that the State agency is routinely requesting and using, or shall show the dates when it will begin routinely to request the use, information from the various data sources specified in § 272.8(a) according to the frequencies for requests, timeframes and other requirements of § 272.8(e), (f) and (g). Full implementation shall include requests for available information from the Social Security Administration for all recipients for which such information has not been previously requested. The 30-day timeframe specified in § 272.8(g) is effective for applicant households which become recipients as discussed in § 272.8(e)(1) as soon as a State agency begin receiving information from particular data sources.

(i) A Plan describing good faith efforts shall at a minimum document that the State agency is currently in compliance with wage match criteria as specified in the final rulemaking of November 5, 1982 (47 FR 50180), assure that such compliance will continue at current levels until such time as these provisions are implemented, and provide an implementation schedule that reflects full compliance in the minimum amount of additional time. Requests for delays of implementation beyond (insert date 90 days after publication) shall identify the applicable regulation part, the date for implementation, justification for the delay, and the implementation plan.

(ii) The Secretary shall consult with the Secretary of the Department of Health and Human Services and with the Secretary of the Department of Labor prior to the approval of Plans of Operation documenting good faith efforts. In no event shall the Secretary approve a delay of the provisions of individual notification in § 273.2(f)(9) beyond the initial implementation date of any of these new provisions.

(iii) Implementation schedules beyond September 30, 1986 are not approvable, with the following exception: If on April 1, 1985 no SWICA exists in a particular State, the provisions of the rule as they relate to SWICAs shall be effective upon the designation of a SWICA. Implementation of a SWICA after April 1, 1985 shall take place as soon thereafter as possible but in no event later than September 30, 1988. All SWICAs with delayed implementation shall be in operation so that wage information is reported to them starting with the month of October 1988.

4. In § 272.2, the seventh sentence of paragraph (a)(2) is revised, and a new

paragraph (d)(1)(iv) is added. The revision and addition read as follows:

§ 272.2 Plan of operation.

(a) *General purpose and content.* * * *

(2) * * * The Plan's attachments include the Quality Control Sample Plan, the Disaster Plan (currently reserved), the optional Nutrition Education Plan, and the plan for the State Income and Eligibility Verification System. * * *

* * * * *

(d) *Planning documents.*

(1) * * *

(iv) A plan for the State Income and Eligibility Verification System required by § 272.8.

* * * * *

5. A new section, § 272.8, is added to read as follows:

§ 272.8 State income and Eligibility Verification System.

(a) *General.* (1) State agencies shall maintain and use an income and eligibility verification system (IEVS), as specified in this section. By means of the IEVS, State agencies shall request wage and benefit information from the agencies identified in this paragraph and use that information in verifying eligibility for and the amount of food stamp benefits due to eligible households. Such information shall be requested and used with respect to all household members, including any considered excluded household members as specified in § 273.11(c) whenever the SSNs of such excluded household members are available to the State agency. If not otherwise documented, State agencies shall obtain written agreements from these information provider agencies that they shall not record any information about individual food stamp households and that staff in those agencies are subject to the disclosure restrictions of § 272.1(c). The wage and benefit information and agencies are:

(i) Wage information maintained by the State Wage Information Collection Agency (SWICA);

(ii) Information about net earnings from self-employment, wages, and payments of retirement income maintained by the Social Security Administration (SSA) and available pursuant to section 6103(1)(7)(A) of the Internal Revenue Service (IRS) Code; and Federal retirement, and survivors, disability, SSI and related benefit information available from SSA;

(iii) Unearned income information from the IRS available pursuant to Section 6103(1)(7)(B) of the IRS Code; and

(iv) Claim information from the agency administering Unemployment Insurance Benefits (UIB) and any information in additon to information about wages and UIB available from the agency which is useful for verifying eligibility and benefits, subject to the provisions and limitations of section 303(d) of the Social Security Act.

(2) State agencies shall exchange with State agencies administering certain other programs in the IEVS information about stamp households' circumstances which may be of use in establishing or verifying eligibility or benefit amounts under the Food Stamp Program and those programs. State agencies may exchange such information with these agencies in other States when they determine that the same objectives are likely to be met. These programs are:

(i) The Aid to Families with Dependent Children (AFDC);

(ii) Medicaid;

(iii) Unemployment Compensation (UC);

(iv) Food Stamps; and

(v) Any State program administered under a plan approved under Title I, X, or XIV (the adult categories), or Title XVI of the Social Security Act.

(3) State agencies shall provide information to people administering the Child Support Program (Title IV-D of the Social Security Act) and Titles II (Federal Old Age, Survivors, and Disability Insurance Benefits) and XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act.

(4) *Agreements.* (i) Prior to requesting or exchanging information with other agencies, State agencies shall execute data exchange agreements with those agencies. The agreements shall specify the information to be exchanged and the procedures which will be used in the exchange of information. These agreements shall be part of the State agency's Plan of Operation, as required by paragraph (i) of this section. These agreements shall cover at least the following areas:

(A) Identification of positions of all agency officials with authority to request wage information;

(B) Methods and timing of the requests for any types of information, including the formats to be used;

(C) The safeguards limiting release or redisclosure as required by Federal or State law or regulation as discussed in § 272.1(c) and as may be required by other guidelines published by the Secretary; and

(D) Reimbursement agreements, as appropriate, including new developmental costs associated with the furnishing of data.

(ii) Agreements with SWICA's and agencies providing UIB data shall specify State agency access no less frequently than twice a month for applicants.

(5) *Uses of data.* The State agency shall use information obtained by means of the IEVS for the purposes of:

(i) Verifying a household's eligibility;

(ii) Verifying the proper amount of benefits;

(iii) Investigating to determine whether participating households received benefits to which they were not entitled; and

(iv) Obtaining information which will be used in conducting criminal or civil prosecutions based on receipt of food stamp benefits to which participating households were not entitled.

(b) *State Wage Information.* The wage information maintained by a SWICA which is not a UC agency or which is a UC agency but does not use wage data for determining UIB shall:

(1) Contain the Social Security Number (SSN), the last name, wages earned for the period of the report for each employee, and an identifier of the employer such as name and address;

(2) Include all employers covered by the State's UC law;

(3) Be accumulated by employers for no longer periods than calendar quarters and be reported by employers to the SWICA within 30 days of the end of each quarter;

(4) Be machine readable; and

(5) Be accessible to agencies in other States which have executed agreements as required in paragraph (a)(4) of this section and to the Social Security Administration as specified in paragraph (a)(3) of this section for verifying eligibility and benefits under Tities II and XVI of the Social Security Act.

(c) *Alternate data sources.* The Secretary may, upon a State agency's application which is included in the attachment to the Plan of Operation specified in paragraph (i) of this section, permit a State agency to request and use income information from an alternate source or sources in order to meet any requirement of paragraph (a) of this section. The application shall document that the alternate source or sources provides accurate and timely information that is as useful for verifying eligibility and benefit amounts. State agencies shall comply with the requirements specified in paragraph (a) of this section unless this application for an alternate source has been approved. The Secretary shall consult with the Secretary of the Department of Health and Human Services and with the

Secretary of the Department of Labor prior to approval of any alternate data source.

(d) *Form of data requests and exchanges.* Requests for wage and benefit information and exchanges of eligibility and benefit information with the programs specified in paragraph (a) of this section shall be in the standardized formats established by the Secretary of Health and Human Services (in consultation with the Secretary) and required by the Secretary for SWICA, UC and other States, and in the formats prescribed by the Commissioners of SSA and IRS for SSA and IRS requests.

(e) *Requesting and using information for applicants.* State agencies shall request and use information about members of all applicant households as specified below.

(1) Information shall be requested at the next available opportunity after the date of application even if the applicant household has been determined eligible by that time. Information about members of applicant households who cannot provide SSNs at application shall be requested at the next available opportunity after the State agency is notified of their SSN's. Information received within the 30-day application period shall be used to determine household eligibility and benefits, if the information is received timely enough that it can be used for that determination. However, State agencies shall make eligibility and benefit determinations without waiting for receipt of IEVS data so as to comply with the promptness standard of § 273.2(g). Information received from a source after an eligibility determination has been made shall be used as specified in paragraphs (f) and (g) of this section.

(2) Information from the SWICA, from SSA and IRS, and claim information from the agency administering UIB shall be requested and used as specified in paragraph (e)(1) of this section. Requests to SWICAs shall access the most recent SWICA data available. Requests to SSA and IRS shall be submitted according to procedures specified by the respective Commissioners of those organizations.

(3) Any information other than wage and UIB which UC agencies may have and which State agencies determine would be useful in verifying eligibility or benefits of applicant households shall be requested by methods and at intervals to which State agencies and UC agencies agree and shall be used as specified in paragraph (e)(1) of this section; and

(4) Exchanges of information about applicant households with other programs specified in paragraph (a) of this section shall be made as the State agency and other programs may agree.

(f) *Requesting and using information for recipients.* With respect to all members of recipient households, State agencies shall:

(1) Request information from the SWICA quarterly, such requests including all households which participated in any month of the quarter;

(2) Request information about household members from SSA data bases no later than the second month of the certification period, when requests at application did not establish automatic reporting to the State agency of changes in SSA data. Requests shall be submitted according to procedures specified by the Commissioner of SSA;

(3) Request information from IRS annually for all current recipients. Requests shall be submitted to IRS according to procedures specified by the Commissioner of IRS;

(4) Exchange information with other programs specified in paragraph (a) of this section as the State agency and these other programs may agree;

(5) Request information about Unemployment Insurance Benefits (UIB) from the agency administering that program as follows:

(i) For all household members about whom requests at application indicate no receipt of UIB, information shall be requested for the three months subsequent to the month of application or until the receipt of UIB is reported, whichever is earlier;

(ii) For all household members who report a loss of employment, information shall be requested for the three months subsequent to the month the loss is reported or until the receipt of UIB is reported, whichever is earlier; and

(iii) For all household members receiving UIB, information shall be requested monthly until UIB are exhausted; and

(6) Request from UC agencies any information other than UIB information which State agencies determine would be useful in verifying eligibility or benefits of recipient households. Requests shall be made by methods and at intervals to which the State agencies and the UC agencies agree.

(g) *Actions on recipient households.* (1) Except as specified in paragraph (g)(2) of this section, State agencies shall initiate and pursue action on information about recipient households which is received from the sources specified in paragraph (f) of this section so that case action is complete within 30 days of receipt of that information. Case action shall include:

(i) Review of the information and comparison of it to case record information;

(ii) For all new or previously unverified information received, contact with the households and/or collateral contacts to resolve discrepancies as specified in §§ 273.2(f)(4)(iv) and 273.2(f)(9) (iii) and (iv); and

(iii) If discrepancies warrant reducing benefits or termination eligibility, notices of adverse action. Such adverse action would be effective according to § 273.12(c)(2) or the retrospective budgeting provisions at § 273.21.

(2) State agencies may complete the actions specified in paragraph (g)(1) of this section after the 30-day period specified therein on no more than 20 percent of the information items received from the data sources specified in paragraph (f) of this section if:

(i) The only reason that the actions cannot be completed is the nonreceipt of requested verification from collateral contacts; and

(ii) The actions are completed as specified in § 273.12 when verification from a collateral contact is received or in conjunction with the next case action when such verification is not received, whichever is earlier.

(3) When the actions specified in paragraphs (g) (1) or (2) of this section substantiate an overissuance, State agencies shall establish and take actions on claims as specified in § 273.18.

(4) State agencies shall use appropriate procedures to monitor the timeliness requirements in paragraphs (g) (1) and (2) of this section.

(h) *IEVS information and quality control.* The requirements of this section do not relieve the State agency of its responsibility for determining erroneous payments and/or its liability for such payments as specified in section 275 of this Part (which pertains to quality control) and in guidelines on quality control established under that section.

(i) *Plan of operations.* The requirements for the IEVS specified in this section shall be included in an attachment to the State agency's Plan of Operations as required in § 272.2(d). This document shall include a description of procedures used, and agreements with the other agencies and programs specified in paragraph (a) of this section, including steps taken to meet requirements of limiting disclosure and safeguarding of information obtained from food stamp households and third parties as specified in § 272.1. This document shall also include any of the material concerning alternate data sources as specified in paragraph (c) of this section.

(j) *Reports and documentation.* (1) The agency shall report as the Secretary prescribes for determining compliance with these regulations and evaluating the effectiveness of the income and eligibility verification system.

(2) The State agency shall document as required by § 273.2(f)(6) its use of information obtained through the IEVS both when an adverse action is and is not initiated.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

6. In § 273.2, paragraph (b) is amended by the addition of a sentence at the end; paragraph (f)(1)(v) is revised; paragraph (f)(4)(ii) is amended by removing everything after the fourth sentence; paragraph (f)(4)(iv) is revised; paragraph (f)(9) is revised; and the sixth sentence of paragraph (f)(4)(i)(B) is revised. The amendments and revisions read as follows:

§ 273.2 Application processing.

* * * * *

(b) *Food stamp application form.* * * * All applicants for food stamp benefits shall be notified at the time of application and at each recertification through a written statement on or provided with the application form that information available through the State income and eligibility verification system (IEVS) will be requested, used, and may be verified through collateral contact when discrepancies are found by the State agency, and that such information may affect the household's eligibility and level of benefits.

* * * * *

(f) *Verification.* * * *

(1) *Mandatory verification.* * * *

(v) *Social Security Numbers.* The State agency shall verify the Social Security Number(s) (SSN) reported by the household by submitting them to the Social Security Administration (SSA) for verification according to procedures established by SSA. The State agency shall not delay the certification for or issuance of benefits to an otherwise eligible household solely to verify the SSN of a household member. Once an SSN has been verified, the State agency shall make a permanent annotation to its file to prevent the unnecessary reverification of the SSN in the future. The State agency shall accept as verified an SSN which has been verified by another program participating in the IEVS described in § 272.8. If an individual is unable to provide an SSN or does not have an SSN, the State agency shall require the individual to submit Form SS–5, Application for a Social Security Number, to the SSA in accordance with procedures in § 273.6.

* * * * *

(4) *Sources of verification.* * * *

(iv) *Discrepancies.* Where unverified information from a source other than the household contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to a determination of eligibility or benefits. The State agency may, if it chooses, verify the information directly and contact the household only if such direct verification efforts are unsuccessful. If the unverified information is received through the IEVS, as specified in § 272.8, the State agency may obtain verification from a third party as specified in paragraph (f)(9)(v) of this section.

* * * * *

(9) Use of IEVS.

(i) The State agency shall use information obtained through the IEVS to verify the eligibility and benefit level of applicant and participating households, in accordance with procedures specified in § 272.8.

(ii) The State agency may access data through the IEVS provided the disclosure safeguards and data exchange agreements required by Part 272 are satisfied.

(iii) The State agency shall take action, including proper notices to households, to terminate, deny, or reduce benefits based on information obtain through the IEVS which is considered verified upon receipt. This information is social security and SSI benefit information obtained from SSA, and AFDC benefit information and UIB information obtained from the agencies administering those programs. If the State agency has information that the IEVS-obtained information about a particular household is questionable, this information shall be considered unverified upon receipt and the State agency shall take action as specified in paragraph (f)(9)(iv) of this section.

(iv) Except as noted in this paragraph, prior to taking action to terminate, deny, or reduce benefits based on information obtained through the IEVS which is considered unverified upon receipt, State agencies shall independently verify the information. Such unverified information is unearned income information from IRS, wage information from SSA and SWICAs, and questionable IEVS information discussed in paragraph (f)(9)(iii) of this section. Independent verification shall include verification of the amount of the asset or income involved, whether the household actually has or had access to such asset or income such that it would be countable income or resources for food stamp purposes, and the period during which such access occurred. Except with respect to unearned income information from IRS, if a State agency has information which indicates that independent verification is not needed, such verification is not required.

(v) The State agency shall obtain independent verification of unverified information obtained from IEVS by means of contacting the household and/or the appropriate income, resource or benefit source. If the State agency chooses to contact the household, it must do so in writing, informing the household of the information which it has received, and requesting that the household respond within 10 days. If the household fails to respond in a timely manner, the State agency shall send it a notice of adverse action as specified in § 273.13. The State agency may contact the appropriate source by the means best suited to the situation. When the household or appropriate source provides the independent verification, the State agency shall properly notify the household of the action it intends to take and provide the household with an opportunity to request a fair hearing prior to any adverse action.

* * * * *

(i) *Expedited Service.* * * *

(4) *Special procedures for expediting service.* * * *

(i) * * *

(B) * * * Those household members unable to provide the required SSN's or who do not have one prior to the first full month of participation shall be allowed to continue to participate only if they satisfy the good cause requirements with respect to SSN's specified in § 273.6(d). * * *

* * * * *

7. Section 273.6 is revised in its entirety to read as follows:

§ 273.6 Social security numbers.

(a) *Requirements for participation.* The State agency shall require that a household participating or applying for participation in the Food Stamp Program provide the State agency with the social security number (SSN) of each household member or apply for one before certification. If individuals have more than one number, all numbers shall be required. The State agency shall explain to applicants and participants that refusal or failure without good cause to provide an SSN will result in disqualification of the individual for whom an SSN is not obtained.

(b) *Obtaining SSNs for food stamp household members.* (1) For those individuals who provide SSNs prior to

certification, recertification or at any office contact, the State agency shall record the SSN and verify it in accordance with § 273.2(f)(1)(v).

(2) For those individuals who do not have an SSN, the State agency shall:

(i) If an enumeration agreement with SSA exists, complete the application for an SSN, Form SS–5. To complete Form SS–5, the State agency must document the verification of identity, age, and citizenship or alien status as required by SSA and forward the SS–5 to SSA.

(ii) If no enumeration agreement exists, an individual must apply at the SSA, and the State agency shall arrange with SSA to be notified directly of the SSN when it is issued. The State agency shall inform the household where to apply and what information will be needed, including any which may be needed for SSA to notify the State agency of the SSN. The State agency shall advise the household member that proof of application from SSA will be required prior to certification. SSA normally uses the Receipt of Application for a Social Security Number, Form SSA–5028, as evidence that an individual has applied for an SSN. State agencies may also use their own documents for this purpose.

(3) The State agency shall follow the procedures described in paragraphs (b)(2) (i) and (ii) of this section for individuals who do not know if they have an SSN, or are unable to find their SSN.

(c) *Failure to comply.* If the State agency determines that a household member has refused or failed without good cause to provide or apply for an SSN, then that individual shall be ineligible to participate in the Food Stamp Program. The disqualification applies to the individual for whom the SSN is not provided and not to the entire household. The earned or unearned income and resources of an individual disqualified from the household for failure to comply with this requirement shall be counted as household income and resources to the extent specified in § 273.11(c) of these regulations.

(d) *Determining good cause.* In determining if good cause exists for failure to comply with the requirement to apply for or provide the State agency with an SSN, the State agency shall consider information from the household member, SSA and the State agency (especially if the State agency was designated to send the SS–5 to SSA and either did not process the SS–5 or did not process it in a timely manner). Documentary evidence or collateral information that the household member has applied for an SSN or made every effort to supply SSA with the necessary information to complete an application for an SSN shall be considered good cause for not complying timely with this requirement. Good cause does not include delays due to illness, lack of transportation or temporary absences, because SSA makes provisions for mail-in applications in lieu of applying in person. If the household member can show good cause why an application for a SSN has not been completed in a timely manner, that person shall be allowed to participate for one month in addition to the month of application. If the household member applying for an SSN has been unable to obtain the documents required by SSN, the State agency caseworker should make every effort to assist the individual in obtaining these documents. Good cause for failure to apply must be shown monthly in order for such a household member to continue to participate. Once an application has been filed, the State agency shall permit the member to continue to participate pending notification of the State agency of the household member's SSN.

(e) *Ending disqualification.* The household member(s) disqualified may become eligible upon providing the State agency with an SSN.

(f) *Use of SSNs.* The State agency is authorized to use SSNs in the administration of the Food Stamp Program. To the extent determined necessary by the Secretary and the Secretary of Health and Human Services, State agencies shall have access to information regarding individual Food Stamp Program applicants and participants who receive benefits under Title XVI of the Social Security Act to determine such a household's eligibility to receive assistance and the amount of assistance, or to verify information related to the benefit of these households. State agencies shall use the State Data Exchange (SDX) to the maximum extent possible. The State agency should also use the SSNs to prevent duplicate participation, to facilitate mass changes in Federal benefits as described in § 273.12(e)(3) and to determine the accuracy and/or reliability of information given by households. In particular, SSNs shall be used by the State agency to request and exchange information on individuals through the IEVS as specified in § 272.8.

(g) *Entry of SSNs into automated data bases.* State agencies with automated food stamp data bases containing household information shall enter all SSNs obtained in accordance with § 273.6(a) into these files.

PART 275—PERFORMANCE REPORTING SYSTEM

8. In § 275.12, paragraph (c) introductory text is amended by the addition of a sentence following the first sentence. The new sentence reads as follows:

§ 275.12 Review of active cases.

* * * * *

(c) *Field investigation.* * * * A full field investigation shall include a review of any information pertinent to a particular case which is available through the State Income and Eligibility Verification System (IEVS) as specified in § 272.8. * * *

* * * * *

Dated: January 30, 1986.

Robert E. Leard,

Administrator, Food and Nutrition Service.

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 603

List of Subjects in 29 CFR Part 603

Unemployment-compensation, Labor.

For the reasons set forth in the preamble, a new Part 603 is added to Chapter V of Title 20 of the Code of Federal Regulations as set out below.

Signed at Washington, D.C., on February 18, 1986.

William E. Brock,

Secretary of Labor.

PART 603—INCOME AND ELIGIBILITY VERIFICATION SYSTEM

Sec.

603.1 Purpose.

Subpart A—Income and Eligibility Verification System

603.2 Definitions.
603.3 Eligibility condition for claimants.
603.4 Notification to claimants.
603.5 Disclosure of information.
603.6 Agreement between State unemployment compensation agency and requesting agency.
603.7 Protection of confidentiality.
603.8 Obtaining information from other agencies and crossmatching with wage information.
603.9 Effective date of rule.

Subpart B—Quarterly Wage Reporting

603.20 Effective date of rule.
603.21 Alternative system.

Authority: Sec. 1102, Social Security Act, ch. 531, 49 Stat. 647, as amended (42 U.S.C 1302); Reorganization Plan No. 2 of 1949, 63 Stat. 1065, 14 FR 5225.

§ 603.1 Purpose.

(a) Section 2651 of Pub. L. 98–369 (the Deficit Reduction Act of 1984) amended title XI of the Social Security Act to include a requirement that States have an income and eligibility verification system in effect which would be used in verifying eligibility for, and the amount of, benefits available under several Federally assisted programs including the Federal-State unemployment compensation program. The Act requires that employers in each State make quarterly wage reports to a State agency, which may be the State unemployment compensation agency, and that wage information and benefit information obtained from other agencies be used in verifying eligibility for benefits. The requirement of quarterly wage reporting may be waived if the Secretary of Labor (in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture) determines the State has in effect an alternative system which is as effective and timely as quarterly wage reporting for the purposes of providing employment related income and eligibility data.

(b) Section 2651(d) of Pub. L. 98–396 added a new section 303(f) of the Social Security Act (42 U.S.C. 503(f)), to provide that the agency charged with the administration of the State unemployment compensation law shall provide that information shall be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of Section 1137 of the Social Security Act, as added by Pub. L. 98–369. The regulations in this Part are issued to implement this requirement.

Subpart A—Income and Eligibility Verification System

§ 603.2 Definitions.

For the purposes of this Part:

(a) "State unemployment compensation agency" means the agency charged with the administration of the unemployment compensation law approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954 (26 U.S.C. 3304).

(b) "Wage information" means information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or numbers, if more than one) and quarterly wages of an employee, and the name, address, State, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law, except that in a State in which wages are not required to be reported under the unemployment compensation law, "wage information" means:

(1) That wage information which is reported under provisions of State law which fulfill the requirements of section 1137 of the Social Security Act; or

(2) That information which is obtained through an alternative system which fulfills the requirements of section 1137 of the Social Security Act.

(c) "Claim information" means information regarding:

(1) Whether an individual is receiving, has received or has applied for unemployment compensation;

(2) The amount of compensation the individual is receiving or is entitled to receive;

(3) The individual's current (or most recent) home address; and

(4) Whether the individual has refused an offer of work and, if so, a description of the job offered including the terms, conditions, and rate of pay.

(5) Any other information contained in the records of the State unemployment compensation agency which is needed by the requesting agency to verify eligiblity for, and the amount of, benefits.

(d) "Requesting agency" means:

(1) Any State or local agency charged with the responsibility of enforcing the provisions of the Aid to Families with Dependent Children program under a State plan approved under part A of title IV of the Social Security Act;

(2) Any State or local agency charged with the responsibility of enforcing the provisions of the Medicaid program under a State plan approved under title XIX of the Social Security Act;

(3) Any State or local agency charged with the responsibility of enforcing the provisions of the Food Stamp program under the Food Stamp Act of 1977;

(4) Any State or local agency charged with the responsibility of enforcing a program under a plan approved under title I, X, XIV, or XVI of the Social Security Act;

(5) Any State or local child support enforcement agency charged with the responsibility of enforcing child support obligations under a plan approved under part D of title IV of the Social Security Act; and

(6) The Secretary of Health and Human Services in establishing or verifying eligibility or benefit amounts under titles II and XVI of the Social Security Act (Sec. 1137(a)).

§ 603.3 Eligibility condition for claimants.

(a) The State unemployment compensation agency shall require, as a condition of eligibility for unemployment benefits, that each claimant for benefits furnish to the agency his/her social security number (or numbers if he/she has more than one such number), and the agency shall utilize such numbers in the administration of the unemployment compensation program so as to associate the agency's records pertaining to each claimant with the claimant's social security number(s).

(b) If the State agency determines that a claimant has refused or failed to provide a Social Security Number, then that individual shall be ineligible to participate in the unemployment compensation program.

(c) Any claimant held ineligible for not supplying a social security number may become eligible upon providing the State agency with such number retroactive to the extent permitted under State law. (Sec. 1137(a)(1)).

§ 603.4 Notification to claimants.

Claimants shall be notified at the time of filing an initial claim for benefits through a written statement on or provided with the initial claim form and periodically thereafter that information available through the income and eligibility verification system will be requested and utilized by requesting agencies as defined in section 603.2(d) (Sec. 1137(a)(6)) Provisions of a printed notice on or attached to any subsequent additional claims will satisfy the requirement for periodic notice thereafter.

§ 603.5 Disclosure of information.

The State unemployment compensation agency will disclose to authorized requesting agencies, as defined in section 603.2(d), which have entered into an agreement in accordance with this Part, wage and claim information as defined herein contained in the records of such State agency as is deemed by the requesting agency to be needed in verifying eligibility for, and the amount of, benefits. Standardized formats established by the Secretary of Health and Human Services (in consultation with the Secretary of Agriculture) will be adhered to by the State unemployment compensation agency. (Sec. 1137(a)(4)).

§ 603.6 Agreement between State unemployment compensation agency and requesting agency.

(a) The State unemployment compensation agency will enter into specific written agreements with any requesting agency as defined in this Part.

(b) The agreements will include, but need not be limited, to the following:

(1) The purposes for which requests will be made and the specific information needed;

(2) Identification of all agency officials, by position, with authority to request information;

(3) Methods and timing of the requests for information, including the format to be used, and the period of time needed to furnish the requested information;

(4) Basis for establishing the reporting periods for which information will be provided;

(5) Provisions for determining appropriate reimbursement from the requesting agency for the costs incurred in providing data, including any new developmental costs associated with furnishing data to the requesting agency and calculated in accordance with the provisions of OMB Circular A–87;

(6) Safeguards to ensure that information obtained from the State unemployment compensation agency will be protected against unauthorized access or disclosure. At a minimum, such procedures will comply with the requirements of section 603.7.

(c) The requirements in paragraph (a) and (b) of this section shall also apply to requesting agencies receiving information from a State unemployment compensation agency in another State and shall be administered by the State unemployment compensation agency disclosing the information (sec. 1137(a)(4) and (a)(7)).

§ 603.7 Protection of confidentiality.

(a) State unemployment compensation agencies shall require requesting agencies receiving information under this Part to comply with the following measures to protect the confidentiality of the information against unauthorized access or disclosure:

(1) The information shall be used only to the extent necessary to assist in the valid administrative needs of the program receiving such information and shall be disclosed only for these purposes as defined in this agreement;

(2) The requesting agency shall not use the information for any purposes not specifically authorized under an agreement that meets the requirements of section 603.6;

(3) The information shall be stored in a place physically secure from access by unauthorized persons;

(4) Information in electronic format, such as magnetic tapes or discs, shall be stored and processed in such a way that unauthorized persons cannot retrieve the information by means of computer, remote terminal or other means;

(5) Precautions shall be taken to ensure that only authorized personnel are given access to on-line files;

(6)(i) The requesting agency shall instruct all personnel with access to the information regarding the confidential nature of the information, the requirements of this Part, and the sanctions specified in State unemployment compensation laws against unauthorized disclosure of information covered by this Part, and any other relevant State statutes, and

(ii) The head of each State agency shall sign an acknowledgment on behalf of the entire agency attesting to the agency's policies and procedures regarding confidentiality.

(b) Any requesting agency is authorized to redisclose the information only as follows:

(1) Any wage or claim information may be given to the individual who is the subject of the information;

(2) Information about an individual may be given to an attorney or other duly authorized agent representing the individual if the individual has given written consent and the information is needed in connection with a claim for benefits against the requesting agency; and

(3) Any wage or claim information may be given to another requesting agency as defined in this Part or to any criminal or civil prosecuting authorities acting for or on behalf of the requesting agency if provision for such redisclosure is contained in the agreement between the requesting agency and the State unemployment compensation agency.

(c) The requesting agency shall permit the State unemployment compensation agency to make onsite inspections to ensure that the requirements of State unemployment compensation laws and Federal statutes and regulations are being met (sec. 1137(a)(5)(B).

§ 603.8 Obtaining information from other agencies and Crossmatching with wage information.

(a) The State unemployment compensation agency shall obtain such information from the Social Security administration and any requesting agency as may be needed in verifying eligibility for, and the amount of, benefits.

(b) To the extent that such information shall be determined likely to be productive in identifying ineligibility for benefits and preventing incorrect payments, the State unemployment compensation agency shall crossmatch quarterly wage information with unemployment benefit payment information (sec. 1137(a)(2)).

(c) To the extent necessary, the United States Department of Labor may amplify on the requirements for state compliance with this section in instructions issued and published for comment in the **Federal Register** under the provisions of section 1137(a)(2) of the Social Security Act.

§ 603.9 Effective date of rule.

The effective date of this Subpart A rule is May 29, 1986, after consultation with the Secretary of Health and Human Services and the Secretary of Agriculture, may by waiver grant a delay in this effective date if the State submits within 90 days of publication of this rule in final form a plan describing a good faith effort to comply with the requirements of section 1137 (a) and (b) of the Social Security Act through but not beyond September 30, 1986.

Subpart B—Quarterly Wage Reporting

§ 603.20 Effective date of rule.

The requirement that employers in a State report quarterly wage information to a State agency (which may be the State unemployment compensation agency), is effective September 30, 1988 (sec. 1137(a)(3)).

§ 603.21 Alternative system.

The Secretary of Labor (in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture) may waive the provision that employers in a State are required to make quarterly wage reports to a State agency if the Secretary determines that the State has in effect an alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for the purposes described in section 1137 of the Social Security Act. Criteria for such waiver and the date for submitting requests for such waiver will be issued, if necessary, by the United States Department of Labor and published for comment in the **Federal Register**.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 431 and 435

List of Subjects

42 CFR Part 431

Grant programs-health, Health facilities, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs-health, Medicaid, Supplemental Security Income (SSI).

42 CFR Chapter IV is amended as set forth below:

A. Part 431 is amended as set forth below:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. Subpart A is amended as set forth below:

Subpart A—Single State Agency

a. The authority citation for Subpart A continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302), unless otherwise noted.

b. In § 431.17, paragraphs (b) and (b)(1) are reprinted for the reader's comprehension, paragraph (b)(1)(iv) is revised, and paragraph (b)(1)(vi) is added to read as follows:

§ 431.17 Maintenance of records.

* * * * *

(b) *Content of records.* A State plan must provide that the Medicaid agency will maintain or supervise the maintenance of the records necessary for the proper and efficient operation of the plan. The records must include—

(1) Individual records on each applicant and recipient that contain information on—

* * * * *

(iv) Provision of medical assistance;

* * * * *

(vi) The disposition of income and eligibility verfication information received under §§ 435.940 through 435.960 of this subchapter; and

* * * * *

2. Subpart F is amended as set forth below:

Subpart F—Safeguarding Information on Applicants and Recipients

a. The authority citation for Subpart F continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302), unless otherwise noted.

b. Section 431.300 is revised to read as follows:

§ 431.300 Basis and purpose.

(a) Section 1902(a)(7) of the Act requires that a State plan must provide safeguards that restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan. This subpart specifies State plan requirements, the types of information to be safeguarded, the conditions for release of safeguarded information, and restrictions on the distribution of other information.

(b) Section 1137 of the Act, which requires agencies to exchange information in order to verify the income and eligibility of applicants and recipients (see § 435.940ff.), requires State agencies to have adequate safeguards to assure that—

(1) Information exchanged by the State agencies is made available only to the extent necessary to assist in the valid administrative needs of the program receiving the information, and information received under section 6103(l) of the Internal Revenue Code of 1954 is exchanged only with agencies authorized to receive that information under that section of the Code; and

(2) The information is adequately stored and processed so that it is protected against unauthorized disclosure for other purposes.

c. The introductory language of § 431.305(b) is repeated for the reader's convenience and a new paragraph (b)(6) is added as follows:

§ 431.305 Types of information to be safeguarded.

* * * * *

(b) This information must include at least—

* * * * *

(6) Any information received for verifying income eligibility and amount of medical assistance payments (see § 435.940ff.). Income information received from SSA or the Internal Revenue Service must be safeguarded according to the requirements of the agency that furnished the data.

d. Section 431.306 is amended by revising paragraph (d) and adding a new paragraph (g) as follows:

§ 431.306 Release of information.

* * * * *

(d) The agency must obtain permission from a family or individual, whenever possible, before responding to a request for information from an outside source, unless the information is to be used to verify income, eligibility and the amount of medical assistance payment under section 1137 of this Act and §§ 435.940–435.965 of this chapter.

If, because of an emergency situation, time does not permit obtaining consent before release, the agency must notify the family or individual immediately after supplying the information.

* * * * *

(g) Before requesting information from, or releasing information to, other agencies to verify income, eligibility and the amount of assistance under §§ 435.940–435.965 of this chapter, the agency must execute data exchange agreements with those agencies, as specified in § 435.945(f).

3. Subpart P is amended as set forth below:

Subpart P—Quality Control

a. The authority citation for Subpart P continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

b. Section 431.800 is amended by revising paragraph (h) as follows:

§ 431.800 Medical quality control (MQC) system.

* * * * *

(h) *Access to records.* The agency, upon request, must provide HHS staff with access to all records pertaining to its MQC reviews to which the State has access, including information available under Part 435, Subpart J, of this chapter.

c. Section 431.804 is amended by revising paragraph (c)(6) as follows:

§ 431.804 Disallowance of Federal financial participation for erroneous State payments (effective January 1, 1984).

* * * * *

(c) Setting of State's payment error rate.

* * * * *

(6) If a State fails to cooperate in completing a valid MQC sample or individual reviews in a timely and appropriate fashion as required, which includes obtaining and using information available under Part 435, Subpart J, of this chapter, HCFA will establish the State's payment error rate based on either—

(i) A special sample or audit;

(ii) The Federal subsample; or

(iii) Other arrangements as the Administrator may prescribe.

* * * * *

B. Part 435 is amended as set forth below:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

1. The authority citation for Part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents for Part 435, Subpart J, is amended by revising the titles of §§ 435.912 and 435.919, by adding a new undesignated centered heading immediately following the title of § 435.930, and by adding titles for new §§ 435.940, 435.945, 435.948, 435.952, 435.955, 435.960, and 435.965 as follows:

Subpart J—Eligibility in the States and District of Columbia

* * * * *

Sec.
435.912 Notice of agency's decision concerning eligibility.
* * * * *
435.919 Timely and adequate notice concerning adverse actions.
* * * * *

Income and Eligibility Verification

435.940 Basis and scope.
435.945 General requirements.
435.948 Requesting information.
435.952 Use of information.
435.955 Additional requirements regarding the use of information released by the Department of the Treasury.
435.960 Standardized formats for maintaining information for verifying income and eligibility.
435.965 Delay of effective date.

3. In § 435.4, the definition of "SWICA" is added, alphabetically after "SSI," as follows:

§ 435.4 [Amended]

* * * * *

"SWICA" means the State wage information collection agency under section 1137(a) of the Act. It is the State agency administering the State unemployment compensation law; a separate agency administering a quarterly wage reporting system; or a State agency administering an alternative system which has been determined by the Secretary of Labor, in consultation with the Secretary of Agriculture and the Secretary of Health and Human Services, to be as effective and timely in providing employment related income and eligibility data.

4. In § 435.910, the introductory language to paragraph (b) is repeated for the convenience of the reader, paragraphs (a) and (b)(3), the introductory language of paragraphs (e) and (e)(3) are revised to read as follows, paragraphs (b)(1), (c) and (d) are removed and reserved, and a new paragraph (g) is added as follows:

§ 435.910 Use of social security number.

(a) The agency must require, as a condition of eligibility, that each individual (including children) requesting Medicaid services furnish each of his or her social security numbers (SSNs).

(b) The agency must advise the applicant of—

(1) [Reserved]

* * * * *

(3) The uses the agency will make of each SSN, including its use for verifying income, eligibility, and amount of medical assistance payments under §§ 435.940 through 435.960.

(c) [Reserved]

(d) [Reserved]

(e) If an applicant cannot recall his SSN or SSNs or has not been issued a SSN the agency must—

* * * * *

(3) Either send the application to SSA or, if there is evidence that the applicant has previously been issued a SSN, request SSA to furnish the number.

* * * * *

(g) The agency must verify each SSN of each applicant and recipient with SSA, as prescribed by the Commissioner, to insure that each SSN furnished was issued to that individual, and to determine whether any others were issued.

5. The title of § 435.912 is revised as follows:

§ 435.912 Notice of agency's decision concerning eligibility.

6. The title of § 435.919 is revised to read as follows:

§ 435.919 Timely and adequate notice concerning adverse actions.

7. Section 435.920 is amended by revising paragraph (b) as follows:

§ 435.920 Verification of SSNs.

* * * * *

(b) If the case record does not contain the required SSNs, the agency must require the recipient to furnish them and meet other requirements of § 435.910.

* * * * *

8. A new undesignated centered heading and new §§ 435.940–435.965 are added as follows:

Income and Eligibility Verification Requirements

§ 435.940 Basis and Scope.

(a) Section 1137 of the Act requires certain Federally-funded, State-administered public assistance programs to establish procedures for obtaining, using and verifying information relevant to determinations as to eligibility and the amount of assistance. Section 1902(a)(4) of the Act allows the Secretary to prescribe methods of administration found necessary for the proper and efficient operation of a State's Medicaid plan.

(b) The agency must maintain information, as enumerated in § 435.960, to exchange for the purpose of enabling any agency or program referenced in § 435.945(b) to verify income, eligibility of, and the amount of assistance for its applicants and recipients.

§ 435.945 General requirements.

(a) The agency must request and use information timely in accordance with §§ 435.948 and 435.952 of this subpart for verifying Medicaid eligibility and the amount of medical assistance payments.

(b) The agency must furnish to other agencies in the State and in other States and to Federal programs income, eligibility and medical assistance payment information for verifying eligibility or benefit amounts for the programs listed in § 435.948(a)(6) of this subpart. In addition, the agency must furnish income and eligibility information to—

(1) The child support program under part D of title IV of the Act; and

(2) SSA for old age, survivors and disability benefits under title II and for SSI benefits under title XVI of the Act.

(c) The agency must, upon request, reimburse another agency listed in § 435.948(a)(6) of this subpart or paragraph (b) of this section for reasonable costs incurred in furnishing information, including new developmental costs associated with furnishing the information to another agency.

(d) The agency must inform all applicants in writing at the time of application that the agency will obtain and use information available to it under section 1137 of the Act to verify income, eligibility and the correct amount of medical assistance payments. The agency must give each recipient the same notice when it redetermines eligibility. The requirements in this paragraph do not apply in the case of applicants or recipients whose eligibility is determined by AFDC or by SSA under section 1634 of the Act.

(e) The agency must report as the Secretary prescribes for the purposes of determining compliance with §§ 431.305, 431.800, 435.910, 435.919 and 435.940 through 435.965 of this chapter and of evaluating the effectiveness of the income and eligibility verification system.

(f) The agency must execute written agreements with other agencies before releasing data to or requesting data from, those agencies. The agreements, at a minimum, must specify:

(1) The information to be exchanged;

(2) The titles of all agency officials with the authority to request income and eligibility information;

(3) The methods, including the formats to be used, and the timing for requesting and providing the information (see also paragraph (f)(6) of this section);

(4) The safeguards limiting the use and disclosure of the information as required by Federal or State law or regulations;

(5) The method, if any, the agency will use to reimburse reasonable costs of furnishing the information; and

(6) In the case of an agreement between a SWICA or a UC agency and

the Medicaid agency, that the Medicaid agency will obtain information on applicants at least twice monthly.

(g) SWICA that does not use the quarterly wages reported by employers as required by Section 1137 of the Act of unemployment insurance benefit calculations must maintain wage information that:

(1) Contains the SSN, full name, wages earned for the period of the report, and an identifier of the employer;

(2) Includes all employers covered by the States' UC law;

(3) Accumulates earnings reported by employers for no longer periods than calendar quarters;

(4) Is reported to the SWICA within 30 days after the end of the quarter;

(5) Is machine readable; and

(6) Is accessible to agencies in other States that have executed agreements as required in § 435.945(f) of this chapter and to SSA for use in making eligibility or benefit determinations under Title II or XVI of the Act.

§ 435.948 Requesting information

(a) Except as provided in paragraphs (d), (e), and (f) of this section, the agency must request information from the sources specified in this paragraph for verifying Medicaid eligibility and the correct amount of medical assistance payments for each applicant (unless obviously ineligible on the face of his or her application) and recipient. The agency must request—

(1) State wage information maintained by the SWICA during the application period and at least on a quarterly basis;

(2) Information about net earnings from self-employment, wage and payment of retirement income, maintained by SSA and available under Section 6103(l)(7)(A) of the Internal Revenue Code of 1954, for applicants during the application period and for recipients for whom the information has not previously been requested;

(3) Information about benefit and other eligibility related information available from SSA under titles II and XVI of the Social Security Act for applicants during the application period and for recipients for whom the information has not previously been requested;

(4) Unearned income information from the Internal Revenue Service available under Section 6103(l)(7)(B) of the Internal Revenue Code of 1954, during the application period and at least yearly;

(5) Unemployment compensation information maintained by the agency administering State unemployment compensation laws (under the provisions of section 3304 of the Internal Revenue Code and section 303 of the Act) as follows:

(i) For an applicant, during the application period and at least for each of the three subsequent months;

(ii) For a recipient that reports a loss of employment, at the time the recipient reports that loss and for at least each of the three subsequent months.

(iii) For an applicant or a recipient who is found to be receiving unemployment compensation benefits, at least for each month until the benefits are reported to be exhausted.

(6) Any additional income, resource, or eligibility information relevant to determinations concerning eligibility or correct amount of medical assistance payments available from agencies in the State or other States administering the following programs as provided in the agency's State plan:

(i) AFDC;

(ii) Medicaid;

(iii) State-administered supplementary payment programs under Section 1616(a) of the Act;

(iv) SWICA;

(v) Unemployment compensation;

(vi) Food stamps; and

(vii) Any State program administered under a plan approved under Title I (assistance to the aged), X (aid to the blind), XIV (aid to the permanently and totally disabled), or XVI (aid to the aged, blind, and disabled in Puerto Rico, Guam, and the Virgin Islands) of the Act.

(b) The agency must request information on applicants from the sources listed in paragraph (a)(1) through (a)(5) of this section at the first opportunity provided by these sources following the receipt of the application. If an applicant cannot provide an SSN at application, the agency must request the information at the next available opportunity after receiving the SSN.

(c) The agency must request the information required in paragraph (a) of this section by SSN, using each SSN furnished by the individual or received through verification.

(d) *Exception*: In cases where the individual is institutionalized, the agency needs to obtain and use information from SWICA only during the application period and on a yearly basis, and from unemployment compensation agencies only during the application period. An individual is institutionalized for purposes of this section when he or she is required to apply his or her income to the cost of medical care as required by §§ 435.725, 435.733, and 435.832.

(e) *Exception*: *Alternate sources.* (1) The Secretary may, upon application from a State agency, permit an agency to request and use income information from a source or sources alternative to those listed in paragraph (a) of this section. The agency must demonstrate to the Secretary that the alternative source(s) is as timely, complete and useful for verifying eligibility and benefit amounts. The Secretary will consult with the Secretary of Agriculture and the Secretary of Labor before determining whether an agency may use an alternate source.

(2) The agency must continue to meet the requirements of this section unless the Secretary has approved the request.

(f) *Exception:* If the agency administering the the AFDC program, or SSA under section 1634 of the Act, determines the eligibility of an applicant or recipient, the requirements of this section do not apply to that applicant or recipient.

§ 435.952 Use of information.

(a) The agency must review and compare against the casefile any information received under §§ 435.940 through 435.960 to determine whether it affects the applicant's or recipient's eligibility or amount of medical assistance payment. The agency must also verify the information if determined appropriate by agency experience or if required by § 435.955.

(b) For applicants, if the information is received during the application period, it must be used, to the extent possible, making eligibility determinations. If it is received after the eligibility determination, it must be used as specified for recipients in paragraphs (c) and (d) of this section.

(c) Except as specified in paragraph (d) of this section, for recipients, the agency must, within 30 days of receipt of an item of information, request verification (if appropriate), determine whether the information affects eligibility or the amount of medical assistance payment, and make an entry in the case file that no action is necessary or notify the recipient of any adverse action the agency intends to take.

(d) Subject to paragraph (e) of this section, if the agency does not receive requested third party verification within the 30 day period after receipt of information, the agency may determine whether the information affects eligibility or correct amount of medical assistance payment after the 30 day period. However, the agency must make any delayed determinations permitted under this paragraph—

(1) Promptly, as required by § 435.916, if the verification is received before the next redetermination; or

(2) In conjunction with the next redetermination if no verification is received before that redetermination.

(e) The number of determinations delayed beyond 30 days from receipt of an item of information (as permitted by paragraph (d) of this section) must not exceed twenty percent of the number of items of information received on all recipients.

(f) The agency must use appropriate procedures to monitor the timeliness requirements of this section.

(g) The requirements of this section do not relieve the agency of its responsibility for determinations of erroneous payments or the agency's liability for those erroneous payments, as defined in Subpart P of this chapter.

§ 435.955 Additional requirements regarding the use of information released by the Department of the Treasury.

(a) Based on information concerning an applicant's or recipient's unearned income the agency receives from the Department of Treasury (Internal Revenue Service) (under Section 6103(l)(7)(B) of the Internal Revenue Code of 1954), the agency may not terminate, deny, suspend, or reduce benefits to that individual until it has taken appropriate steps to verify the information, independently, relating to—

(1) The amount of the income and resource that generated the income involved:

(2) Whether the applicant or recipient actually has (or had) access to the resource of income (or both) for his or her own use; and

(3) The period or periods when the individual actually had the resource or income or both.

(b) The agency must verify the information by either—

(1) Requesting the entity from which the individual received the unearned income to verify the fact and amount of the unearned income and resource that generated the income; or

(2) Sending the applicant or recipient a letter informing that individual of the information received and asking him or her to respond within a specified period. The letter must clearly explain the information the agency has and its possible relevance to the individual's past or future eligibility, and be as neutral in tone as possible.

(c)(1) If the source of the unearned income or the applicant or recipient verifies the information, and the agency intends to reduce, suspend, terminate or deny medical assistance payments based on the information, the agency must send the applicant or recipient a notice of the action to be taken and include information on the right to appeal and opportunity for a hearing under §§ 431.200 through 431.250 of this chapter (see also § 435.912 and 435.919).

(2) If the applicant or recipient fails to respond after reasonable attempts to contact him or her, the agency must proceed to deny, terminate, reduce or suspend benefits based on the applicant or recipient's failure to cooperate.

(3) If the applicant or recipient disputes the information, the agency must obtain evidence (from the source of the unearned income, applicant or recipient, or otherwise) to substantiate any negative case action that it may take.

§ 435.460 Standardized formats for obtaining and using information for verifying income and eligibility.

(e) The agency must maintain for all applicants and recipients within an agency file the SSN, surname and other data elements in a format that at a minimum allows the agency to obtain and use eligibility and income information from the agencies or programs referenced in § 435.945(b). The agency must request information from—

(1) SWICA, unemployment compensation agencies, and agencies of other States, as prescribed by the Secretary;

(2) SSA, as prescribed by the Commissioner of SSA; and

(3) The Internal Revenue Service, as prescribed by the Commissioner of the Internal Revenue Service.

(b) Release of income and eligibility information to, or receipt of information from, other agencies in the State and in other States must be made in the manner prescribed by the Secretary and must be completed in a timely manner.

§ 435.965 Delay of effective date.

(a) If the agency submits, by May 29, 1986, a plan describing a good faith effort to come into compliance with the requirements of Section 1137 of the Act and of §§ 435.910 and 435.940 through 435.960 of this subpart, the Secretary may, after consultation with the Secretary of Agriculture and the Secretary of Labor, grant a delay in the effective date of § 435.910 and §§ 435.940 through 435.960, but not beyond September 30, 1986.

(b) The Secretary may not grant a delay of the effective date of Section 1137(c) of the Act, which is implemented by § 435.955 (a) and (c). (The provisions of these statutory and regulation sections require the agency to follow certain procedures before taking any adverse actions based on information from the Internal Revenue Service concerning unearned income.)

(Catalog of Federal Domestic Assistance Program No. 13.774, Medical Assistance)

Dated: January 31, 1986.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

Approved: February 11, 1986.

Otis R. Bowen, M.D.,

Secretary.

Social Security Administration

45 CFR Parts 205, 206 and 232

The asterisks used throughout the regulatory text represent material within a codified paragraph or section that is not being amended by these final rules.

These regulations are issued under the authority of section 1102 of the Social Security Act, as amended, 49 Stat. 647, as amended, 42 U.S.C. 1302.

Catalog of Federal Domestic Assistance Programs No. 13.808 Public Assistance Maintenance Assistance (State Aid)

List of Subjects

45 CFR Part 205

Administrative practice and procedure, Aid to families with dependent children, Family assistance, Grant programs-social programs, Public assistance programs, Reporting requirements.

45 CFR Part 206

Aid to families with dependent children, Family assistance, Grant programs-social programs, Public assistance programs.

45 CFR Part 232

Aid to families with dependent children, Child support, Child welfare, Family assistance, Grant programs-social programs.

Dated: January 30, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: February 11, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

Therefore, 45 CFR Parts 205, 206 and 232 are amended as follows:

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Part 205 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 205 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302).

2. Section 205.40 is amended by revising paragraphs (b)(1)(v) and (c)(3)(ii) to read as follows:

§ 205.40 Quality Control System.

* * * * *

(b) *State plan requirements.* * * *

(1) * * *

(v) It shall assure access by HHS staff to State and local records relating to public assistance, to recipients, and to third parties, including information available under § 205.55.

* * * * *

(c) * * *

(3) * * *

(ii) The fact that the agency has complied with the requirements for redetermination of eligibility (see Section 206.10(a)(9) of this chapter) or for timely action on information from the State's Income and Eligibility Verification System (IEVS) (see section 205.56(a)(1)) has no bearing on, and does not relieve the State agency of its responsibility for, the determination of erroneous payments or its liability for such payments; and

* * * * *

3. Section 205.44 is amended by revising paragraph (d)(2) to read as follows:

§ 205.44 Reduction in Federal financial participation (FFP) for incorrect payments made by States after September 1984.

* * * * *

(d) *How we will measure a State's performance.* * * *

(2) If a State fails to complete a valid and reliable sample in accordance with the prescribed QC procedures and deadlines, which includes obtaining and using information available under § 205.55, as required by § 205.40, for any assessment period, we will notify the State of its failure and provide the State the opportunity to negotiate a solution regarding the timely completion of its sample. Where a State is unable to negotiate a solution or fails to carry out a negotiated solution we will assign to the State an error rate based on the best data reasonably available, including data obtained from any one or more of the following methods, error rate information for past sample periods, a partially completed State sample, a Federal subsample of completed State cases, a supplemental Federal sample, a Federal audit, and an audit conducted through a contractual agreement with a third party.

* * * * *

4. Section 205.50 is amended by adding paragraph (a)(1)(i)(F) and by revising paragraphs (a)(2)(i)(B) and (a)(3) (ii) and (iii) to read as follows:

§ 205.50 Safeguarding information for the financial assistance programs.

(a) *State plan requirements.* * * *

(1) * * *

(i) * * *

(F) The administration of a State unemployment compensation program.

* * * * *

(2) * * *

(i) * * *

(B) Information related to the social and economic conditions or circumstances of a particular individual including information obtained from any agency pursuant to § 205.55; information obtained from the Internal Revenue Service (IRS) and the Social Security Administration (SSA) must be safeguarded in accordance with procedures set forth by those agencies;

* * * * *

(iii) Except in the case of information requested pursuant to §§ 235.55 and 205.56, or in the case of an emergency situation when the individual's prior consent for the release of information cannot be obtained, the family or individual is informed whenever possible of a request for information from an outside source, and permission is obtained to meet the request. In an emergency situation when the individual's consent for the release of information cannot be obtained, the individual will be notified immediately.

* * * * *

(3) * * *

(ii) All information obtained pursuant to the income and eligibility verification requirements at §§ 205.55 and 205.56 will be stored and processed so that no unauthorized personnel can acquire or retrieve the information by any means.

(iii) All persons with access to information obtained pursuant to the income and eligibility verification requirements under §§ 205.55 and 205.56 will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.

* * * * *

5. Section 205.51 is revised to read as follows:

§ 205.51 Income and eligibility verification requirements.

(a) A State plan under title I, IV–A, X, XIV or XVI (AABD) of the Social Security Act must provide that there be an Income and Eligibility Verification System in the State. Income and Eligibility Verification System (IEVS) means a system through which the State agency:

(1) Co-ordinates data exchanges with other Federally-assisted benefit programs covered by section 1137(b) of the Act;

(2) Requests and uses income and benefit information as specified in section 1137(a)(2) of the Act and §§ 205.55 and 205.56; and

(3) Adheres to standardized formats and procedures in exchanging information with the other programs and agencies and in providing such information as may be useful to assist Federal, State and local agencies in the administration of the child support program and the Social Security Administration in the administration of the title II and title XVI (SSI) programs. The State agency (UC) information from the State Wage Information Collection Agency, described in paragraph (b) of this section; from the agency administering the State's unemployment compensation program (UC) under section 3304 of the Internal Revenue Code; from agencies in other States cited in § 205.55(a)(5), as set forth by the Secretary; from SSA, as set forth by the Commissioner of Social Security; and from IRS, as set forth by the Commissioner of Internal Revenue.

(b) A State plan under title I, IV–A, X, XIV or XVI (AABD) of the Social Security Act must provide that, as part of its Income and Eligibility Verification System, there be a State Wage Information Collection Agency in the State. State Wage Information Collection Agency (SWICA) means the State agency receiving quarterly wage reports from employers in the State (which may be the agency administering the State's unemployment compensation program), or an alternative system which has been determined by the Secretary of Labor, in consultation with the Secretary of Agriculture and the Secretary of Health and Human Services, to be as effective and timely in providing employment related income and eligibility information.

(c) Wage information maintained by a SWICA which receives quarterly wage reports from employers but does not use these reports for computation of employment compensation shall:

(1) Contain the social security number, first and last name and middle initial, wages earned for the period of the report, and an identifier of the employer (such as name and address) for each employee;

(2) Include all employers covered by the State's UC law and require such employers to report wage information (as specified above) for each employee within 30 days from the end of each calendar quarter;

(3) Accumulate earnings reported by employers for periods no longer than calendar quarters;

(4) Be machine readable; i.e., maintained in a fashion that permits automated processing; and

(5) Be available to other agencies in the State, to agencies in other States, and to Social Security Administration for establishing or verifying eligibility and benefit amounts under titles II and XVI of the Social Security Act, pursuant to agreements as required in § 205.58.

(d) A State shall obtain prior written approval from the Department, where appropriate, in accordance with 45 CFR 95.611, for any new developmental costs for automatic data processing equipment and services incurred in meeting IEVS requirements.

6. A new § 205.55 is added to read as follows:

§ 205.55 Requirements for requesting and furnishing eligibility and income information.

A State plan under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(a) Except as provided in paragraph (b), the State agency will request through the IEVS:

(1) Wage information from the SWICA for all applicants at the first opportunity following receipt of the application and for all recipients on a quarterly basis.

(2) Unemployment compensation information from the agency administering the State's unemployment compensation program under section 3304 of the Internal Revenue Code of 1954 and section 303 of the Act as follows:

(i) For applicants at the first opportunity following receipt of the application and in each of the first three months in which the individual is receiving aid, unless the individual is found to be receiving unemployment compensation, in which case the information will be requested until benefits are exhausted; and

(ii) In each of the first three months following any recipient-reported loss of employment, unless the individual is found to be receiving unemployment compensation, in which case the information will be requested until the benefits are exhausted.

(3) All available information maintained by the Social Security Administration for all applicants at the first opportunity following receipt of the application in the manner set forth by the Commissioner of Social Security. The State agency will also request such information for all recipients as of the effective date of this provision for whom such information has not previously been requested.

(4) Unearned income information from the Internal Revenue Service available under section 6103 (l)(7)(B) of the Internal Revenue Code of 1954, for all applicants at the first opportunity following receipt of the application for all recipients on a yearly basis. The request shall be made at the time and in the manner set forth by the Commissioner of Internal Revenue.

(5) As necessary, any income or other information affecting eligibility available from agencies in the State or other States administering:

(i) An AFDC program (in another State) under title IV–A of the Social Security Act;

(ii) A Medicaid program under title XIX of the Social Security Act;

(iii) An unemployment compensation program (in another State) under section 3304 of the Internal Revenue Code of 1954;

(iv) A Food Stamp program under the Food Stamp Act of 1977, as amended;

(v) Any State program administered under plan approved under Title I, X, XIV, or XVI (AABD) of the Social Security Act; and

(vi) A SWICA (in another State).

(b)(1) With respect to individuals who cannot furnish an SSN at application, information specified in paragraph (a) will be requested at the first opportunity provided by each source after the State agency is provided with the SSN.

(2) For the purposes of this section, applicants and recipients shall also include any other individuals whose income or resources are considered in determining the amount of assistance, if the State agency has obtained the SSN of such individuals.

(c) The State agency must furnish, when requested, income, eligibility and benefit information to:

(1) Agencies in the State or other States administering the programs cited in paragraph (a)(5) of this section, in accordance with specific agreements as described in § 205.58;

(2) The agency in the State or other States administering a program under title IV–D of the Social Security Act; and

(3) The Social Security Administration for purposes of establishing or verifying eligibility or benefit amounts under title II and XVI (SSI) of the Social Security Act.

(d) The Secretary may, based upon application from a State, permit a State to obtain and use income and eligibility information from an alternate source or sources in order to meet any requirement of paragraph (a) of this section. The State agency must demonstrate to the Secretary that the alternate source or sources is as timely, complete and useful for verifying eligibility and benefit amounts. The Secretary will consult with the Secretary of Agriculture and the Secretary of Labor prior to approval of a request. The State must continue to meet the requirements of this section unless the Secretary has approved the request.

(d) The State agency must, upon request, reimburse another agency for reasonable costs incurred in furnishing income and eligibility information as prescribed in this section, including new developmental costs associated with furnishing such information, in accordance with specific agreements as described in § 205.58.

7. Section 205.56 is revised to read as follows:

§ 205.56 Requirements governing the use of income and eligibility information.

A State plan under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(a) The State agency will use the information obtained under § 205.55, in conjunction with other information, for:

(1) Determining individuals' eligibility for assistance under the State plan and determining the amount of assistance, as follows:

(i) The State agency shall review and compare the information obtained from each data exchange against information contained in the case record to determine whether it affects the applicant's or the recipient's eligibility or the amount of assistance.

(ii) The State agency shall verify that the information is accurate and applicable to case circumstances either through the applicant or recipient or through a third party, if such verification is determined appropriate based on agency experience or is required under paragraph (b) of this section.

(iii) For applicants, if the information is received during the application period, the State agency shall use such information, to the extent possible, in making the eligibility determination.

(iv) For individuals who are recipients when the information is received or for whom a decision could not be made prior to authorization of benefits, the State agency shall, within thirty (30) days of its receipt, initiate a notice of case action or an entry in the case record that no case action is necessary, except that: completion of action may be delayed beyond 30 days on no more than twenty (20) percent of the information items received, if:

(A) The reason that the action cannot be completed within 30 days is the

nonreceipt of requested third party verification; and

(B) Action is completed promptly, when third party verification is received or at the next time eligibility is redetermined, whichever is earlier. If action is completed when eligibility is redetermined and third party verification has not been received, the State agency shall make its decision based on information provided by the recipient and any other information in its possession.

(v) The State agency shall use appropriate procedures to monitor the timeliness requirements specified in this subparagraph;

(1) Investigations to determine whether recipients received assistance under the State plan to which they were not entitled; and

(3) Criminal or civil prosecutions based on receipt of assistance under the State plan to which recipients were not entitled.

(b) With respect to the information received under § 205.55 from the Internal Revenue Service concerning unearned income of an applicant or recipient:

(1) The agency shall not terminate, deny, suspend, or reduce benefits to the individual based on the information until it has taken the appropriate steps to independently verify the information, relating to:

(i) The amount of the resource or income involved;

(ii) Whether the applicant or recipient actually has (or had) access to the resource or income for his or her own use; and

(iii) The period or periods when the individual actually had the resource or income.

(2) The agency must verify the information by either:

(i) Requesting the entity from which the individual received the unearned income to verify the fact and amount of the unearned income or the resource; or

(ii) Sending the applicant or recipient a letter informing the individual of the information received and asking him or her to respond within a specific period. The letter must clearly explain the information the agency has, its relevance to the individual's eligibility or benefit, and what action the agency will take in the event the individual fails to respond to the letter.

(c) If the agency intends to reduce, suspend, terminate or deny benefits as a result of the actions taken pursuant to this section, the agency must provide notice and the opportunity for a fair hearing in accordance with § 205.10(a).

8. Section 205.57 is revised to read as follows:

§ 205.57 Maintenance of a machine readable file; requests for income and eligibility information.

A State plan under title I, IV—A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(a) The State agency will maintain a file which is machine readable, i.e., which is maintained in a fashion that permits automated processing, and which contains the first and last name and verified social security number of each person applying for or receiving assistance under the plan.

(b) The State agency will use this file to exchange data with other agencies pursuant to § 205.55.

9. Section 205.58 is revised to read as follows:

§ 205.58 Income and eligibility information; specific agreements required between the State agency and the agency supplying the information.

(a) A state plan under title I, IV, AV—A, X, XIV, or XVI, (AABD) of the Social Security Act must provide that, in carrying out the requirements of §§ 205.55 and 205.56, the State agency will enter into specific written agreements as described in paragraph (b) with those agencies providing income and eligibility information. The agreements will contain the procedures to be used in requesting and providing information.

(b) These agreements will include, but need not be limited to, the following:

(1) Purpose of the request;

(2) Identification of all agency officials, by position with authority to request information;

(3) Methods and timing of the requests for information, including the machine readable format to be used, the period of time needed to furnish the requested information and the basis for establishing this period. Agreements with the SWICA and the agency administering the Unemployment Compensation program in the State must provide that the State agency shall obtain information no less frequently than twice monthly;

(4) The type of information and reporting periods for which information will be provided;

(5) Safeguards limiting release or redisclosure as required by Federal or State law or regulation, including the requirements of § 205.50 and as may be required by guidelines issued by the Secretary; and

(6) Reimbursement, if any, for the costs of furnishing the information requested by the State agency, including new developmental costs associated with furnishing such information.

10. Section 205.60 is revised to read as follows:

§ 205.60 Reports and maintenance of records.

A State plan under title I, IV—A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(a) The State agency will maintain or supervise the maintenance of records necessary for the proper and efficient operation of the plan, including records regarding applications, determination of eligibility, the provision of financial assistance, and the use of any information obtained under section 205.55, with respect to individual applications denied, recipients whose benefits have been terminated, recipients whose benefits have been modified, and the dollar value of these denials, terminations and modifications. Under this requirement, the agency will keep individual records which contain pertinent facts about each applicant and recipient. The records will include information concerning the date of application and the date and basis of its disposition; facts essential to the determination of initial and continuing eligibility (including the individual's social security number, need for, and provision of financial assistance); and the basis for discontinuing assistance.

(b) The agency shall report as the Secretary prescribes for the purpose of determining compliance with the requirements of sections 205.55 and 205.56 and for evaluating the effectiveness of the Income and Eligibility Verification System.

11. A new section 205.62 is added as follows:

§ 205.62 Delay of effective date.

(a) If the agency submits, by May 29, 1986, a plan describing a good faith effort to come into compliance with the requirements of section 1137 of the Act and these implementing regulations, the Secretary may grant a delay in the effective date of any provision of §§ 205.55 through 205.60 and § 206.10 implementing section 1137(a) and (g) of the Act. This plan must include the following information for each provision: the provision, the proposed implementation date, a justification for the delay, and a plan for implementing the provision. The Secretary shall consult with the Secretary of Agriculture and the Secretary of Labor prior to approval of any plan describing a good faith effort and may not grant a delay of the effective date of any provision beyond September 30, 1986.

(b) The Secretary may not grant a delay of the effective date of section

1137(c) of the Act, which is implemented by § 205.56. (The provisions of these statutory and regulation sections require the agency to follow certain procedures before taking any adverse actions based on information from the Internal Revenue Service concerning unearned income.)

PART 206—APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

Part 206 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

12. The authority citation for Part 206 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302).

13. Section 206.10 is amended by removing paragraphs (a)(9)(iii)(A) and (B), by adding a new paragraph (a)(2)(iii), and by revising paragraph (a)(5)(ii) to read as follows:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* * * *

(2) * * *

(iii) All applicants for and recipients of assistance shall be notified in writing at the time of application and on redetermination that eligibility and income information will be regularly requested from agencies specified in § 205.55 and will be used to aid in determining their eligibility for assistance.

* * * * *

(5) * * *

(ii) Assistance will not be denied, delayed, or discontinued pending receipt of income or other information requested under § 205.55, if other evidence establishes the individual's eligibility for assistance.

* * * * *

PART 232—SPECIAL PROVISIONS APPLICABLE TO TITLE IV-A OF THE SOCIAL SECURITY ACT

Part 232 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

14. The authority citation for Part 232 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302).

15. Section 232.10 is redesignated as new § 205.52. Newly designated § 205.52 is revised to read as follows:

§ 205.52 Furnishing of social security numbers.

The State plan under title I, IV–A, X, XIV, or CVI (AABD) of the Social Security Act must provide that:

(a) As a condition of eligibility, each applicant for or recipient of aid will be required:

(1) To furnish to the State or local agency a social security account number, hereinafter referred to as the SSN (or numbers, if more than one has been issued); and

(2) If he cannot furnish a SSN (either because such SSN has not been issued or is not known), to apply for such number through procedures adopted by the State or local agency with the Social Security Administration. If such procedures are not in effect, the applicant or recipient shall apply directly for such number, submit verification of such application, and provide the number upon its receipt.

(b) The State or local agency will assist the applicant or recipient in making applications for SSNs and will comply with the procedures and requirements established by the Social Security Administration for application, issuance, and verification of social security account numbers.

(c) The State or local agency will not deny, delay, or discontinue assistance pending the issuance or verfication of such numbers if the applicant or recipient has complied with the requirements of paragraph (a) of this section.

(d) The State or local agency will use such account numbers, in addition to any other means of identification it may determine to employ, in the administration of the plan.

(e) "Applicant" and "recipient" include for the purposes of this section the individuals seeking or receiving assistance and any other individual whose needs are considered in determining the amount of assistance.

(f) The State or local agency shall notify the applicant or recipient that the furnishing of the SSN is a condition of eligibility for assistance required by section 1137 of the Social Security Act and that the SSN will be utilized in the administration of the program.

(g) The State agency will submit all unverified social security numbers to the Social Security Administration (SSA) for verification. The State agency may acept as verified a social security number provided directly to the State agency by SSA or by another Federal or federally-assisted benefit program which has received the number from SSA or has submitted it to SSA for verification.

[FR Doc. 86–4260 Filed 2–27–86; 8:45 am]

BILLING CODE 3410-30-M; 4120-01-M; 4150-04-M; 4190-11-M; 4510-30-M

Federal Register

Friday
February 28, 1986

Part III

Commission on the Bicentennial of the United States Constitution

45 CFR Part 2000
Organization and Functions; Final Rule

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

45 CFR Part 2000

Organization and Functions

AGENCY: Commission on the Bicentennial of the United States Constitution.

ACTION: Final rule.

SUMMARY: These regulations are for the purpose of informing the public as to the creation and organization of the Commission on the Bicentennial of the United States Constitution, its purposes, duties and functions. The intended effect is to provide basic information on the authority and structure of the Commission so that individuals and public and private organizations, including governmental agencies, may deal with the Commission in an informed manner.

EFFECTIVE DATE: February 28, 1986.

ADDRESS: 734 Jackson Place, NW., Washington, DC 20503. Tel. (202) USA–1787.

FOR FURTHER INFORMATION CONTACT: Joseph B. McGrath, General Counsel, Tel. (202) USA–1787.

SUPPLEMENTARY INFORMATION:

Background

This regulation is designed to inform the public as to the creation, authority, organization, purposes and functions of the Commission. Although its enacting statute was approved in September 1983, the Commission was not appointed until June 1985. Its first five months were spent in selecting a Staff Director and an initial staff, in developing basic policies on project and program recognition and in obtaining funds to operate. It is now important for the general public to know the basic facts about the Commission and its operations, which this regulation provides.

Classification

This is not a major rule under E.O. 12291 since it has no effect on the economy, on costs or on prices, nor does it affect economic competition and U.S. enterprise. It has no effect on the environment and no environmental impact statement is necessary

Public Comment

This regulation is being issued as a final rule without opportunity for public comment since it consists solely of a recital of facts and an explanation of the organization and functions of the Commission.

Statutory Authority

This regulation is issued under the general powers granted to the Commission by Pub. L. 98–101, 97 Stat. 719, and the authority of 5 U.S.C. 552.

List of Subjects in 45 CFR Part 2000

U.S. Constitution Bicentennial, Commemorative activities, Donations, Organization and functions (government agencies).

Issued in Washington, DC, on January 10, 1986.

Mark W. Cannon,

Staff Director.

For the reasons set out in the preamble and under the authority of Pub. L. 98–101, 97 Stat. 719, a new Chapter XX is established and a new Part 2000 is added to Title 45, *Code of Federal Regulations,* to read as follows:

CHAPTER XX—COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

PART 2000—ORGANIZATION AND FUNCTIONS

Subpart A—Commission Organization

Sec.

Subpart B—Powers and Functions

Subpart C—Commemorative Activities

Subpart D—Commission Operations

Authority: Pub. L. 98–101; 97 Stat. 719; 5 U.S.C. 552.

Subpart A—Commission Organization

§ 2000.10 Authorization.

The Commission on the Bicentennial of the United States Constitution was authorized by Pub. L. 98–101, 97 Stat. 719, signed by the President on September 29, 1983. Appointment of the Commission and designation of the Chairman were announced by the President on June 25, 1985. Commission members were sworn into office on July 30, 1985. The first meeting of the Commission was held on July 29 and 30, 1985.

§ 2000.11 The Commission.

(a) *Composition.* The Commission is composed of 23 members chosen and appointed in accordance with section 4 of Pub. L. 98–101, 97 Stat. 719, as follows:

(1) Twenty members appointed by the President;

(2) The Chief Justice of the United States or his designee;

(3) The President pro tempore of the United States or his designee;

(4) The Speaker of the United States House of Representatives or his designee.

(b) *Recommendations for appointment.* Of the 20 members appointed by the President, 12 are appointed from recommendations made as follows:

(1) Four were appointed from among recommendations made by the Chief Justice of the United States;

(2) Four were appointed from among recommendations made by the President pro tempore of the United States Senate;

(3) Four were appointed from among recommendations made by the Speaker of the United States House of Representatives.

(c) *Balanced membership.* In making recommendations to the President regarding appointments to the Commission, the statutory mandate was to achieve a balanced membership representing, to the maximum extent practicable, the Nation as a whole.

(d) *Term of Commissioners.* Members of the Commission are appointed for the life of the Commission, which terminates December 31, 1989.

(e) *Service without compensation.* Members of the Commission serve without being compensated as a member of the Commission, except that each member is reimbursed for travel, subsistence and other necessary expenses incurred in performance of Commission duties.

(f) *Vacancies.* A vacancy in the Commission must be filled in the same manner in which the original appointment was made. A vacancy does not affect the powers of the Commission.

(g) *Quorum.* Twelve members of the Commission constitute a quorum, but a lesser number may conduct meetings.

(h) *Qualifications.* Commission members are required to be chosen from among individuals who have demonstrated scholarship, a strong sense of public service, expertise in the learned professions, and abilities likely to contribute to the fulfillment of the duties of the Commission.

§ 2000.12 The Chairman.

(a) The Chairman of the Commission is the Chief Justice of the United States, who is also a member of the Commission.

(b) The Chairman is designated by the President of the United States and serves at the pleasure of the President.

(c) The Chairman is authorized by the Commission to appoint an Executive Committee and such committees of the Commission as the Chairman believes will advance and expedite the work of the Commission.

§ 2000.13 Purpose, duties and responsibilities.

(a) The primary purpose of the Commission is to promote and coordinate activities to commemorate the bicentennial of the United States Constitution.

(b) The duties of the Commission include the following:

(1) To plan and develop activities to commemorate the bicentennial of the Constitution, including a limited number of projects to be undertaken by the Federal Government;

(2) To encourage private organizations, and State and local governments, to organize and participate in bicentennial activities commemorating or examining the drafting, ratification, and history of the Constitution and the specific features of the document;

(3) To coordinate, generally, commemorative bicentennial activities throughout all of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the Territories of American Samoa, Guam and the Virgin Islands; and

(4) To serve as a clearinghouse for the collection and dissemination of information about the bicentennial events and plans.

(c) The Commission is required to submit an annual report to the President, to each House of the Congress, and to the Judicial Conference of the United States.

(d) The Commission is directed to seek the cooperation, advice and assistance of both public and private organizations, including governmental agencies.

§ 2000.14 Delegation to State Commissions.

In carrying out its purposes, the Commission may delegate authority to State bicentennial advisory commissions to assist in implementing Pub. L. 98–101, 97 Stat. 719.

Subpart B—Powers and Functions

§ 2000.20 Personnel.

(a) In carrying out its functions and responsibilities, the Commission is empowered:

(1) To appoint a Staff Director;

(2) To appoint and fix the compensation of such additional publicly paid personnel as the Chairman finds necessary to carry out the purposes of the Commission;

(3) To appoint and fix the pay of additional personnel to be paid out of private donations, not to exceed forty staff members;

(4) To request the head of any Federal agency to detail to the Commission, without reimbursement to the agency, such personnel as the Commission may require for carrying out its duties and functions.

(b) The Staff Director has responsibility for administering the work of the Commission's staff under the oversight of the Chairman and the Commission.

§ 2000.21 Facilities and services.

(a) To accomplish its purposes, the Commission is authorized to procure supplies, services and property, within the limits of appropriated or donated funds, and to enter into agreements with the General Services Administration.

(b) The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies.

§ 2000.22 Donations to Commission.

(a) *Authorization.* The Commission is authorized to accept, use, solicit and dispose of donations of money, property, or personal services.

(b) *Limits.* Donations may not exceed:

(1) $25,000 in value annually, in the case of individual donors, or

(2) $100,000 in value annually in the case of donations from a corporation, partnership, or other business organization.

(c) *Nonprofit donors.* There is no limit on donations from a nonprofit organization which is tax exempt and qualified under section 501(c)(3) of the Internal Revenue Code.

Subpart C—Commemorative Activities

§ 2000.30 Planning considerations.

(a) In planning and implementing appropriate activities to commemorate the bicentennial, the Commission shall give due consideration to the following:

(1) The historical setting in which the Constitution was developed and ratified;

(2) The contribution of diverse ethnic and racial groups;

(3) The relationship and historical development of the three branches of the Government;

(4) The importance of activities concerning the Constitution and citizenship education throughout all of the States regardless of when each State achieved statehood;

(5) The unique achievements and contributions of the participants in the Constitutional Convention of 1787 and the State ratification proceedings;

(6) The diverse legal and philosophical views regarding the Constitution;

(7) The need for reflection upon academic and scholarly views of the Constitution as well as the principle that the general public also must understand the document, its contents and meaning.

(8) The substantive provisions of the Constitution itself;

(9) The impact of the Constitution on American life and government;

(10) The need to encourage appropriate educational curriculums designed to educate students at all levels on the drafting, ratification, and history of the Constitution and its specific provisions; and

(11) The significance of the principles and institutions of the Constitution to other nations and their citizens.

Subpart D—Commission Operations

§ 2000.40 Offices of the Commission.

The offices of the Commission are located at 734 Jackson Place, NW., Washington, DC 20503. There are no field offices.

[FR Doc. 86–3856 Filed 2–27–86; 8:45 am]

BILLING CODE 6340-01-M

federal register

Friday
February 28, 1986

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 33

Airworthiness Standards: Aircraft Engines Fuel and Induction System; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. 24922; Notice No. 86-2]

Airworthiness Standards: Aircraft Engines Fuel and Induction System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance Notice of Proposed Rulemaking (ANPRM), Invitation for Interested Persons to Submit Comments.

SUMMARY: This advance notice proposes to establish requirements to assure that an engine fuel mixture control lever will move automatically to the full-rich position in the event it becomes disconnected from the mixture control linkage. This proposal would add a new paragraph to § 33.35 of Part 33 of the Federal Aviation Regulations (FAR). Consideration of this new requirement results from an analysis of a series of accidents attributed to mixture controls moving to the idle cut-off position in flight.

DATES: Comments must be received on or before April 29, 1986.

ADDRESS: Comments on this advance proposal may be delivered or mailed in duplicate to: Federal Aviation Administration, Office of the General Counsel, Room 916, Attention: Rules Docket No. 24922, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: George Mulcahy, Engine and Propeller Standards, ANE-110, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7077.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of or determining the need for the proposed rule by submitting such written data, views, or arguments as they may desire. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24922." The postcard will be date/time stamped and returned to the commenter. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of ANPRM

Any person may obtain a copy of this ANPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of the ANPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Background

The National Transportation Safety Board (NTSB) analyzed 54 aircraft accidents, which occurred between 1971 and 1981, attributed to problems with carburetor mixture linkage. Based on that analysis the NTSB concluded that in the majority of cases, there was a discontinuity in the mixture control linkage caused by a slippage or breakage of the control mechanism at the carburetor. This situation apparently resulted in the mixture control either moving or vibrating to the idle cut-off position.

One recommendation resulting from the NTSB evaluation is to amend Part 33 of the FAR to require that the carburetor mixture control lever move automatically to the full-rich position in the event that it becomes disconnected from the mixture control linkage. In the NTSB's view, having the mixture move to the "full-rich" position would be the best alternative in most cases, since the majority of small single-engine airplanes which are subject to such failures operate routinely at relatively low altitudes. The NTSB believes that the installation of a simple safety return spring, or other type of restraint on the carburetor mixture control lever, would be effective in preventing accidents.

The FAA has informally elicited the views of engine and carburetor manufacturers on this recommendation. Based on the information received, it is not clear whether or not the recommended regulatory change would result in improved airworthiness over current carburetor designs. A number of the cases used in the NTSB analysis suggest a question of inadequate maintenance instead of carburetor design deficiencies. Thus, it appears that some of the accidents analyzed would probably not have been prevented by the recommendation. On the other hand, the outcome of some of the 54 accidents reviewed, including one fatal accident and a number of serious injury accidents, may have had a more favorable outcome if the recommended change had been in effect at the time the subject engine designs were certificated.

The FAA is not convinced that information received to date is adequate to make a final decision on the proposed regulatory change. Consequently, the FAA considers it prudent to elicit comments from the general public on this proposal. As it is currently being considered, the proposed rule would apply to any type of fuel metering system, not just carburetor systems which formed the basis of the NTSB evaluation. While the proposed wording of the new requirement is presently derived from the NTSB recommendation, alternative language and alternative means of achieving the same result, as may be suggested in response to this ANRPM, will also be considered. The FAA is especially interested in any recommendation or comment, with supporting rationale, as to whether "full-rich" is the preferred position in the event of linkage failure.

Economic Impact and Benefits

Public comments concerning the economic impact and benefits are specifically sought in addition to comments on the technical aspect of the proposed airworthiness standard.

Agencies of the Federal government are required by Executive Order 12291 to examine any proposed regulation to ascertain its economic impact and to adopt only those regulatory programs in which potential benefits to society clearly outweigh the potential costs to society. Any regulatory proposal by the FAA must be accompanied by an evaluation quantifying and/or qualifying, to the extend possible, the benefits and cost of such proposals. Although the FAA does not have sufficient information to generate definitive costs at this time, we anticipate costs will be minimal.

However, if comments to this ANPRM indicate this assumption is erroneous, a complete cost evaluation will be prepared. Therefore, it is essential that comments for or against the proposal discussed here include the economic impact as perceived by the commenter. With this in mind, FAA poses the following questions:

1. What would be the cost (in terms of engineering hours) of designing a fuel mixture control system that would satisfy the requirements of this proposal?

2. What would be the incremental cost of manufacturing a carburetor (or any other type of fuel metering system in use) that would satisfy the requirements of this proposal?

3. How effective would the proposed remedy be in preventing accidents caused by a break in the mixture control linkage?

4. Are there any alternative measures that could achieve the same objective in a more effective or less costly manner?

List of Subjects in 14 CFR Part 33

Aircraft engines, Aircraft, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration is considering an amendment to Part 33 of the FAR as follows:

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

1. The authority for Part 33 continues to read as follows:

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

2. By adding new § 33.35(f) to read as follows:

§ 33.35 Fuel and induction system

* * * * *

(f) The fuel system of the engine must be designed and constructed such that if the mixture control linkage becomes disconnected, the mixture lever must move automatically to the full-rich position.

Issued in Burlington, Massachusetts on February 24, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86-4298 Filed 2-27-86; 8:45 am]

BILLING CODE 4910-13-M

federal register

Friday
February 28, 1986

Part V

National Archives and Records Administration

36 CFR Part 1275

Preservation and Protection of and Access to Historical Materials of the Nixon Administration; Repromulgation of Public Access Regulations; Final Rule

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1275

Preservation and Protection of and Access to Historical Materials of the Nixon Administration; Repromulgation of Public Access Regulations

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: This final rule sets forth procedures to be followed by the National Archives and Records Administration (NARA) for preserving and protecting the Presidential materials of the Nixon Administration and for providing public access to these materials. This rule implements the Presidential Recordings and Materials Preservation Act (44 U.S.C. 2111 note).

EFFECTIVE DATE: June 26, 1986.

FOR FURTHER INFORMATION CONTACT: Gary Brooks, Legal Services Staff, 202/523-3618.

SUPPLEMENTARY INFORMATION: On March 29, 1985, the proposed regulations were published for public comment at 50 FR 12575. These regulations were required because the previous regulations were ruled invalid by the United States District Court for the District of Columbia (*Allen et al.* v. *Carmen et. al,* 578 F. Supp. 951) on the grounds that they were subjected to unconstitutional legislative vetoes. These regulations were proposed after lengthy deliberations by the National Archives and various other agencies and offices in the Executive Branch.

Since the notice of proposed rulemaking was published, NARA has been established as an independent executive branch agency, pursuant to the National Archives and Records Administration Act of 1984 [Pub. L. 98-497]. Consequently, the regulations, which were to have been published in Title 41 of the Code of Federal Regulations, are being published in Part 1275 of Title 36 of the Code of the Federal Regulations with other NARA regulations. Therefore, a new numbering format is used for these final regulations that does not affect the substance of the regulations.

During the sixty-day comment period, NARA received comments in response to these proposed regulations from only three parties: (1) R. Stan Mortenson on behalf of Richard Nixon and certain unnamed former Nixon administration staff members; (2) David Ginsburg, on behalf of Henry Kissinger; and (3) Howard Minderer, on behalf of the National Broadcasting Company, Inc. All comments consisted of objections and exceptions to certain provisions of the proposed regulations.

Both Mr. Mortenson and Mr. Ginsburg claim that the regulations provide inadequate notice to interested parties before scheduled release. Both also claim that the restriction in the regulations intended to protect personal privacy interests is inadequate.

In addition, Mr. Ginsburg asserts that the regulations unconstitutionally deny former staff members due process and equal protection of laws because of dissimilar treatment afforded to Presidential materials of other administrations. Finally, Mr. Ginsburg proposes a formal adjudicatory process to resolve disputes over release of materials.

Mr. Mortenson objects to certain definitions included in the regulations as vague and overbroad which could result in the Government's retaining personal materials which should be returned. Notice to everyone mentioned within the materials prior to release is urged by Mr. Mortenson. Finally, Mr. Mortenson claims that the regulations unfairly shift to the protestor the burden of protecting his rights or privileges.

Mr. Minderer objects to the regulations not providing any means for researchers to obtain copies of the White House tapes after they are released to the public.

In the eleven years since passage of the Presidential Records and Materials Preservation Act (PRMPA) [44 U.S.C. 2111 note], the National Archives has addressed many of these comments and objections in other forums. Without repeating all previous statements and positions on these subjects, we shall attempt to address, in abbreviated form, the comments and objections outlined above.

Section 1275.42(b) [formerly 41 CFR 105-63.401(b)] provides that the National Archives will publish in the **Federal Register** and provide to certain individuals a prior notice of at least 30 calendar days before opening materials to the public. Both Mr. Ginsburg and Mr. Mortenson claim that a 30-day notice period is inadequate to review the files scheduled for opening.

In response, we need only point out the regulations provide a minimum notice of 30 days, no maximum is provided. Both commentors are also aware that under the prior regulations the National Archives extended the original 30-day notice upon request for good cause. We intend to continue this practice under the proposed regulations.

We also recognize that Mr. Nixon believes he has a greater review burden than others because of the volume of materials involved. Under the prior regulations, the National Archives and Mr. Nixon agreed that Mr. Nixon or his agents would be allowed to review parts of integral file segments after archival processing rather than be required to wait until an entire integral file segment was completed. This arrangement allows Mr. Nixon to review smaller completed segments on a periodic basis, and therefore, not require substantial time to review the files after publication of notice. We intend to continue this practice in order to facilitate the review by Mr. Nixon, if desired.

Proposed § 1275.52 [formerly 41 CFR 105-63.402-2] lists various categories of materials whose access will be restricted from public release. One of the restriction categories pertains to documents that, if released, would constitute a clearly unwarranted invasion of personal privacy or constitute libel of a living person. Both Mr. Ginsburg and Mr. Mortenson criticized this provision as insufficiently restrictive. Mr. Ginsburg suggests an alternative standard of "tend to embarrass, damage or harass living persons."

In response to these comments, we note that the language used in this section mirrors the language used in the Freedom of Information Act [5 U.S.C. 552(b)(6)]. Moreover, similar language is used in the Presidential Records Act [44 U.S.C. 2204(a)(6)]. Therefore, the National Archives will restrict public access to the same types of information in the Nixon Presidential materials as is currently being restricted in agency records and will be restricted in Presidential records.

Mr. Ginsburg's suggested alternative was used as a restriction in certain past deeds of gift for Presidential materials. However, the most recent Presidential deed of gift, the Carter letter of gift, dated January 31, 1981, includes language similar to the proposed regulation. We have found that the application of the "unwarranted invasion" restriction and the older "tend to embarrass" restriction has resulted in comparable protection of individuals' privacy interests. In processing documents under the previous set of regulations, thousands of the 1,500,000 pages comprising the Special files were identified as restrictable for personal privacy reasons and withdrawn from the files scheduled to be made available to the public. We believe that the proposed regulation affords proper and equitable protection of privacy interests without being unduly restrictive.

In his comments, Mr. Ginsburg also objects to the proposed regulations on

constitutional grounds alleging denial of due process and equal protection of laws. Mr. Ginsburg argues that, prior to 1974, Dr. Kissinger and other White House Staff members reasonably expected Nixon Presidential materials to be treated the same as material of previous administrations and returned to staff members or donated to a Presidential Library under more protective restrictions.

In drafting the proposed regulations, we attempted to follow past practices in Presidential libraries as closely as possible, except where the PRMPA required a specific course of action deviating from these past practices. The single greatest departure from past practices involves establishing unique rights under the proposed regulations for former Nixon White House staff members.

Traditionally, at the end of his administration, a President gathered all White House materials, including the office files of aides and staff members, as his personal property. These materials were donated, often before leaving office or shortly thereafter, to the National Archives for the establishment of a Presidential library. Certain provisions were included in the deed of gift restricting access to specified types of material. These restrictions differed somewhat from President to President, but were generally similar to the restrictions included in our proposed regulations. It was then the responsibility of the National Archives to process and make available materials in accordance with the terms of the deed of gift. Only rarely, and then usually at the request of the National Archives, would the President become involved in public release of materials. Former aides and staff members who may have generated or received the materials were never consulted about releases.

In the proposed regulations, former Nixon aides and staff members are notified before release of materials generated or received by them and are given the opportunity to review the materials and submit comments or objections before release. We believe that these regulations not only comply with the constitutional and other legal requirements for due process and equal protection, but also far exceed the traditional protections afforded former aides or staff members of any other recent administration. Therefore, no White House aide or staff member in 1974 should have reasonably expected greater protection than we have included in these regulations.

Finally, Mr. Ginsburg objects to the regulations because they do not include formal administrative procedures. He proposes a formal adjudicatory process, including hearing, discovery and presiding officer, to resolve disputes over release of materials.

In response, we note that formal adjudication is required by neither the Administrative Procedures Act [5 U.S.C. 551 *et seq.*] nor the PRMPA. The National Archives, therefore, has the discretion to adopt its own administrative procedures, so long as they meet requirements of due process. We believe that the proposed regulations do meet those requirements, and that the informal procedures adopted therein will better serve all parties involved in the release of materials.

In addition to his comments discussed above, Mr. Mortenson raises other objections to the proposed regulations, on behalf of Mr. Nixon and others. We should note at the outset that the provisions objected to by Mr. Mortenson are identical to the prior set of regulations approved by Mr. Nixon in settling *Nixon* v. *Solomon* in 1979. Without regard to the legal propriety of permitting Mr. Nixon to raise again matters which were formerly agreed upon, we shall try to address the substance of these issues.

Mr. Mortenson objects to certain definitions included in the proposed regulations. First, Mr. Mortenson argues that the term "Presidential historical materials", located in § 1275.16 [formerly 41 CFR 105–63.104(a)], is too vague and overly broad. Also, Mr. Mortenson contends that the term "private or personal materials", located in § 1275.16(b) [formerly 41 CFR 105–63.104(b)], is too broad and authorizes the Government to retain too much material.

These two comments are treated together because they are actually two sides of the same coin. In processing materials, a document or item must be designated Presidential historical or private or personal. Presidential historical materials are retained by the Government. Personal or private materials are returned unless they reflect "Watergate Abuses." In effect, Mr. Mortenson is arguing that the definitions permit the Government to retain materials that should be returned.

In this area, the experience of the National Archives in other Presidential libraries is most important. The definitions proposed in the regulations reflect the extent of materials found in other Presidential libraries. The Nixon Presidential historical materials, as defined by these regulations, do not differ in kind from the Presidential historical materials of other administrations that are in the custody of the National Archives. In these regulations, we attempt to retain and treat the Nixon historical materials in a manner consistent with the practices of the Presidential libraries.

In defining these terms, as proposed, we attempt to assure that the Government retains materials that properly reflect a complete and accurate record of the Nixon administration. The National Archives plays a similar role in the determination of records status in both the Federal records and Presidential records areas [*See* 44 U.S.C. Chs. 21, 29, 31 & 33; 44 U.S.C. Ch. 22]. We believe that the definitions discussed above are not too far-reaching and meet the PRMPA mandate to take into account "the need to provide public access to those materials which have general historical significance * * *." [44 U.S.C. 2111 at section 104(a)6].

Mr. Mortenson also comments that § 1275.26(b) [formerly 41 CFR 105–63.204(b)] provides that only certain personnel and "Mr. Nixon" will have access to records storage areas. No specific provision is made to include Mr. Nixon's designed attorney or agent.

Based upon past practices and references in other provisions, we believe it was understood that access would be allowed to Mr. Nixon's designated attorney or agent pursuant to § 1275.26(b). However, in order to clarify this understanding, we have amended § 1275.26(b) to include this specific provision.

Next, Mr. Mortenson objects to the adequacy of notification prior to public release of materials provided in § 1275.42 [formerly 41 CFR 105–63.401]. Mr. Mortenson argues notification must be given to every person whose name is mentioned in the materials proposed to be released.

This idea of universal notification has been proposed and rejected by the National Archives in prior versions of the regulations. Universal notification is a practical impossibility, considering that the Nixon materials include approximately 40 million pages. We have estimated that it would require a staff the size of the NARA staff presently processing the Nixon documents more than 300 years to compile a list of all persons mentioned, find addresses, and prepare notification. Moreover, we do not believe such an elaborate notification system is required. In releasing materials of past Presidents, no such notification was attempted and no claim of injury was ever filed. We believe the creation of a registry, as provided in § 1275.42(c) [formerly 41 CFR 105–63.401(c)], should

be sufficient if someone is concerned about the release of his name.

Mr. Mortenson also objects to the list of restrictions in §§ 1275.50 and 1275.52 [formerly 41 CFR 105–63.402–1 and 105–63.402–2] because they do not provide for a restriction based upon Presidential privilege. Mr. Mortenson argues that, without this restriction, the burden is upon Mr. Nixon and others to make this claim.

During the notice period prior to release, the regulations provide all parties, including the incumbent President, the opportunity to raise any objection or claim of privilege. This would include the right to raise any executive or Presidential privilege claim. This is the type of privilege which is reserved to the President or former Presidents. The incumbent President has not objected to our proposed regulations including the placement of responsibility for claims of privilege. Mr. Mortenson's objection implies that we should assert a claim of privilege on behalf of Mr. Nixon. This we cannot do.

Executive privilege is not included as a separate category of restriction in other Presidential libraries. Also, the Presidental Records Act places a time limit of 12 years on executive privilege type claims [44 U.S.C. 2204]. We are quickly approaching the twelfth anniversary of the resignation of Mr. Nixon. We believe that our regulations provide the most realistic way to handle a potential claim of executive privilege over these Nixon Presidential historical materials.

Finally, Mr. Minderer comments upon § 1275.64 [formerly 41 CFR 105–63.404] which provides for public access to tape recordings of Presidential conversations. Mr. Minderer objects to the regulations not providing any means for researchers to obtain copies of the tapes after they are released to the public.

The issue of providing copies of tapes is very troublesome. The genesis for our position is the settlement agreement in *Nixon* v. *Solomon*. As part of a general settlement of most issues in that case, the National Archives agreed to the prohibition of copies of tapes. Congress originally did not address the issue of providing copies of tapes in the PRMPA and did nothing to overrule the prohibition when the National Archives submitted previous sets of regulations for review.

In our review of this provision for the proposed regulations, we reconsidered whether continuing this prohibition was appropriate. We had some concern about possible improper use of taped Presidential conversation if such copies were released to the public. In fact, we continue to prohibit the copying of the Nixon tapes previously released in court and now being played for the public in the National Archives.

Taped conversations have recently been publicly released in the Kennedy Presidential Library. We are providing copies of certain Kennedy Presidential conversations upon request. However, we have had very little experience with the results of this distribution. Therefore, until Congress speaks on this matter, and while we obtain practical experiences in other Presidential libraries, we have decided to maintain the prior agreed upon position of prohibiting copying of the Nixon Presidential tapes for the public. This position may be reviewed periodically.

The effective date for these regulations has been established as June 26, 1986. Section 104(b) of the PRMPA provides that the proposed regulations shall not take effect until after the first period of 60 calendar days of continuous session of Congress after submission of the regulations to each House of the Congress. We intend to submit these regulations to Congress at the time of this publication in the **Federal Register**. For purposes of calculating this period, continuity of session is broken only by an adjournment *sine die*, but days on which either Houses has adjourned for more than three days are excluded. Based upon the schedules of both Houses of Congress, we estimate that the statutorily required time period will be met by June 18, 1986. In order to accommodate any unexpected changes in Congress' schedule, we have made the effective date extend a few days beyond the required time period. If, for any reason, this report and wait period has not been met by June 26, 1986, we shall amend these regulations by notice in the **Federal Register** and provide a new effective date.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1275

Archives and records; Nixon historical materials.

For the reasons stated in the summary, Chapter XII of Title 36 of the Code of Federal Regulations is amended by adding Part 1275 to Subchapter F to read as follows:

PART 1275—PRESERVATION AND PROTECTION OF AND ACCESS TO THE PRESIDENTIAL HISTORICAL MATERIALS OF THE NIXON ADMINISTRATION

Sec.

Authority: Sec. 102(a) of the National Archives and Records Administration Act of 1984, Pub. L. 98–497; 44 U.S.C. 2104; and secs. 103 and 104 of the Presidential Recordings and Materials Preservation Act 88 Stat. 1695; 44 U.S.C. 2111 note.

§ 1275.1 Scope of part.

This part sets forth policies and procedures concerning the preservation and protection of and access to the tape recordings, papers, documents, memorandums, transcripts, and other objects and materials which constitute the Presidential historical materials of

Richard M. Nixon, covering the period beginning January 20, 1969, and ending August 9, 1974.

Subpart A—General Provisions

§ 1275.10 Purpose.

This Part 1275 implements the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Pub. L. 93–526; 88 Stat. 1695). It prescribes policies and procedures by which the National Archives and Records Administration will preserve, protect, and provide access to the Presidential historical materials of the Nixon Administration.

§ 1275.12 Application.

This Part 1275 applies to all of the Presidential historical materials of the Nixon Administration in the custody of the Archivist of the United States pursuant to the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Pub. L. 93–526; 88 Stat. 1695).

§ 1275.14 Legal custody.

The Archivist of the United States has or will obtain exclusive legal custody and control of all Presidential historical materials of the Nixon Administration held pursuant to the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Pub. L. 93–526; 88 Stat. 1695).

§ 1275.16 Definitions.

For the purposes of this Part 1275, the following terms have the meaning ascribed to them in this § 1275.16.

(a) *Presidential historical materials.* The term "Presidential historical materials" (also referred to as "historical materials" and "materials") shall mean all papers, correspondence, documents, pamphlets, books, photographs, films, motion pictures, sound and video recordings, machine-readable media, plats, maps, models, pictures, works of art, and other objects or materials made or received by former President Richard M. Nixon or by members of his staff in connection with his constitutional or statutory powers or duties as President and retained or appropriate for retention as evidence of or information about these powers or duties. Included in this definition are materials relating to the political activities of former President Nixon or members of his staff, but only when those activities directly relate to or have a direct effect upon the carrying out of constitutional or statutory powers or duties. Excluded from this definition are documentary materials of any type that are determined to be the official records of an agency of the Government; private or personal materials; stocks of publications, processed documents, and stationery; and extra copies of documents produced only for convenience or reference when they are clearly so identified.

(b) *Private or personal materials.* The term "private or personal materials" shall mean those papers and other documentary or commemorative materials in any physical form relating solely to a person's family or other non-governmental activities, including private political associations, and having no connection with his constitutional or statutory powers or duties as President or as a member of the President's staff.

(c) *Abuses of governmental power popularly identifed under the generic term "Watergate."* The term "abuses of governmental power popularly identified under the generic term "Watergate" (also referred to as "abuses of governmental power"), shall mean those alleged acts, whether or not corroborated by judicial, administrative or legislative proceedings, which allegedly were conducted, directed or approved by Richard M. Nixon, his staff or persons associated with him in his constitutional or statutory functions as President, or as political activities directly relating to or having a direct effect upon those functions, and which (1) were within the purview of the charters of the Senate Select Committee on Presidential Campaign Activities or the Watergate Special Prosecution Force; or (2) are circumscribed in the Articles of Impeachment adopted by the House Committee on the Judiciary and reported to the House of Representatives for consideration in House Report No. 93–1305.

(d) *General historical significance.* The term "general historical significance" shall mean having administrative, legal, research or other historical value as evidence of or information about the constitutional or statutory powers or duties of the President, which an archivist has determined is of a quality sufficient to warrant the retention by the United States of materials so designated.

(e) *Archivist.* The term "archivist" shall mean an employee of the National Archives and Records Administration who, by education or experience, is specially trained in archival science.

(f) *Agency.* The term "agency" shall mean an executive department, military department, independent regulatory or nonregulatory agency, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government including the Executive Office of the President. For purposes of § 1275.32 only, the term "agency" shall also include the White House Office.

(g) *Initial archival processing.* The term "initial archival processing" shall mean the following general acts performed by archivists with respect to the Presidential historical materials: Shelving boxes of documents in chronological, alphabetical, numerical or other sequence; surveying and developing a location register and cross-index of the boxes; arranging materials; reboxing the documents and affixing labels; producing finding aids such as folder title lists, cross-indexes, and subject lists; reproducing and transcribing tape recordings; reviewing the materials to idenfity items that appear subject to restriction; identifying items in poor physical condition and assuring their preservation; and identifying materials requiring further processing.

(h) *Staff.* The term "staff" shall mean those persons whose salaries were paid fully or partially from appropriations to the White House Office or Domestic Council, or who were detailed on a nonreimbursable basis to the White House Office or Domestic Council from any other Federal activity; or those pesons who otherwise were designated as assistants to the President, in connection with their service in that capacity; or any persons whose files were sent to the White House Central Files Unit or Special Files Unit, for purposes of those files.

(i) *National security classified information.* The term "national security classified information" shall mean any matter which is security classified under existing law, and has been or should be designated as such.

§ 1275.18 Requests or demands for access.

Each agency which receives a request or legal demand for access to Presidential historical materials of the Nixon Administration shall immediately forward the request or demand to the Archivist of the United States, National Archives and Records Administration (NARA), Washington, D.C. 20408.

Subpart B—Preservation and Protection

§ 1275.20 Responsibility.

The Archivist of the United States or his designated agent (hereinafter the Archivist) is responsible for the preservation and protection of the Presidential historical materials. He may arrange with other Federal agencies, acting pursuant to appropriate Federal

authority, for assistance in their preservation and protection.

§ 1275.22 Security.

The Archivist is responsible for providing adequate security for the Presidential historical materials.

§ 1275.24 Archival processing.

When authorized by the Archivist and until the commencement of archival processing in accordance with Subpart D of this Part, archivists may process the Presidential historical materials to the extent necessary for protecting and preserving the materials, and for providing authorized access to the materials pursuant to Subpart C of this Part.

§ 1275.26 Access procedures.

(a) The Archivist will receive and/or prepare appropriate documentation of each access authorized under this Part 1275.

(b) Entry to the records storage areas will be provided by the Archivist only to archival, maintenance, security, or other necessary personnel or to Mr. Nixon or his agent. Two persons, at least one of whom represents the Archivist, will be present at all times that records storage areas are occupied.

(c) The Archivist will determine that each individual having access to the Presidental historical materials has a security clearance equivalent to the highest degree of national security classification that may be applicable to any of the material examined.

(d) The Archivist will provide former President Nixon or his designated attorney or agent (hereinafter Mr. Nixon), prior notice of, and allow him to be present during, each search necessary to comply with an authorized access under §§ 1275.32 or 1275.34.

(e) Only NARA archivists shall conduct searches necessary to comply with authorized accesses under §§ 1275.32 and 1275.34.

(f) Prior to releasing Presidential historical materials in accordance with an access authorized under §§ 1275.32 or 1275.34, the Archivist will give Mr. Nixon notice of the nature and identity of, and at his request allow him access to, those Presidential historical materials which the archivists have determined are covered by the subpoena, or other lawful process, or request. The notice will also inform Mr. Nixon that he may file a claim with the Archivist objecting to the release of all or portions of the described materials within 5 workdays of his receiving the notice described herein. The claim should detail the alleged rights and privileges of Mr. Nixon which would be violated by the release of the materials. The Archivist will refrain from releasing any of the materials to the requester during this period, and while any claim of right or privilege is pending before him, will refrain from releasing the materials subject to the claim.

(g) The Archivist will notify Mr. Nixon in writing of the administrative determination on any claims filed in accordance with paragraph (f) of this section. In the event the determination is wholly or partially adverse to the claim, the Archivist will refrain from releasing the materials to the requester for an additional 5 workdays from Mr. Nixon's receipt of the determination.

(h) Whenever possible, a copy, which shall be certified upon request, instead of the original documentary Presidential historical materials shall be provided to comply with a subpoena or other lawful process or request. Whenever the original documentary material is removed, a certified copy of the material shall be inserted in the proper file until the return of the original.

§ 1275.28 Extraordinary authority during emergencies.

In the event of an emergency that threatens the physical preservation of the Presidential historical materials or their environs, the Archivist will take such steps as may be necessary, including removal of the materials to temporary locations outside the metropolitan area of the District of Columbia, to preserve and protect the materials.

Subpart C—Access to Materials by Former President Nixon, Federal Agencies, and For Use in Any Judicial Proceeding

§ 1275.30 Access by former President Nixon.

In accordance with the provisions of Subpart B of this Part, former President Richard M. Nixon or his designated agent shall at all times have access to Presidential historical materials in the custody and control of the Archivist.

§ 1275.32 Access by Federal agencies.

In accordance with the provisions of Subpart B of this Part, any Federal agency or department in the executive branch shall have access for lawful Government use to the Presidential historical materials in the custody and control of the Archivist to the extent necessary for ongoing Government business. The Archivist will only consider written requests from heads of agencies or departments, deputy heads of agencies or departments, or heads of major organizational components or functions within agencies or departments.

§ 1275.34 Access for use in judicial proceedings.

In accordance with the provisions of Subpart B of this part, and subject to any rights, defenses, or privileges which the Federal Government or any person may invoke, the Presidential historical materials in the custody and control of the Archivist will be made available for use in any judicial proceeding and are subject to subpoena or other lawful process.

Subpart D—Access by the Public

§ 1275.40 Scope of subpart.

This subpart sets forth policies and procedures concerning public access to the Presidential historical materials of Richard M. Nixon.

§ 1275.42 Processing period; notice of proposed opening.

(a) The Archivist will commence the initial archival processing of the materials. In processing the materials, the archivists will give priority to segregating private or personal materials and transferring them to their proprietary or commemorative owner in accordance with § 1275.48. As soon thereafter as possible, the Archivist will open for public access all of the materials in the Archivist's custody and control which are neither restricted pursuant to § 1275.50 or § 1275.52 nor subject to outstanding claims or petitions seeking such restrictions. The Archivist will open for public access each integral file segment of the materials upon completion of initial archival processing on that segment. Insofar as practicable, the Archivist will give priority in such initial archival processing to materials relating to abuses of governmental power as defined in § 1275.16(c).

(b) At least 30 calendar days prior to the opening to public access of any integral file segment of the materials, the Archivist will publish notice in the Federal Register of the proposed opening. The notice will reasonably identify the material to be opened and will include a reference to the right of any interested person to file a claim or petition in accordance with § 1275.44. Copies of the notice will be sent to the incumbent President of the United States or his designated agent and by first-class mail to the last known address of: Mr. Nixon, or his designated agent or heirs; any former staff member reasonably identifiable as the individual responsible for creating or maintaining the file segment proposed to be opened;

any individual named in the material which the Archivist may not restrict in accordance with § 1275.50(b) because the material is essential to an understanding of any abuse of governmental power; and any persons named in the materials who are registered with the National Archives and Records Administration in accordance with paragraph (c) of this section.

(c) The Archivist will maintain a registry which shall contain the names and mailing addresses of persons who wish to receive personal notice of the proposed opening of integral file segments of the materials when those segments contain references about them. To be included in the registry, a person must submit his/her name and mailing address to the National Archives and Records Administration (NLN), Washington, D.C. 20408. Both the envelope and letter should be prominently marked, "Nixon Materials Registry." By submitting his/her name for inclusion in the registry, a person agrees to reimburse the United States for the cost of first-class postage for each instance of personal notice received.

§ 1275.44 Rights and privileges; right to a fair trial.

(a) Within 30 days following publication of the notice prescribed in § 1275.42(b), any person claiming a legal or constitutional right or privilege which would prevent or limit public access to any of the materials shall notify the Archivist in writing of the claimed right or privilege and the specific materials to which it relates. Unless the claim states that particular materials are private or personal (see paragraph (d) of this section), the Archivist will notify the claimant by certified mail, return receipt requested, of his decision regarding public access to the pertinent materials. If that decision is adverse to the claimant, the Archivist will refrain from providing public access to the pertinent materials for at least 30 calendar days from receipt by the claimant of such notice.

(b) Within 30 days following publication of the notice prescribed in § 127.42(b), officers of any Federal, State, or local court and other persons who believe that public access to any of the materials may jeopardize an individual's right to a fair and impartial trial should petition the Archivist setting forth the relevant circumstances that warrant withholding specified materials. The Archivist will notify the petitioner by certified mail, return receipt requested, of his decision regarding public access to the petitioner, the Archivist will refrain from providing public access to the pertinent materials. If that decision is adverse to the pertinent materials for at least 30 calendar days from receipt by the petitioner of such notice.

(c) In reaching decisions required by paragraphs (a) and (b) of this section, the Archivist may consult with other appropriate Federal agencies. If these consultations require the transfer of copies of the materials to Federal officials in agencies other than the National Archives and Records Administration, the Archivist will transfer these copies in accordance with the procedures prescribed in §§ 1275.26 and 1275.32.

(d) Within 30 days following publication of notice prescribed in § 1275.42(b), any person claiming that materials proposed for public access are in fact private or personal, as defined in § 1275.16(b), and that he or she is the proprietary or commemorative owner of those materials shall notify the Archivist in writing. The claim shall describe the specific materials to which it refers, and the claimant's basis for concluding that these materials are private or personal. Upon receipt of such a claim, the Archivist will transmit it to the Presidential Materials Review Board for its consideration and determination in accordance with § 1275.46(i). The Archivist will refrain from providing public access to the pertinent materials or from returning them to the claimant for at least 30 calendar days from receipt by the claimant or any intervening parties of the Board's determination.

§ 1275.46 Segregation and review; Senior Archival Panel; Presidential Materials Review Board.

(a) During the processing period described in § 1275.42(a), the Archivist will assign archivists to segregate private or personal materials, as defined in § 1275.16(b). The archivists shall have sole responsibility for the initial review and determination of private or personal materials. At all times when the archivists or other authorized officials have access to the materials in accordance with these regulations, they shall take all reasonable steps to minimize the degree of intrusion into private or personal materials. Except as provided in these regulations, the archivists or other authorized officials shall not disclose to any person private or personal or otherwise restricted information learned as a result of their activities under these regulations.

(b) During the processing period described in § 1275.42(a), the Archivist will assign archivists to segregate materials neither relating to abuses of governmental power, as defined in § 1275.16(c), nor otherwise having general historical significance, as defined in § 1275.16(d). The archivists shall have sole responsibility for the initial review and determination of those materials which are not related to abuses of governmental power and do not otherwise have general historical significance.

(c) During the processing period described in § 1275.42(a), the Archivist will assign archivists to segregate materials subject to restriction, as prescribed in §§ 1275.50 and 1275.52. The archivists shall have sole responsibility for the initial review and determination of materials that should be restricted. The archivists shall insert a notification of withdrawal at the front of the file folder or container affected by the removal of restricted material. The notification shall include a brief description of the restricted material and the basis for the restriction as prescribed in §§ 1275.50 and 1275.52.

(d) If the archivists are unable to make a determination required in paragraphs (a), (b), or (c) of this section, or if the archivists conclude that the required determination raises significant issues involving interpretation of these regulations or will have far-reaching precedential value, the archivists shall submit the pertinent materials, or representative examples of them, to a panel of senior archivists selected by the Archivist of the United States. The Panel shall then have the sole responsibility for the initial determination required in paragraphs (a), (b), or (c) of this section.

(e) If the Senior Archival Panel is unable to make a determination required in paragraph (d) of this section, or if the panel concludes that the required determination raises significant issues involving interpretation of these regulations or will have far-reaching precedential value, the Panel shall certify the matter and submit the pertinent materials, or representative examples of them, to the Presidential Materials Review Board.

(f) The Presidential Materials Review Board ("Board") shall consist of the Archivist of the United States, who shall serve as Chairman, and the following additional members:

(1) The Assistant Archivist for the Office of the National Archives;

(2) The Assistant Archivist for the Office of the Presidential Libraries;

(3) The Director of the Legal Counsel Staff of the National Archives and Records Administration; and

(4) The Historian of a Federal agency who shall be selected by the Archivist of the United States in his capacity as Chairman.

The Board shall meet at the call of the Chairman. Three members of the Board shall constitute a quorum for the conduct of the Board's business, although each member of the Board may participate in all of the Board's decisions. Members of the Board may be represented by their delegates on those occasions when they are unable to attend the meetings of the Board. The Board may consult with officials of interested Federal agencies in formulating its decisions. To the extent these consultations require the transfer of copies of materials to Federal officials outside the National Archives and Records Administration, the Board shall comply with the requirements of §§ 1275.26 and 1275.32.

(g) When the matter certified to the Board by the Senior Archival Panel involves a determination required in paragraphs (a) or (b) of this section, the Board shall prepare a final written decision, together with dissenting and concurring opinions, of the proper categorization and disposition of the pertinent materials. The Board's decision will be the final administrative determination.

(h) When the matter certified to the Board by the Senior Archival Panel involves a determination required in paragraph (c) of this section, the Board shall recommend an initial determination to the Senior Archival Panel, which shall retain the sole responsibility for the initial determination.

(i) When the Board considers a matter referred to it by the Archivist as provided in § 1275.44(d), it shall follow these procedures:

(1) The Board shall notify the claimant of its consideration of the claim, and invite the claimant to supplement at his discretion the basis for the claim.

(2) The Board will publish notice in the **Federal Register**, advising the public of its consideration of the claim, and describing the materials in question as fully as reasonbly possible without disclosing arguably private or personal information. The notice will further advise that any member of the public may petition the Board within 15 calendar days of the publication of notice, setting forth the intervenor's views concerning the public or private nature of the materials.

(3) The Board shall take into account the positions maintained by the claimant and any intervenors in reaching its decision. The Board shall issue its decision, including dissenting and concurring opinions, no sooner than 20 days nor later than 60 days from the publication of notice in the **Federal Register** provided in paragraph (h)(2), of this section. The Board's decision shall be the final administrative determination. The Archivist will notify the claimant and any intervenors of the Board's decision by certified mail, return receipt requested, and shall refrain from acting upon that decision for 30 calendar days as provided in § 1275.44(d).

§ 1275.48 Transfer of materials.

(a) The Archivist will transfer sole custody and use of those materials determined to be private or personal, or to be neither related to abuses of governmental power nor otherwise of general historical significance, to former President Nixon or his heirs or, when appropriate and after notifying Mr. Nixon or his designated agent, to the former staff member having primary proprietary or commemorative interest in the materials.

(b) Materials determined to be neither related to abuses of governmental power nor otherwise of general historical significance, and transferred pursuant to paragraph (a) of this section, shall upon such transfer no longer be deemed Presidential historical materials as defined in § 1275.16(a).

§ 1275.50 Restriction of materials related to abuses of governmental power.

(a) The Archivist will restrict access to materials determined during the processing period to relate to abuses of governmental power, as defined in § 1275.16(c), when:

(1) The Archivist, in accordance with § 1275.44, is in the process of reviewing or has determined the validity of a claim by any person of a legal or constitutional right or privilege; or

(2) The Archivist, in accordance with § 1275.44, is in the process of reviewing or has determined the validity of a petition by any person of the need to protect an individual's right to a fair and impartial trial; or

(3) The release of the materials would violate a Federal statute; or

(4) The materials are authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy, provided that any question as to whether materials are in fact properly classified or are properly subject to classification shall be resolved in accordance with the applicable Executive order or as otherwise provided by law. However, the Archivist may waive this restriction when:

(1) (A) The requester is engaged in a historical research project; or

(B) The requester is a former Federal official who had been appointed by the President to a policymaking position and who seeks access only to those classified materials which he originated, reviewed, signed or received while in public office; and

(ii) The requester has a security clearance equivalent to the highest degree of national security classification that may be applicable to any of the materials to be examined; and

(iii) The Archivist has determined that the heads of agencies having subject matter interest in the material do not object to the granting of access to the materials; and

(iv) The requester has signed a statement, which declares that the requester will not publish, disclose, or otherwise compromise the classified material to be examined and that the requester has been made aware of Federal criminal statutes which prohibit the compromise or disclosure of this information.

(b) The Archivist will restrict access to any portion of materials determined to relate to abuses of governmental power when the release of those portions would constitute a clearly unwarranted invasion of personal privacy or constitute libel of a living person: *Provided*, That if material related to an abuse of governmental power refers to, involves or incorporates such personal information, the Archivist will make available such personal information, or portions thereof, if such personal information, or portions thereof, is essential to an understanding of the abuses of governmental power.

§ 1275.52 Restriction of materials of general historical significance unrelated to abuses of governmental power.

(a) The Archivist will restrict access to materials determined during the processing period to be of general historical significance, but not related to abuses of governmental power, under one or more of the circumstances specified in § 1275.50(a).

(b) The Archivist will restrict access to materials of general historical significance, but not related to abuses of governmental power, when the release of these materials would:

(1) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential; or

(2) Constitute a clearly unwarranted invasion of personal privacy or constitute libel of a living person; or

(3) Disclose investigatory materials compiled for law enforcement purposes, but only when the disclosure of such records would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source, and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures; or

(vi) Endanger the life or physical safety of law enforcement personnel.

§ 1275.54 Periodic review fo restrictions.

The Archivist periodically will assign archivists to review materials placed under restriction by § 1275.50 or § 1275.52 and to make available for public access those materials which, with the passage of time or other circumstances, no longer require restriction. If the archivists are unable to determine whether certain materials should remain restricted, the archivists shall submit the pertinent materials, or representative examples of them, to the Senior Archival Panel described in § 1275.44(d), which shall then have the responsibility for determining if the materials should remain restricted. The Senior Archival Panel may seek the recommendations of the Presidential Materials Review Board, in the manner prescribed in paragraph (e) and (h) of § 1275.46, in making its determination. Before opening previously restricted materials, the Archivist will comply with the notice requirements of § 1275.42(b).

§ 1275.56 Appeal of restrictions.

Upon petition of any researcher who claims in writing to the Archivist that the restriction of specified materials is inappropriate and should be removed, the archivists shall submit the pertinent materials, or representative examples of them, to the Presidential Materials Review Board described in § 1275.46(f). The Board shall review the restricted materials, and consult with interested Federal agencies as necessary. To the extent these consultations require the transfer of copies of materials to Federal officials outside the National Archives and Records Administration, the Board shall comply with the requirements of §§ 1275.26 and 1275.32. As necessary and practicable, the Board shall also seek the views of any person, including former President Nixon, whose rights or privileges might be adversely affected by a decision to open the materials. The Board shall prepare a final written decision, including dissenting and concurring opinions, as to the continued restriction of all or part of the pertinent materials. The Board's decision shall be the final administrative determination. The Archivist will notify the petitioner and other interested persons of the final adminsitrative determination within 60 calendar days following receipt of such petition. If the Board's decision is to open previously restricted materials, the Archivist will comply with the notice requirements of § 1275.42(b).

§ 1275.58 Deletion of restricted portions.

The Archivist will provide a requester any reasonably segregable portions of otherwise restricted materials after the deletion of the portions which are restricted under this § 1275.50 or § 1275.52.

§ 1275.60 Requests for declassification.

Challenges to the classification and requests for the declassification of national security classified materials shall be governed by the provisions of 36 CFR Part 1254 of this Chapter, as that may be amended from time to time.

§ 1275.62 Reference room locations, hours, and rules.

The Archivist shall, from time to time, separately prescribe the precise location or locations where the materials shall be available for public reference, and the hours of operation and rules governing the conduct of researchers using such facilities. This information may be obtained by writing to: Office of Presidential Libraries (NL), The National Archives, Washington, D.C. 20408.

§ 1275.64 Reproduction of tape recordings of Presidential conversations.

(a) To ensure the preservation of original tape recordings of conversations which were recorded or caused to be recorded by any officer or employee of the Federal Government and which:

(1) Involve former President Richard M. Nixon or other individuals who, at the time of the conversation, were employed by the Federal Government; and

(2) Were recorded in the White House or in the office of the President in the Executive Office Buildings located in Washington, District of Columbia; Camp David, Md.; Key Biscayne, Fla.; or San Clemente, Calif.; and

(3) Were recorded during the period beginning January 20, 1969, and ending August 9, 1974, the Archivist will produce duplicate copies of such tape recordings in his custody for public and official reference use. The original tape recordings shall not be available for public access.

(b) Since the original tape recordings may contain information which is subject to restriction in accordance with § 1275.50 or § 1275.52, the Archivists shall review the tapes and delete restricted portions from copies for public and official reference use.

(c) Researchers may listen to reference copies of the tape recordings described in paragraph (a) of this section in a National Archivers building in the Washington, D.C. area and at other reference locations established by the Archivist in accordance with § 1275.62.

§ 1275.66 Reproduction and authentication of other materials.

(a) Copying for researchers of materials other than tape recordings described in § 1275.64 normally will be done by personnel of the National Archives and Records Administration using Government equipment. With the permission of the Archivist or his designated agent, a researcher may use his own copying equipment. Permission shall be based on the determination that such use will not harm the materials or disrupt reference activities. Equipment shall be used under the supervision of NARA personnel.

(b) The Archivist may authenticate and attest copies of materials when necessary for the purpose of the research.

(c) The fees for reproduction and authentication of materials under this section shall be those prescribed in the schedule set forth in Part 1258 of this Chapter or pertinent successor regulation, as that schedule is amended from time to time.

§ 1275.68 Amendment of regulations.

The Archivist may from time to time amend the regulations of this Subpart D in accordance with the applicable law concerning such amendments.

§ § 1275.70 Freedom of Information requests.

(a) The Archivist will process Freedom of Information Act requests for access to only those materials within the Presidential historical materials which are identifiable by an Archivist as records of an agency as defined in § 1275.16(f). The Archivist will process these requests in accordance with the Freedom of Information regulations set forth in § 1254.30 of this Chapter or pertinent successor regulations.

(b) In order to allow NARA Archivists to devote as much time and effort as possible to the processing of materials for general public access, the Archivist will not process those Freedom of Information requests where the requester can reasonably obtain the same materials through a request directed to an agency (as defined in § 1275.16(f)), unless the requester demonstrates that he or she has unsuccessfully sought access from that agency or its successor in law or function.

Dated: July 9, 1985.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 86-4358 Filed 2-27-86; 8:45 am]

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